

**Chapter 13. Zoning****Section 1300 - Preamble**

**1300.01 Title.** This Chapter shall be known and may be cited as the “Stewartville Zoning Ordinance” or “Zoning Ordinance” or “Ordinance”, all having the same meaning and effect. (Ord. 2012-1, passed 1-24-12)

**1300.02 Purpose.** It is the purpose of this Chapter to regulate the use of all structures, lands and waters; to regulate lot coverage, population distribution and density, and the size and location of all structures in accordance with the Stewartville’s Comprehensive Plan so as to lessen congestion in the street, to secure safety from fire, flood, panic and other dangers, to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewer services, schools, parks and other public requirements; to preserve the character of the area or neighborhood; to conserve the value of buildings and to encourage the most appropriate use of land throughout Stewartville, Minnesota. (Ord. 2012-1, passed 1-24-12)

**1300.03 Compliance Required.** It shall be the duty of all property owners, architects, contractors, builders, and other persons having charge of the erecting, altering, changing, or remodeling of any building or structure, including tents and manufactured homes, before beginning or undertaking any such work, to see that such work does not conflict with and is not a violation of the terms of this Chapter; and any such property owner, architect, builder, contractor, or other person doing or performing any such work of erecting, repairing, altering, changing, or remodeling and in violation of; or in conflict with the terms of this Chapter, shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the persons for whom such buildings are erected, repaired, altered, changed, or remodeled in violation hereof and shall be held accountable for such violation. (Ord. 2012-1, passed 1-24-12)

**1300.04 Interpretation of Standards.** In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements. Where this Chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations or ordinances, the provisions of this Chapter shall control. Where for specific land, the requirements of any other ordinance of the City are more stringent or restrictive than the requirements set forth herein, nothing herein shall be construed to waive compliance with the provisions of such other ordinance. (Ord. 2012-1, passed 1-24-12)

**1300.05 Severability.** If a court of competent jurisdiction adjudges any section, clause, provision or portion of this Chapter unconstitutional or invalid, such judgment shall not affect the remainder of this Chapter. (Ord. 2012-1, passed 1-24-12)

**Section 1305 - Definitions**

**1305.01 Interpretation.** For the purpose of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural number includes the singular; the word “shall” is mandatory, the word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the words “used” or “occupied” include the words “intended, designed or arranged to be used or occupied.”  
(Ord. 2012-1, passed 1-24-12)

**1305.02 Definitions.**

A. The following definitions shall pertain to words used in this Chapter.

1. Accessory Use. A use customarily incidental and subordinate to the main use of building and located on the same lot therewith. In no case shall such accessory use dominate in area, extent or purpose, the principal lawful use of the building.
2. Accessory Building. A subordinate building or portion of the main building, the use of which is incidental to that of the main building, such as a garage or storage building.
3. Accessory Structure. A subordinate structure customarily incidental to the main structure or building and located on the same lot therewith, such as satellite dishes, radio and television towers, masts and aerials, swimming pools, solar energy collectors, and the like.
4. Adult. As used in this Chapter refers to the persons who have attained the age of eighteen (18) years.
5. Agriculture. The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals. The raising or keeping of any number of horses, swine, sheep, goats, fowl or similar animals shall constitute agriculture.
6. Alley. A way, other than a street, which affords only a secondary means of access to abutting property.
7. Apartment. A room or suite of rooms in a multifamily dwelling intended or designed for use as a residence by a single family.

8. Automobile Sales. The sale or rental of new and used automobiles and other motor vehicles in operating condition and the repair and servicing of such vehicles.
9. Basement. That portion of a floor of a building which is wholly or one-half or more below the average grade of the ground level adjoining the building.
10. Bed and Breakfast Home. A private residence which provides lodging and breakfast, which is manager occupied, and in which no more than four (4) guest rooms may be occupied at the same time.
11. Board of Adjustment. The Zoning Board of Adjustment of the City of Stewartville, Minnesota.
12. Boarding or Rooming House. Any dwelling occupied in any such manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any provision therein for cooking or kitchen accommodations within individual rooms, but centrally located.
13. Beginning of Construction. The incorporation of labor and materials within the walls of buildings.
14. Buildable Area. That part of the lot not included within the required minimum yards and open space including buffering and screening required by this Chapter.
15. Building. Any structure having a roof supported by columns or walls, and used or built for the shelter or enclosure of any person, animal or chattel or property of any kind. When any portion thereof is completely separated from every other part thereof by party walls from the ground up and without openings each portion of such building shall be deemed as a separate building. The word "building" shall include the word "structure."
16. Building, Earth Sheltered. A building constructed such that more than fifty percent (50%) of the exterior surface area of the building, excluding garages or other accessory buildings is covered with earth and the State Building Code standards are satisfied. Partially completed buildings shall not be considered earth sheltered.
17. Building, Height of. The vertical distance measured from the top of curb (or where no curb has been established, the City Engineer shall establish such curb level or its equivalent) of the street of address to the highest point of the parapet if a flat roof, to the deck line of mansard roofs, and the mean height level between eaves and ridge for gable, hip and gambrel roofs. For a building setback from the line of the street or place, the height of the building may be measured from the average elevation of the finished grade along the front of the building, provided the distance from the building to the line of the street or place is not less than the height of such grade above the established curb level.

18. Building, Principal. A building or structure in which is conducted the principal use of the lot on which said building or structure is situated.
19. Carport. A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides. For the purpose of this Chapter, a carport shall be considered as a garage.
20. Child Care Facility. A state and county licensed private establishment, which for gain or otherwise regularly provides one or more children with care, training, supervision, rehabilitation, or developmental guidance, in a dwelling. (All child care facilities shall be licensed under the State of Minnesota Public Welfare Licensing Act.)
21. Clinic. A public or proprietary institution providing diagnostic, therapeutic or preventive treatment of ambulatory patients by a group of doctors, dentists, doctor of chiropractic or other providers of medical care licensed by the state and acting in concert and in the same building for the purposes aforesaid.
22. Commission. The Planning and Zoning Commission of the City of Stewartville, Minnesota.
23. Comprehensive Plan. A document or series of documents adopted by the City Council, setting forth policies for the future of the City.
24. Construction Debris. Waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads.
25. Convalescent Home. A home designed and licensed by the State of Minnesota to provide care for aged or infirm persons requiring or receiving personal care or custodial care.
26. Council. The City Council of Stewartville, Minnesota.
27. Curb Level. The level of the established curb in front of the building measured at the top of such front. Where no curb has been established, the City Engineer shall establish such curb level or its equivalent for the purposes of this Chapter.
28. Day Care Center. A state licensed private or public establishment, that regularly provides one or more persons (children, adolescents, or adults) with care, training, supervision, habilitation, rehabilitation or developmental guidance, for period of less than twenty-four (24) hours a day, in a building other than a dwelling. (All day care facilities shall be licensed under the State of Minnesota Public Welfare Licensing Act.)

29. Development. Any man-made change to improved or unimproved real estate including, but not limited to, building and other structures, mining, dredging, filling, grading, paving, excavation, drilling, operations, or storage of materials or equipment.

30. District, Zoning. Any section of the incorporated area of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Chapter.

31. Drive-In Facility. Any establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

32. Dwelling, Detached. One which is entirely surrounded by open space on the same lot with no common party walls.

33. Dwelling Unit. A residential building or portion intended for occupancy by a single family but not including hotels or motels. There are three (3) principal types:

a. Single Family Detached. A residential structure designed for or occupied by single family only.

b. Single Family Attached. A residential building containing two (2) or more dwelling units with one common wall.

(1) Duplex/Townhouse. A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.

(2) Multifamily/Townhouse. A single family dwelling attached to two (2) or more single family dwellings by a common vertical wall.

(3) Multifamily/Quadplex. A residential building containing four (4) dwelling units with one common wall, each unit so oriented as to have all exits open to the outside.

c. Multifamily. A building used or intended to be used as a dwelling for three (3) or more families or as an apartment house with each dwelling designed and arranged to provide separate cooking, living, sleeping and sanitary facilities for each family.

34. Equal Degree of Encroachment. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

35. Erected. The word “erected” includes built, constructed, reconstructed, moved upon, or any physical operation on the premises related to the establishment of a structure; excavation, fill, drainage and the like, shall be considered a part of erection.

36. **Essential Services.** The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, communication, stream or water transmissions or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or governmental departments or commissions for the public health, safety and general welfare; but excluding all buildings, except water well pump houses.

37. **Family.** Any number of persons living together and related by blood, marriage, adoption or any unrelated person who resides therein as though a member of the family including the domestic employees thereof. Any group of persons not so related but inhabiting a single dwelling shall, for the purpose of this Chapter, be considered to constitute single family for each five (5) persons, exclusive of domestic employees, contained in each such group.

38. **Farm.** A parcel or parcels of land used for agriculture. A farmyard shall be considered a part of a farm.

39. **Farm yard.** That area of a farm including and immediately around a farm residence (single family, detached or manufactured home) where accessory buildings are located and are being used in conjunction with general agricultural operations of a farm.

40. **Feedlot.** Land or buildings or both intended for confined feeding, breeding, raising or holding of animals including poultry, and where manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure, and where ten (10) or more animal units are raised and/or held, fed or bred. For the purposes of this definition, an animal unit shall be the equivalent of the following:

	<b>Animal Units</b>
One mature dairy cow	1.4 animal units
One slaughter steer or heifer	1.0 animal units
One horse	1.0 animal units
One swine over 55 pounds	0.4 animal units
One duck	0.2 animal units
One sheep	0.1 animal units
One swine under 55 pounds	0.05 animal units
One turkey	0.018 animal units
One chicken	0.01 animal units

41. **Flood.** A temporary increase in the flow or stage of a stream or in the stage of a lake that results in the inundation of normally dry areas.

42. Flood Frequency. The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
43. Flood Plain. The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.
44. Flood-Proofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
45. Floodway. The channel of the watercourse and those portions of the adjoining flood plain which are reasonably required to carry and discharge the regional flood.
46. Floodway Fringe. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Stewartville.
47. Floor Area. The area within the exterior walls of the main building or structure as measured from the outside walls at the ground floor level, not including detached garages or unenclosed porches.
48. Foot Candle. A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.
49. Frontage. All the property on one (1) side of a street or place between two (2) intersecting streets or places (crossing or terminating) measured along the line of the street or place, or if the street or place be dead ended, then all of the property abutting on one (1) side between an intersecting street or place at the dead end of the street or place.
50. Garage. An accessory building designed or used for the storage of motor vehicles or self-propelled recreational vehicles owned and used by the occupants of the building to which it is accessory.
51. Garage, Public. Any building or premises, except those described as a private garage or storage garage, used for the storage or care of self-propelled vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.
52. Gasoline Service Station. A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including special facilities for the painting, major repair or similar servicing thereof.

53. Glare. The brightness of a light source which causes eye discomfort.
54. Governmental Agencies and Officials.
- a. Board of Adjustment. City of Stewartville Board of Adjustment appointed by the City Council and established under Minn. Stat. § 462.354, as amended.
  - b. Building Inspector. The City of Stewartville Building Inspector or an authorized representative.
  - c. Planning Commission. The Planning Commission of Stewartville, appointed by the Stewartville City Council, and established under Minn. Stat. § 462.354, as amended.
  - d. Zoning Administrator. The Stewartville City Clerk or an authorized representative.
55. Ground Level, Average. The average elevation of the finished grade at the outside building wall that is adjacent to the front yard.
56. Hazardous Material. A solid, liquid or gaseous material that may cause or contribute to serious illness or death, or that poses a substantial threat to human health or to the environment when improperly managed. Hazardous material may be identified by any of four (4) characteristics. The four (4) characteristics are:
- a. Ignitable. These materials may pose a fire hazard. Fires may present immediate dangers of heat and smoke and may also spread harmful particles over a wide area.
  - b. Corrosive. The materials require special containers because of their characteristic of corroding standard materials. They have an additional characteristic of being able to dissolve toxic compounds.
  - c. Reactive. These materials, when handled in a routine manner, may react spontaneously and vigorously with air and/or water. They also may be unstable to shock or heat. They may generate toxic gases or explode.
  - d. Toxic. These materials, when improperly managed, may release toxicants (poisonous material) in sufficient quantities to pose a hazard to human health or to the environment.
57. Home Occupation. Any gainful activity, including a trade, profession or business, engaged in by the occupant of a dwelling at or from a dwelling, on a full or part-time basis, and carried on in accordance with the provisions of this Chapter.

58. Hotel. A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours.

59. Kennel. Any lot or premises on which five (5) or more domestic animals six (6) months of age or older are kept, whether owned or permanently or temporarily boarded.

60. Loading Space. An off-street space on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

61. Lot. A designated parcel, tract, or piece of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit.

a. Lot Area. The total square footage or area on a lot.

b. Lot, Corner. A lot of which at least two (2) adjacent sides abut for their full length upon a street. The streets or part of the same street will have an interior angle for less than one hundred thirty five (135) degrees.

c. Lot, Coverage. The part or percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

d. Lot, Double Frontage. A lot which extends from one (1) street to another street and has frontage on two (2) parallel or approximately parallel streets. Also referred to as a through lot.

e. Lot, Frontage. That part of a lot abutting on and having access to a public street right-of-way and ordinarily regarded as the front of the lot where the front lot line is located, but it shall not be considered as the ordinary side of a corner lot. Any corner lot shall have only one (1) front yard and all other sides shall be side street side yards.

f. Lot, Interior. A lot other than a corner lot.

62. Lot Line, Front. The line separating the lot from the street right-of-way.

63. Lot Line, Rear. The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line, not less than ten (10) feet long, lying parallel and most distantly from the front lot line and wholly within the lot.

64. Lot Line, Side. Any lot line not a front or a rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

65. Lot of Record. A lot which is part of a subdivision plat, the map of which has been legally recorded in the office of the Register of Deeds of Olmsted County, or a lot described by metes and bounds, the deed to which has been legally recorded in the office of the Register of Deeds of Olmsted County. Lots not approved by the City through the Subdivision Ordinance shall be considered illegal and not lots of record.

66. Lot Width. The distance between the side lot lines measured along a line parallel to and at the minimum required front yard line.

67. Manufactured Home. A building transportable in one (1) or more section, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. It shall comply with Minnesota Stat. §§ 327.31 to 327.35.

68. Manufactured Home Park. Any lot or tract of land upon which three (3) or more occupied or unoccupied manufactured homes are harbored either with or without charge, and including any building or enclosure intended for use as a part of the equipment of each park.

69. Manufactured Home Subdivision. Any area of land that is subdivided into lots to be used for the placement of manufactured homes that do not comply with Subsection 1375.02, A., Bulk Regulation for Residential Districts.

70. Materials Recovery Facility. A system that separates collected mixed residential recyclables by type so that they can be recycled into new products available for market.

71. Mixed Municipal Solid Waste.

a. Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, except as provided in paragraph b.

b. Mixed Municipal Solid Waste does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural waste, tires, lead acid batteries, motor vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams, but does include source separated compostable materials.

72. **Motel.** A building, or group of attached or detached buildings, containing individual sleeping or living units for overnight auto tourists, with garage attached or parking facility conveniently located near each such unit.
73. **Nonconforming Lot.** A lot that does not comply with the minimum lot area or frontage requirements of the district in which it is located.
74. **Nonconforming Structure.** A structure that does not comply with the bulk, height or setback regulations of the district in which it is located.
75. **Nonconforming Use of Land.** Any use of a lot or parcel of land that does not conform to the applicable use regulations of the district in which it is located.
76. **Nonconforming Use of Structures.** A use of a structure that does not conform to the applicable use regulations of the district in which it is located.
77. **Obstruction.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire fence, stockpile, refuse, fill, structure, or matter in, along, across or projecting into any channel, watercourse or regulatory flood plain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
78. **Parking Space.** An area of not less than two hundred fifty (250) square feet, either within a structure or in the open, exclusive of the driveway or access drives, for the parking of a motor vehicle.
79. **Person.** An individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, Zoning Administrator, trustee, receiver or other appointed representative.
80. **Porch, Unenclosed.** An entrance to a building which may include steps, a landing, railings and a roof; but not enclosed either partially or completely above the landing by windows, screens or siding.
81. **Principal Building.** A non-accessory building in which the principal use of the lot on which it is located is conducted.
82. **Public Utility.** Any person, firm, corporation, municipal department or board, duly authorized to furnish under governmental regulation to the public, electricity, gas, steam, water, sewage disposal, communication facilities.

83. Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.

84. Recreational Camping Area. Any area used on a daily, nightly, weekly or longer basis for the accommodation of three (3) or more units, consisting of tents and recreational camping vehicle, and whether use of such accommodation is granted free of charge or for compensation.

85. Recreational Camping Vehicle. The words “recreational camping vehicle” shall mean any of the following:

- a. “Travel trailer” means a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational or vacation use.
- b. “Pick-up coach” means a structure design to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
- c. “Motor home” means a portable, temporary dwelling to be used for travel, recreation, and vacation and constructed as an integral part of a self-propelled vehicle.
- d. “Camping trailer” means a folding structure mounted on wheels and designed to be towed and used for travel, recreation and vacation use.

86. Recyclable Materials. Materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

87. Recycling. The process of collecting and preparing recyclable materials and reusing the material in their original form or using them in manufacturing process that do not cause the destruction of recyclable materials in manner that precludes further use.

88. Recycling Facility. An enclosed facility where only recyclable materials are received and prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use. The recyclable materials must:

- a. Fit the definition of mixed municipal solid waste prior to separation for recycling;

- b. Not include items which have been prohibited by state law from disposal or placement in mixed municipal solid waste, unless approved by the commissioner;
- c. Have been separated from other mixed municipal solid waste by the generator prior to collection; and
- d. Not be hazardous as defined in Minn. Rules Chapter 7045, except for household hazardous waste. Recyclable materials that are defined as household hazardous waste in Minn. Rules, part 7045.0131, subpart 1, and Minn. Stat. § 115A.96, Subd. 1, (a) and (b), may be accepted at the facility for recycling if they are managed in accordance with part 7045.0310.

“Recycling facility” does not include an individual generator of recyclable materials, such as a homeowner, a business, or a government agency, and it does not include a manufacturer using recyclable materials as feedstock.

89. Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one hundred (100)-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

90. Regulatory Flood Protection Elevation. It shall be an elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway and flood fringe.

91. Resource Recovery. The reclamation for sale, use or reuse of material substances, energy, or other products contained within or derived from waste.

92. Resource Recovery Facility. A waste facility established and used primarily for resource recovery, including related and appurtenant facilities such as transmission facilities and transfer stations primarily serving the resource recovery facility.

93. Salvage Yard. A place maintained for keeping, storage, or piling whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used or second-hand material of any kind, including used motor vehicles, machinery, and/or parts thereof, rubber/tires, iron or other metals, or articles which from its worn condition render it practically useless for the purpose for which it was made and stored outdoors not in buildings. This shall include a lot or yard for the keeping of unlicensed motor vehicles, construction and farm machinery or equipment or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap for storage or abandonment. This definition includes establishments that recycle any of the above mentioned materials.

94. Satellite Earth Station. Any dish-shaped antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communications satellites.

95. Setback. The required distance between every structure and lot line of the lot on which it is located.

96. Shopping Center. A development in which one (1) or more principal buildings are located on one (1) or more lots of record that abut one another, and the principal building(s) contain two (2) or more servicing, merchandising, leisure uses, or office uses, and where each such use abuts the adjacent use located within the principal building(s); and the development is under one (1) ownership or management. Shopping centers have common on-site parking, and have a building composition that functions as an architectural unit.

97. Sign. Any identification, description, illustration or device illuminated or non-illuminated visible from any public place or located on private property and exposed to the public that directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information with the exception of window displays and national flags. For the purpose of this Chapter, signs shall also include all sign structures.

98. Sign, Advertising (Billboard). A sign located outdoors that directs attention to a business, commodity, service or entertainment not related to the premises where such a sign is located or to which it is affixed.

99. Sign, Awning. A sign on or attached to a temporary, retractable, or fixed shelter composed of non-rigid material except for the supporting framework and braced entirely from the exterior wall of the building. Awning signs shall have non-combustible frames and coverings. When collapsed, retracted or folded, the design shall be such that the awning does not block any required exit.

100. Sign, Banner. A temporary sign composed of lightweight material not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by wind.

101. Sign, Business. A sign that is limited to identification purposes announcing the proprietor's name, the nature of the business and identifying the principal use of the premises on which the sign is located.

102. Sign, Construction. A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the

owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

103. Sign, Electronic Message. A programmable display sign that has the capability to present text and/or symbolic imagery in motion and in a variety of colors.

104. Sign, Flashing. A direct or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing or streaming light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling and changes in less than four (4) seconds.

105. Sign, Ground. Any sign which is supported by one (1) or more structures, uprights, poles or braces in or upon the ground and independent of support from any building.

106. Sign, Illuminated. Any sign which contains an element designed to emanate artificial light internally or externally.

107. Sign, Off-premises. Any sign that advertises goods, products, services or facilities or directs persons to a different location from where the sign is located.

108. Sign, On-premises. A sign which carries only advertisements strictly incidental to a lawful use of the premises on which it is located, including signs indicating the business transacted, services rendered, goods sold or produced on the premises, name of the business, name of the person or firm or corporation occupying the premises.

109. Sign, Portable. A freestanding sign that is self-supporting, easily moved and not permanently attached to the ground, a building or a vehicle.

110. Sign, Projecting. A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

111. Sign, Public Service. Any sign intended primarily to promote items of general interest to the community such as time, temperature and data, atmospheric conditions, news or traffic control, and the like.

112. Sign, Roof. A sign erected upon or above a roof or parapet of a building or structure.

113. Sign, Sandwich Board. A sign consisting of two (2) panels not permanently attached to a building or the ground.

114. Sign, Swinging. A sign installed on an arm or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.
115. Sign, Wall. Any sign attached to, painted upon, or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall.
116. Solar Collector. Any device relying upon direct solar energy that is employed in the collection of solar energy for heating and/or cooling of a structure, building, or water.
117. Solar Energy. Radiant energy (direct, diffused or reflected) received from the sun.
118. Solar Energy System. A set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes, including heating and cooling buildings or other energy using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.
119. Solid Waste. Trash and garbage without enough liquid to flow freely.
120. State Building Code. The Minnesota State Building Code, setting forth standards for the construction, addition, modification and repair of buildings and other structures for the purpose of protecting the health, and general welfare of the public; also sometimes referred to as the City Building Code.
121. Story. The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof next above it.
122. Story, Half. A space under a sloping roof which has the line of intersection of roof decking and the wall face not more than four (4) feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.
123. Street. Any public or private thoroughfare or way other than a public alley, dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court or any other similar designation.
124. Street Line. A dividing line between a lot, tract or parcel of land and a contiguous street.

125. **Structural Alteration.** Any change in the supporting members of a building such as bearing walls, columns, beams or girders or any substantial change in the roof or in the exterior walls.
126. **Structure.** A combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above or below the surface of land or water, including but not limited to decks, porches, pools that are considered permanently affixed to the ground, solar collectors and satellite earth stations.
127. **Structure, Temporary.** A building or structure without foundation or footings which is designed to be transportable and which is not designed for attachment to the ground, to another structure, or to any utility system on the same premises for an undetermined length of time.
128. **Supervised Living Facility.** A facility providing lodging plus supervision, counseling, or rehabilitative services to persons, and licensed as such under the Minnesota State Health Code.
129. **Transfer Station/Facility.** A intermediate waste facility in which solid waste, or construction debris, or compost materials collected from any source is temporarily deposited, compacted, or rearranged for subsequent transport.
130. **Use.** The purpose or activity for which land or buildings thereon are designed, arranged, or intended or for which land or buildings are occupied or maintained.
131. **Use, Conditional.** A use that would not be appropriate generally, but may be allowed upon finding that conditions and criteria are met and appropriate restrictions are placed on the lot structure, or use such that the use is compatible with the neighborhood and consistent with the land use plan.
132. **Use, Permitted.** Any use allowed in a zoning district and subject to the restriction applicable to that zoning district.
133. **Use, Principal.** The primary or predominant use of any lot.
134. **Variance.** A relaxation of the terms of the zoning code where such variance will not be contrary to a public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the zoning code would result in unnecessary and undue hardship.
135. **Waste.** Solid waste, sewage sludge and hazardous waste.

136. Waste Facility. All property, real and personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the processing or disposal of waste, except property for the collection of the waste and property used primarily for the manufacture of scrap metal or paper. Waste facility includes but is not limited to transfer stations, processing facilities, and disposal sites and facilities.

137. Wind Energy Conversion System. Any device that converts wind power to a usable form of energy, such as electricity or mechanical energy (also referred to by such common names as wind charger, wind turbine, and windmill).

138. Yard. A required open space on the same lot as the principal building not occupied by buildings, or structures and unobstructed and open to the sky except as specifically provided for in this Chapter.

139. Yard, Front. A yard extending across the full width of the lot measured between the front line of the lot and the nearest point of a building.

140. Yard, Rear. A yard extending across the full width of the lot and measured between the rear line of the lot and the nearest point of the principal building.

141. Yard, Side. A yard between the nearest point of the building and the sideline of the lot and extending from the front yard to the rear yard.

142. Zoning Administrator. The local official responsible for administration and implementation of the zoning regulations of the City of Stewartville, Minnesota or his or her authorized representative.

143. Zoning Certificate. Document issued by the Zoning Administrator authorizing buildings, structures, grading activities, or uses consistent with the terms of the zoning code and for the purpose of carrying out and enforcing its provisions.

(Ord. 2012-1, passed 1-24-12)

### **Section 1310 - Administration and Organization**

#### **1310.01 Amendment.**

##### **A. Procedure for Amending.**

1. The regulations, restrictions, and boundaries set forth in this Chapter may from time to time be amended, supplemented, changed, or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

2. The Zoning Administrator shall consider each petition and, after determination of the adequacy of the content of the petition and supplemental data, set a date and prepare the proposed amendment for public hearing, as required by Minn. Stat. § 462.357, Subdivision 3. At least ten (10) days notice of the time and place of such hearing shall be published in a local newspaper. The Zoning Administrator shall notify by mail all property owners within three hundred fifty (350) feet of the property in question at least ten (10) days prior to the date of the public hearing. Failure of any property owner or occupant to receive such notice shall not invalidate the proceedings.

3. The public hearing shall be held within twenty (20) days after determination of the adequacy of the petition and supplemental data, and a recommendation shall be submitted to the City Council within forty-five (45) days from the determination of the adequacy of the petition and supplemental data. The Planning Commission may recommend modification of a proposed amendment as it affects the land use plan and regulations of the City and as it reflects the interest of adjacent property and of the community as a whole.

4. The City Council shall make disposition of the recommendation within thirty (30) days from receipt of the recommendation from the Planning Commission.

B. Initiation of Amendments. Amendments to this Chapter may be initiated in one of four (4) ways, as follows:

1. The Zoning Administrator or Planning Commission has the primary responsibility for identifying the need for amendments. The Planning Commission may initiate the review of such amendments by motion.

2. The City Council may on its own motion initiate amendments by referring them to the Zoning Administrator and Planning Commission for review.

3. Any owner may formally petition the Council to grant an amendment to the zoning map for land for which he or she is property owner. The petition shall be filed on a form supplied by the Zoning Administrator, and the petition shall be sufficient before it is referred for review and recommendation.

4. Any individual may suggest to the City Council or the Planning Commission.

C. Vote Required for Amendments. As required by Minn. Stat. § 462.357, Subd. 2.

D. Petitions Previously Denied. A period of not less than one (1) year is required between presentation to the Planning Commission of the same petitions for a change or amendment applying to a specific piece of property where prior petition was denied, unless there has been a substantial change of facts.

E. Map Amendments. If, in accordance with this Subsection, changes are made in the district boundaries or other information portrayed on the official zoning map, such changes shall be entered on the official zoning map within one (1) month after the amendment has been approved by the City Council, together with a copy of the application and related written material submitted, gathered or developed for consideration of the application for amendment of the zoning map, and which shall be kept as a public record by the Zoning Administrator.

F. Amendments - Flood Plain Districts. The flood plain designation on the official zoning map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to, or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if it is determined that, through other measures, lands are adequately protected for the intended use.

G. All amendments to the flood plain districts, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map also require prior approval by the Federal Emergency Management Agency.

(Ord. 2012-1, passed 1-24-12)

**1310.02 The Board of Adjustments.** The Board of Adjustments shall be the City Council. The Planning Commission shall hear and advise the City Council of its findings and determinations.

A. The Board of Adjustment shall act upon all questions as they may arise in the administration of this Chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by such an administrative official charged with enforcing the Chapter. Such appeal may be made by any person, firm, corporation aggrieved or by any officer, department, and Board of Bureau or Commission of the City.

B. Such appeal shall be taken in such time as is prescribed under this section by filing with the Board of Adjustment through the Zoning Administrator's office a notice of appeal specifying the grounds thereon. All appeals shall be properly filed with the Zoning Administrator. The Zoning Administrator shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the Zoning Administrator, where applicable. The Board of Adjustment shall decide the same within a reasonable time.

C. The Board of Adjustment may, so long as such action is in conformity with the terms of the Chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator from whom the appeal was taken and may issue or direct the issuance of a permit. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or

determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation in the application of this Chapter. The reason for the Board's decision shall be stated in written findings. Any aggrieved person shall have the right to appeal to the district court for Olmsted County.

D. The Board of Adjustment shall have power to vary or adapt the strict application of any of the requirements of this Chapter in the case of exceptionally irregular, narrow or shallow lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or undue hardship that would deprive the owner of the reasonable use of the land or, building involved, but in no other cases except as specifically described in Section 1310.03.

E. Procedure. Within thirty (30) days after receipt by the Zoning Administrator of filing of a request for an appeal from an administrative order or determination, the Planning Commission shall hold a public hearing thereon and shall hear such persons as wish to be heard, either in person or by agent or attorney. Notice of such hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. In addition, notice of such hearing shall be mailed not less than ten (10) days before the date of hearing to the person or persons who filed the appeal or request.

(Ord. 2012-1, passed 1-24-12)

### **1310.03 Variances.**

A. Criteria for granting variances. A variance to the provision of the zoning ordinance may be issued as per Minn. Stat. Sec. 426.357, subd.6. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property. No use variances may be issued.

1. Variance shall only be permitted:

- a. When they are in harmony with the general purpose and intent of the ordinance.
- b. When the variances are consistent with the comprehensive plan.

2. Variances may be granted when the applicant for the variances establishes that there are practical difficulties in complying with the zoning ordinance.

3. "Practical difficulties", as used in connection with the granting of a variance, means that:

- a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

- b. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- c. The variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

B. Procedure.

1. The person applying for a variance shall fill out and submit to the Zoning Administrator a variance request form containing the following information:

- a. Description of the site (legal and address);
- b. Site plan, drawn to scale, showing parcel and all building dimensions;
- c. Location of all buildings and their square footage measurements;
- d. Curb cuts, driveways, sidewalks, parking spaces, and off-street loading areas;
- e. Landscape and screening plans;
- f. Water, sanitary sewer and storm water plans;
- g. Any additional information reasonably requested by the Planning Commission.

If the work will not be completed in one (1) year, the applicant shall submit a time schedule for completion of the work.

2. The Zoning Administrator shall refer the application to the Planning Commission for review.

3. The Planning Commission shall hold a public hearing on the proposal. Legal notice concerning official action pursuant to this Subsection shall be as follows:

- a. A notification of the date, time and place of the hearing shall be published in the municipality's official newspaper at least ten (10) days before the hearing.
- b. In addition, persons who own property situated wholly or partly within three hundred fifty (350) feet of the affected parcel or parcels shall receive similar, individual notifications by mail.
- c. Where a flood plain district may be affected by a variance, the City shall submit by mail to the Commissioner of Natural Resources, a copy of the application for

proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing before the Planning Commission and ten (10) days notice of the hearing before the Board of Adjustment. The Planning Commission shall review and report its findings on each appeal or petition. The Planning Commission shall report to the Board of Adjustment within fourteen (14) days of receipt of the appeal or petition.

4. The petitioner or his representative shall appear before the Planning Commission in order to answer questions concerning the proposed variance.

5. The Planning Commission shall make findings of fact and recommend approval or denial of the request. The Planning Commission must take action on the application within thirty (30) days after the first regular meeting at which the variance request was considered by the Commission. The Commission's recommendation shall be presented to the Council, acting in its capacity as the Board of Adjustment.

6. The City Council, acting in its capacity as the Board of Adjustment, shall review the application and may at its option conduct a public hearing on the request.

7. The City Council, acting in its capacity as the Board of Adjustment, shall make finding of fact and approve or deny a request for a variance within sixty (60) days after receipt of the complete application.

8. A variance of this Chapter shall be simple majority vote of the City Council.

9. If it grants the variance, the City Council, acting in its capacity as the Board of Adjustment, may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

C. Lapse of Variance. Variance permits shall expire if the project has not commenced within one (1) year after the date of issuance.

D. No variance shall be granted which would allow any use that is prohibited in the zoning district in which the subject property is located.

E. Fees. To defray the administrative costs of processing requests for variances, the applicable fee shall be paid by the applicant. The applicable fee is in addition to the regular zoning permit. Fees shall be established by the City Council.

(Ord. 2012-1, passed 1-24-12)

**1310.04 Enforcement.** The City Council shall appoint a Zoning Administrator. The Zoning Administrator shall enforce this Chapter and shall perform the following duties:

- A. Issue zoning and other permits and make and maintain records thereof.
- B. Conduct inspections of plans as they relate to the Zoning and Subdivision Ordinances and use of land to determine compliance with the terms of this Chapter.
- C. Maintain permanent and current records of this Chapter, including, but not limited to: all maps, amendments and special uses, variances, appeals, and applications therefore.
- D. Ensure that the appropriate documents are filed with the County Recorder or other appropriate official as required by law.
- E. Receive, file and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
- F. Serve as an ex-officio non-voting member of the Planning Commission and secretary to the Planning Commission and Board of Adjustments.

(Ord. 2012-1, passed 4-27-04)

**1310.05 Administrative Compliance.** The Zoning Administrator shall examine all applications for zoning certificates required for the construction, alteration, repair, enlargement of any building or structure, expansion of any use of land, or grading activities requiring a grading plan; and shall find that all proposed uses comply with the provisions of this Chapter and shall endorse thereon the date of his or her approval. Any permit or license issued in conflict with the provisions of this Chapter shall be null and void and of no effect whatsoever.

(Ord. 2012-1, passed 1-24-12)

**1310.06 Administrative Action for Violations.** If the Zoning Administrator shall find that any of the provisions of this Chapter are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Chapter to ensure compliance with or to prevent violation of its provisions.

(Ord. 2012-1, passed 1-24-12)

**1310.07 Violations.** Any building or structure being erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or sign hereafter erected or maintained, or land use made or permitted in violation of this Chapter, is hereby declared unlawful. In the event of a violation or threatened violation of this Chapter or other official control adopted under Minn. Stat. §§ 462.351 to 462.364, in addition to other remedies, the City Council or their designee may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violations, and it shall be the duty of the Zoning Administrator to institute such actions.

(Ord. 2012-1, passed 1-24-12)

**1310.08 Penalties.** Any person, firm, corporation or entity who violates any of the provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction, be punished by a fine of not more than seven hundred dollars (\$700); or sentenced to imprisonment for a specified term not more than ninety (90) days. Each day that a violation is committed or permitted to exist shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this Chapter, and the City may pursue, by appropriate actions or proceedings, any or all additional other remedies.  
(Ord. 2012-1, passed 1-24-12)

**1310.09 Complaints Regarding Violations.** Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, investigate in a timely fashion, and take action thereon as provided by this Chapter. The person(s) filing the complaint shall remain confidential as required by state law.  
(Ord. 2012-1, passed 1-24-12)

**1310.10 Zoning Certificate.**

A. It shall be unlawful to initiate grading activities, construction, conversions, whole or partial alterations or enlargements, of a use, building or structure, covered by the requirements of this Chapter until a zoning certificate has been issued by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this Chapter.

1. The person applying for a zoning certificate shall fill out and submit to the Zoning Administrator a zoning certificate request containing the following information:
  - a. Certificate of survey for new development and /or description of the site (legal and address);
  - b. Site Plan, drawn to scale, showing parcel and all building dimensions;
  - c. Location and dimensions of the proposed buildings or alteration and their square footage measurements;
  - d. Curb cuts, driveways, sidewalks, parking spaces, and off-street loading areas;
  - e. Landscape and screening plans;
  - f. Water, sanitary sewer and storm water plans;
  - g. Existing and proposed uses;

- h. Number of families, housekeeping units, or rental units the building is designed to accommodate;
- i. Grading Plan , when grading activities meet requirements in 1310.16;
- j. Any such other matters as may be necessary to determine conformance with and provide for the enforcement of this Chapter.
- k. Any additional information reasonably lawfully may be required / requested by the City Council, Planning Commission or Zoning Administrator.

See Appendix A SITE DEVELOPMENT GUIDE for submittal information guidance.

2. One (1) copy of the zoning certificate application shall be submitted to the Olmsted County Building Code Division at the time of filing for a building permit. One (1) copy of the plans shall be returned to the applicant by the Zoning Administrator after he or she shall have marked such copy either as approved or disapproved and attested to same by his or her signature on such copy. The original of the certificate, similarly marked, shall be retained by the Zoning Administrator.

3. The Zoning Administrator shall maintain a record of all zoning certificates and attached information, and a copy shall be furnished upon request to any person. Failure to obtain a zoning certificate shall be a violation of this Chapter and punishable under Subsection 1310.04 of this Chapter.

B. Flood Plain Districts. Prior to granting a zoning certificate or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits for development in the flood plain.

C. Administrative Action. The Zoning Administrator shall act upon all applications for zoning certificates which he or she is authorized to act upon under the provisions of this Chapter within twenty (20) days after the certificate has been filed in full compliance with these regulations. The Zoning Administrator shall issue the permits within said twenty (20) days or shall notify the applicant in writing of the denial of application and reasons therefor. The Zoning Administrator shall have thirty (30) days to act on an application when the Planning and Zoning Commission is required to review and act on a site plan.

(Ord. 2012-1, passed 1-24-12)

**1310.11 Expiration of Zoning Certificate.** If the work described in any zoning certificate has not begun within twelve (12) months from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator, and written notice thereof shall be given to the persons affected.

(Ord. 2012-1, passed 1-24-12)

**1310.12 Construction and Use To Be as Provided in Applications, Plans, Permits, and Zoning Certificates.** Zoning certificates issued on the basis of plans and applications approved by Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and not other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Chapter and punishable as provided by Subsection 1310.07 hereof.  
(Ord. 2012-1, passed 1-24-12)

**1310.13 Conditional Uses; Conditions Governing Applications, Procedures.**

A. General Provisions.

1. Definition and Purpose. A conditional use is a use that is permitted within the applicable zoning district but which may be, or could become, incompatible under certain conditions with adjacent uses or generally with other uses within the applicable zoning district. As a result, a public review shall be required before the land may be used for the specified purpose. Review of the proposed site design, and conditions on the use of the property or lot under consideration may be added before approval is granted.

2. Procedure.

a. Because of their peculiar characteristics, certain uses may have an adverse effect on a neighborhood, on the use and enjoyment of adjoining property, or on public services and facilities. Therefore, the procedure shall be the same procedure as outlined in Subsection 1310.01, A., Procedure for Amending. Proposed planned residential developments, where applicable, shall be processed under the subdivision platting procedures as required by the Subdivision Ordinance.

b. The City Council shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional uses to the flood plain districts sufficiently in advance so the Commissioner will receive at least ten (10) days notice of the hearing. Also, a copy of all decisions granting conditional use permits in the flood plain districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

3. Requirements.

a. The Planning Commission may require preliminary architectural drawings and sketches on all buildings or groups of buildings showing front, side and rear elevations of the proposed building, structure or other improvements.

b. An accurate property description and a site design plan showing existing or proposed buildings, streets, access parking spaces, signs, and landscaping and screening plans where necessary shall be required to be submitted along with the application form.

- c. Site design plans shall be considered in an endeavor to ascertain that such buildings, structures, and other improvements shall be so designed and constructed that they will not be detrimental to or endanger the public health, safety and general welfare.
  - d. See Appendix A SITE DEVELOPMENT GUIDE for submittal information guidance.
4. Standards. The Planning Commission shall recommend a conditional use permit and the City Council order the issuance of such permit only if it finds that such use at the proposed location:
- a. Will be harmonious with the general and applicable specific policies of the comprehensive guide plan of the City and this Chapter;
  - b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding area and will not change the essential character of that area;
  - c. Will not be hazardous, unhealthy or unsafe to existing or future neighboring uses;
  - d. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems, and schools; or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;
  - e. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
  - f. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of or offensive traffic, noise, smoke, fumes, dust, glare, vibrations, odors or other pollutants;
  - g. Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;
  - h. Will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance;

- i. Shall conform to specific standards of this Chapter applicable to the particular use and location;
  - j. Will be compatible with surrounding buildings, circulation, open space, landscaping, parking, and compatible with existing natural topography, natural water courses, vegetation, exposure to sunlight and wind, and views.
4. Conditions. In recommending or approving any conditional use permit, the Planning and Zoning Commission and the City Council may impose conditions which it considers necessary to meet the standards of this Chapter and to protect the best interests of the surrounding area or the City as a whole. Such conditions as are imposed shall bind any successors and shall not be affected by any subsequent transfer of ownership. Violation of any such condition is a violation of this Chapter. These conditions may include but are not limited to the following:
- a. Ingress and egress modifications to the property and proposed structures thereon with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe;
  - b. Changes to off-street parking and loading areas where required with particular attention to the related noise, glare, or odor effects on nearby property;
  - c. Changes to refuse and service with particular attention to ingress and egress;
  - d. Modification in utility plans with reference to location, availability, and compatibility;
  - e. The addition of fencing, screening, landscaping or other facilities to protect or buffer abutting or adjacent property;
  - f. Modification to proposed signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and compatibility and harmony with properties in the district;
  - g. Changes in required yards and other open space;
  - h. Controls on the hours of operation of all or portions of a particular use.

B. General Provisions Flood Plain.

1. Conditional Use Permit Applications within Flood Plain Districts.

- a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability

of the particular site for the proposed use: Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel; specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvements, storage of materials, water supply and sanitary facilities.

b. Transmit one (1) copy of the information described in subsection (1) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

c. Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

2. Flood Plain Districts Standards. In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this Chapter, and:

a. The danger to life and property due to increased flood heights or velocities caused by encroachments;

b. The danger that materials may be swept onto other lands or downstream to the injury of others;

c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease contamination, and unsanitary conditions;

d. The susceptibility of the proposed facility and contents to flood damage;

e. The importance of the services provided by the proposed facility to the community;

f. The requirements of the facility for a waterfront location;

g. The availability of alternative locations not subject to flooding;

h. Relationship to the land use plan and flood plain management program;

i. Safety of access to the property in times of flood for ordinary and emergency vehicles;

- j. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
  - k. Other factors which are relevant to the purposes of this Chapter.
3. Evaluation Procedures; Conditional Uses within the General Flood Plain District.
- a. Upon receipt of an application for a conditional use permit for a use within the general flood plain district, the applicant shall be required to furnish such of the following information as is deemed necessary by the City Council for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe.
    - (1) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
    - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, photographs showing existing land uses and vegetation upstream and downstream, and soil type.
    - (3) Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.
  - b. One (1) copy of the above information shall be transmitted to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe, and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations NR 86-87 shall be followed in this expert evaluation. The designated engineer or expert shall:
    - (1) Estimate the peak discharge of the regional flood.
    - (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
    - (3) Compute the floodway necessary to convey the regional flood without increasing flood stages more than 0.5 feet. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

- c. Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine whether the proposed use is in the floodway or flood fringe, and the regulatory flood protection elevation at the site.
- 4. Where conditional uses in the flood plain districts are reviewed, the following additional conditions may include, but are not limited to:
  - a. Modification of waste disposal and water supply facilities;
  - b. Limitations on period of use, occupancy, and operation;
  - c. Imposition of operational controls, sureties, and deed restrictions;
  - d. Requirements for construction of channel modification, dikes, levees, and other protective measures;
  - e. Floodproofing measures. In accordance with the state building code the applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

C. Change in Use Permit.

- 1. Application for changes in the conditions or site design plan of an approved conditional use permit shall be required. The City Council may approve, disapprove or approve, with conditions, the application. Approval of the changes by the City Council shall be granted before on-site changes or developments are permitted. A public hearing before the City Council shall be held where a public hearing was required for approval of the original proposal and application. Changes in the approved site plan, submitted as part of the conditional use permit application, involving minor changes in 1) the location and alignment of buildings not to exceed ten (10) feet and that meet all other ordinance requirements, 2) other minor revisions in the shape of structures and still meeting all other ordinance requirements, 3) or adding accessory structures not exceeding five percent (5%) of the total floor area of all structures on the property and meeting all other ordinance requirements, may be authorized by the Zoning Administrator for good cause shown. The Zoning Administrator, however, may refer such proposed changes to the site plan to the Planning Commission for review if the proposed changes do not appear to fit clearly into one of the above three (3) options, or where proposed changes appear to change or compromise conditions placed on the applicant at the time of approval of the conditional use and site plan by the City Council.
- 2. Denial of Noncompliance. If the Planning Commission recommends denial of a conditional use permit, or the Council orders such denial, it shall include in its

recommendations or determination findings as to the ways in which the proposed use does not comply with the standards required by this Chapter.

3. Expiration. If substantial construction has not taken place within six (6) months after the date of a conditional use permit is approved, the permit is void except that, on application, the City Council, after receiving the recommendation of the Planning Commission, may extend the permit for an additional period not to exceed six (6) months. A conditional use permit authorizes only the conditional use specified in the permit and expires if, for any reason, the authorized use ceases for more than one (1) year.

(Ord. 2012-1, passed 1-24-12)

#### **1310.14 Administrative Records.**

A. The City shall keep and maintain records of all applicable actions taken under the zoning ordinance.

B. Flood Plain Districts; Record of First Elevation. The Zoning Administrator shall maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures in the flood plain districts. The Zoning Administrator shall also maintain a record of the elevations to which structures or additions to structures are flood-proofed.

C. The Zoning Administrator shall prepare and maintain a list of those nonconforming uses that have been flood-proofed or otherwise adequately protected in conformity with Subsection 1310.13, Subdivision B.4.

(Ord. 2012-1, passed 1-24-12)

**1310.15 Fees.** There shall be fees established for the items of this Chapter, as established from time to time, by resolution of the City Council.

(Ord. 2012-1, passed 1-24-12)

**1310.16 Grading Plan.** A Grading Plan shall be submitted for review for any project involving the excavation or fill of fifty (50) cubic yards or more of earth material (building foundation excavation, agricultural operations, and emergency measures are exempt).

A. Grading Plan submittals shall contain the following information:

1. Submittal shall include information required in the Chapter 12 Subdivisions, 1220.02, Subd.3 Preliminary Grading, Drainage and Erosion Control Plan.
2. Submittal shall include information required in Chapter 12 Subdivisions, 1230.09 Storm Water Drainage Facilities.

3. Submittal shall include information required in Chapter 12 Subdivisions, 1230.10 Erosion and Sediment Control.  
(Ord. 2012-1, passed 1-24-12)

### **Section 1315 - Establishment of Districts**

**1315.01 Zoning Districts.** The following zoning districts are provided in order to promote and encourage the efficient economic development of land, buildings, and all usable structures. The incorporated area of the City, Minnesota, is hereby divided into the following districts which shall be known by the following respective symbols and names:

R-1 Low Density Residential  
R-2 Medium Density Residential  
R-3 Multifamily, High Density Residential  
B-1 Central Business District  
B-2 Highway Commercial District  
M-1 Light Manufacturing District  
M-2 General Manufacturing District  
P/SP Public/Semi Public  
FW Floodway District  
FF Flood Fringe District  
FP General Flood Plain District

(Ord. 2012-1, passed 1-24-12)

**1315.02 Zoning Map.** The areas comprising these zoning districts and the boundaries of said districts as shown upon the map attached hereto and made a part of this Chapter, being designated as the “Official Zoning Map for the City of Stewartville,” with all proper notations, references and other information show thereon. Additional materials are hereby adopted by reference and declared as part of the zoning map including the Flood Insurance Study prepared by the Federal Insurance Administration dated April 17, 1995, and the Flood Boundary and Floodway Maps, Flood Insurance Rate Maps dated April 17, 1995, and applicable soils maps contained in the Soil Survey of Olmsted County, Minnesota dated March, 1980.

(Ord. 2012-1, passed 1-24-12)

**1315.03 Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following City limits shall be construed as following such City limits.

D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

E. Boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed to following such centerlines.

F. Boundaries indicated as parallel to or extensions of features indicated in Subsections A. through E. above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

G. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by subsections A. through F. above, the Zoning Administrator shall interpret the district boundaries.

(Ord. 2012-1, passed 1-24-12)

**1315.04 Zoning District Dividing Property.** Where one parcel of property is divided into two or more portions by reason of different zoning district classifications, each portion shall be used independently of the other in its respective zoning classification, and for the purpose of applying the regulations of this Chapter, each portion shall be considered as if in separate and different ownership. Alternatively, the entire parcel may be used as permitted by the regulations applicable to the most restrictive zoning classification. However, nothing in this Section shall be construed as permitting residential use of any property within any industrial district classification.

(Ord. 2012-1, passed 1-24-12)

**1315.05 Relief from Personal Responsibility.** Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this Chapter, any claim based upon the performance or the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are hereby enumerated as exceptions to the Minn. Stat. § 466.02, and said section does not apply. The City shall defend, save harmless and indemnify any of its officers or employees, whether elective or appointed, against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of the zoning ordinance, except as provided in Minn. Stat. § 466.07.

(Ord. 2012-1, passed 1-24-12)

**1315.06 Guidelines for Use Interpretation.** The following conditions shall govern the Zoning Administrator, and the Board of Adjustment on appeals from decisions of the Zoning Administrator, in issuing use interpretations.

A. No use interpretation by the Board of Adjustment shall allow the establishment of any use which was previously considered and rejected on an application for amendment.

B. No use interpretation shall permit any use in any district unless evidence shall be presented which demonstrates that it will comply with each use limitation established for the particular district.

C. No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to uses permitted or conditionally permitted in a less restrictive district.

D. If the proposed use is more similar to a use permitted only as a conditional use in the district in which it is proposed to be located, than any use interpretation permitting such use shall be conditioned on the issuance of a permit for a conditional use permit pursuant to Subsection 1310.13, Conditional Uses.

E. Any use permitted pursuant to this Section shall fully comply with all requirements and standards imposed by this Chapter.

(Ord. 2012-1, passed 1-24-12)

**1315.07 Effect of Favorable Use Interpretation.** No use interpretation finding a particular use to be permitted or conditionally permitted in a specific district shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and certificates which may be required by the codes and ordinances of the City, or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to, zoning certificates and building permits.

(Ord. 2012-1, passed 1-24-12)

**1315.08 Property Not Included; Annexations.** Territory annexed to the City subsequent to the effective date of such annexation shall become a part of the Low Density Residential (R-1) District unless requested and approved otherwise. Such district shall be temporary and the Planning Commission shall recommend to the City Council within a period of one year from the date of annexation on a final zoning map for the annexed territory. The Commission may recommend such final zoning map at the time of annexation.

(Ord. 2012-1, passed 1-24-12)

**1315.09 Warning and Disclaimer of Liability; Flood Plain Districts.** This Chapter does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

(Ord. 2012-1, passed 1-24-12)

**Section 1320 - Agriculture District**

**1320.01 Intent.** This district is intended to provide areas in which agriculture and related uses are encouraged and agriculture is reserved for future urban development. Usual urban residential densities are not allowed until streets, utilities and other services and facilities can properly and economically be extended to serve areas, to promote the orderly development and fiscal integrity of the City.

A. See submittal requirements in Section 1310.10, Zoning Certificate, unless otherwise specified.

(Ord. 2012-1, passed 1-24-12)

**1320.02 Permitted Uses.**

A. Single family detached dwellings.

B. Agriculture provided, however, that no poultry or livestock raised for food or food products shall be raised or kept within one thousand (1,000) feet of any residence or residential district.

C. Child care facilities.

D. Open spaces.

E. Parks.

F. Public utility structures and equipment necessary for the operation thereof.

G. Railroad rights-of-way, but not including rail yards and shops.

H. Public and private forests and wildlife reservations or similar conservation projects.

I. Veterinary clinic, animal hospitals, kennels.

J. Temporary event functions, activities consisting of temporary amusement enterprises including consignment auctions, circuses, carnivals, fairs, flea markets, concerts, dances, and the like. All functions must have a specified period of time, and receive a permit or license from the City.

K. Essential Services. Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems including elevated water storage facilities.

(Ord. 2012-1, passed 1-24-12)

**1320.03 Accessory Uses and Structures.** Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted. Accessory structures attached to a principal building shall be located in the buildable area of the lot. Other structures shall not be located in the front yard, and shall not be closer than twenty-five (25) feet to any side or rear lot line. In no case shall any structure used for housing poultry, livestock or outdoor cages associated with kennels be so located as to be nearer than fifty (50) feet to any property line.

(Ord. 2012-1, passed 1-24-12)

**1320.04 Conditional Uses.** The following uses may be permitted in the Agriculture District on a conditional basis, following approval in the manner described in Section 1310.13:

- A. Bed and Breakfast.
- B. Campgrounds and recreational trailer parks.
- C. Cemeteries.
- D. Commercial greenhouse and nurseries.
- E. Commercial stables.
- F. Golf courses.
- G. Filtration plants.
- H. Mining and extraction of minerals or raw materials.
- I. Plants processing agricultural products produced on the premises.
- J. Railroad rights-of-way, but not including railroad yards and shops.
- K. Publicly operated sewage treatment plants.
- L. Public and private educational facilities.
- M. Religious institutions including churches and synagogues.
- N. Outdoor advertising signs and billboards.
- O. Hazardous material storage.

P. A second farm dwelling.

Q. All other uses of a similar character as may be determined by the Zoning Board of Adjustment.

(Ord. 2012-1, passed 1-24-12)

#### **1320.05 Maximum Building Heights.**

A. No height restrictions shall be placed on farm or other non-residential buildings or structures. Where farm or other non-residential buildings or structures are located within two hundred (200) feet of a residential zoning district, no building or structure shall have a maximum height of more than fifty-five (55) feet.

B. Thirty-five (35) feet for residential principal buildings, and fifteen (15) feet for residential accessory buildings.

(Ord. 2012-1, passed 1-24-12)

#### **1320.06 Use Limitations.**

A. No feedlot shall be permitted on a temporary or permanent basis within the district.

B. The commercial feeding of garbage or offal to swine or other animals, soil surface application of sewage sludge, or open uncontained storage shall not be permitted or conditionally permitted in the Agriculture District.

C. A second farm dwelling, only in the form of a manufactured home, shall be permitted to be located on the same lot as the farm dwelling of a farm, but shall house only family members or person or persons employed on the farm. All minimum Olmsted County Health Department regulations pertaining to the sewage system shall be adhered to or the manufactured home shall meet all City requirements for connecting with the City sewer system, and shall be consistent with all other requirements of this Chapter. A conditional use permit shall be required for manufactured homes as a second farm dwelling.

D. One temporary building for the incidental sale of agricultural produce shall be located not less than twenty (20) feet from the front line and not less than twenty-five (25) feet from a residential district and provided that the required number and space for patron parking twenty (20) feet from said front lot line is provided.

E. Child care facilities that care for ten (10) or fewer children shall be a permitted use within the Agriculture District.

F. Child care facilities of any size located in multifamily residential buildings or those facilities that propose to care for eleven (11) to twenty (20) children shall be reviewed under the conditional use provisions of this Chapter.

(Ord. 2012-1, passed 1-24-12)

**1320.07 Lot Area, Frontage and Yard Regulations.** The following minimum requirements in Table 1320.07a shall apply to principal and accessory buildings and structures in this district.

AGRICULTURE DISTRICT TABLE 1320.07A					
Lot Area	Frontage	Side Yards		Front Yard	Rear Yard
		Least Width	Sum		
2 Acres <sup>1</sup>	150'	30'	75'	45'	50'
15 Acres <sup>2</sup>	200'	30'	75'	45'	50'

<sup>1</sup> For use not defined as agriculture by definition 1305.02, 5. Agriculture.  
(Permitted or Conditional Use)

<sup>2</sup> For agriculture uses as defined by 1305.02, 5. Agriculture.  
(Ord. 2012-1, passed 1-24-12)

**1320.08 Off-Street Parking and Loading Requirements.** Spaces for off-street parking and loading shall be provided in accordance with the provisions of 1375.11 and 1375.12.  
(Ord. 2012-1, passed 1-24-12)

**1320.09 Design Criteria for Dwellings.** All dwellings permitted or conditionally permitted in this district shall meet the following established design criteria: (With the exception of a second farm dwelling) See 1320.06 C., Use Limitation.

A. All such dwellings shall be constructed upon a permanent foundation that is located along the entire length of all exterior walls of the dwelling and is approved according to the Uniform Building Code (state building code).

B. The minimum width of the dwelling shall be twenty (20) feet, measured between non-intersecting exterior walls along a straight line perpendicular to both walls. The requirement shall not apply to any additions made subsequent to the original construction of the dwelling.

C. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division).  
(Ord. 2012-1, passed 1-24-12)

**Section 1325 - R-1 Single Family Residential, Low Density Residential**

**1325.01 Intent.** The intent of R-1 Single Family Residential, Low Density Residential District is to provide land area for residential uses on larger urban lots that include and are compatible with single family dwelling units.

(Ord. 2012-1, passed 1-24-12)

**1325.02 Permitted Uses.**

A. Single family detached dwellings.

B. Child care facilities.

C. Public parks and recreational open spaces.

D. Essential services. Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems including elevated water storage facilities.

(Ord. 2012-1, passed 1-24-12)

**1325.03 Accessory Uses.**

A. Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted.

1. An accessory building may be erected, detached from, or attached to the principal building as an integral part thereof, or it may be connected by a breezeway or similar structure. Such accessory buildings shall be located in the buildable area, or in the required rear yard, and shall be placed such that the eaves of the building are at least three (3) feet from a lot line. Accessory buildings to the principal building shall be placed at least twenty (20) feet from a side street lot line. All detached accessory buildings in total shall be no larger than twelve hundred (1,200) square feet and shall meet the maximum lot coverage requirements also. Decks, porches, or other structures attached to the principal building shall meet all yard and lot coverage requirements and setback requirements of this Section and all other applicable sections of this Chapter.

B. Bulletin boards, or signs not exceeding fifty (50) square feet in area pertaining to the construction, lease, hire or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, sold or construction completed.

C. Church bulletin boards.

(Ord. 2012-1, passed 1-24-12)

**1325.04 Conditional Uses.** The following uses may be permitted in the R-1 Single Family Residential District on a conditional basis, following approval in the manner described in Section 1310.13:

- A. Bed and Breakfast (B&B) Section 1375.33.
  - B. Cemeteries.
  - C. Museums, libraries and other public or private educational institutions.
  - D. Public buildings erected or used by a department of the City, county, state, or federal government.
  - E. Parks, playgrounds, golf courses, other recreational uses.
  - F. Accessory uses customarily incidental to and on the same zoning lot as the principal use.
  - G. Churches and places of worship.
  - H. Public and private schools.
- (Ord. 2012-1, passed 1-24-12)

**1325.05 Development Requirements.**

- A. Maximum Building Height.
  - 1. Thirty-five (35) feet for principal buildings.
  - 2. Fifteen (15) feet for accessory structures.
- B. Maximum Lot Coverage. Lot coverage including all structures shall not exceed forty percent (40%) of the total lot or development site.
- C. Minimum Lot Frontage - Frontage Modification. Where curvilinear streets and cul-de-sacs are used in a subdivision or where other unconventional lot shapes are used, a reduction in the lot frontage shall be permitted provided that:
  - 1. The lot width measured at the required front yard setback shall equal the frontage required in this district; and
  - 2. The lot width measured at the front lot line shall not be less than thirty-five (35) feet.

D. Off-Street Parking and Loading Requirements. Spaces for off-street parking and loading shall be provided in accordance with the provisions of 1375.11, and 1375.12.

E. Lot Area, Frontage and Yard Requirements. The following minimum requirements in Table 1325.05a shall apply.

LOW DENSITY RESIDENTIAL DISTRICT (R-1) TABLE 1325.05a						
Use	Lot Area (Sq. Ft.)	Lot Frontage Front Lot Line <sup>2</sup>	Side Yards <sup>1</sup>		Front Yard <sup>3</sup>	Rear Yard <sup>3</sup>
			Least Width	Sum		
Dwellings						
Single Family Detached	8,000	70'	6'	16'	25'	20'

<sup>1</sup> For corner lots the minimum required side yard abutting the side street shall be 20 feet. Where all dwellings located along the side street have a front yard less than the required 20 feet, the side street side yard shall be permitted to be reduced to the front yard, but in no case shall the side street side yard be less than 10 feet.

<sup>2</sup> See also Subsection 1330.05 C. Minimum Lot Frontage - Frontage Modifications.

<sup>3</sup> This is the minimum required for a lot abutting a local street. Where a lot with the front or side yard abuts an arterial street or expressway or frontage road to an arterial street or expressway, based on the land use plan, an additional 10 feet shall be required for the adjacent front or side yard. This requirement does not apply to non-residential land uses. Where existing dwellings have a front yard of more than 20 feet all new development shall be required to have a minimum front yard that is equal to or greater than the front yards of abutting lots that have front yards abutting the same street.

(Ord. 2012-1, passed 1-24-12)

**1325.06 Design Criteria for Dwellings.** All dwellings permitted or conditionally permitted in this district shall meet the following established design criteria:

A. All such dwellings shall be constructed upon a permanent foundation that is located along the entire length of all exterior walls of the dwelling and is approved according to the Uniform Building Code (state building code).

B. The minimum width of the dwelling shall be twenty (20) feet, measured between non-intersecting exterior walls along a straight line perpendicular to both walls. The requirement shall not apply to any additions made subsequent to the original construction of the dwelling.

C. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division).  
(Ord. 2012-1, passed 1-24-12)

**1325.07 Child Care Facilities.**

A. Child care facilities that care for ten (10) or fewer children shall be a permitted use within the R-1 District.

B. Child care facilities of any size located in multifamily residential buildings or those facilities that propose to care for eleven (11) to twenty (20) children shall be reviewed under the conditional use provisions of this Chapter.  
(Ord. 2012-1, passed 1-24-12)

**Section 1330 - R-2 Medium Density Residential**

**1330.01 Intent.** The intent of the R-2 Medium Density Residential District is to provide land area for residential uses of an overall higher density than the R-1 District by permitting a mixture of housing types that will provide additional flexibility in development of housing and housing choice in the City.

A. See submittal requirements in Section 1310.10, Zoning Certificate, unless otherwise specified.  
(Ord. 2012-1, passed 1-24-12)

**1330.02 Permitted Uses.**

A. Single family detached dwellings.

B. Duplex/townhouse as defined in 1305.02, Subd. A. 33, Dwelling Unit: b. Single Family Attached (1).

C. Duplex/townhouse.

D. Child care facilities.

E. Public parks and recreational open spaces.

F. Public and private schools.

G. Essential services. Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems including elevated water storage facilities.

(Ord. 2012-1, passed 1-24-12)

### **1330.03 Accessory Uses.**

A. Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted.

1. An accessory building may be erected detached from or attached to the principal building as an integral part thereof, or it may be connected by a breezeway or similar structure. Such accessory buildings shall be located in the buildable area or in the required rear yard, and shall be placed such that the eaves of the building are at least three (3) feet from a lot line. Accessory buildings to the principal building shall be placed at least twenty (20) feet from a side street lot line. All detached accessory buildings in total shall be no larger than twelve hundred (1,200) square feet and shall meet the maximum lot coverage requirements also. Decks, porches, or other structures attached to the principal building shall meet all yard and lot coverage requirements of this Section and all other applicable sections of this Chapter.

B. Bulletin boards, or signs not exceeding fifty (50) square feet in area pertaining to the construction, lease, hire or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, sold or construction completed.

C. Church bulletin boards.

(Ord. 2012-1, passed 1-24-12)

**1330.04 Conditional Uses.** The following uses may be permitted in the R-2 Medium Density on a conditional basis, following approval in the manner described in Section 1310.13:

A. Bed and Breakfast (B&B) Homes: See Section 1375.33.

B. Cemeteries.

C. Museums, libraries and other public or private educational institutions.

D. Public buildings erected or used by a department of the City, county, state, or federal government.

E. Parks, playgrounds, golf courses, other recreational uses.

F. Churches and places of worship.

G. Manufactured home parks.

H. Planned residential development.

I. Multifamily townhouse: as defined in 1305.02, Subd. 33, Dwelling Unit: b. Single Family Attached: (2) Multifamily Townhouse.

J. Multifamily quadplex: as defined in 1305.02, Subd. 33, Dwelling Unit: b. Single Family Attached: (3) Multifamily Quadplex.

(Ord. 2012-1, passed 1-24-12)

**1330.05 Development Requirements.** Lot Area, Frontage and Yard Requirements. The following minimum requirements in 1330.05a shall apply.

MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2) TABLE 1330.05a						
Use	Lot Area (Sq. Ft.)	Lot Frontage Front Lot Line <sup>2</sup>	Side Yards <sup>1</sup>		Front Yard <sup>3</sup>	Rear Yard <sup>3</sup>
			Least Width	Sum		
Dwellings						
Single Family Attached	8,000 <sup>4</sup>	70'	6'	16'	25'	20'
Single Family Detached	8,000	70'	6'	16'	25'	20'
Supervised Living Facility	8,000	80'	6'	16'	25'	20'
Other Uses						
Institutional Buildings	8,400 <sup>5</sup>	80'	20'	45'	25'	30'

<sup>1</sup> For corner lots the minimum required side yard abutting the side street shall be 20 feet. Where all dwellings located along the side street have a front yard less than the required 20 feet, the side street side yard shall be permitted to be reduced to the front yard, but in no case shall the side street side yard be less than ten feet.

<sup>2</sup> See also Subsection 1330.05 D. Minimum Lot Frontage - Frontage Modifications.

<sup>3</sup> This is the minimum required for a lot abutting a local street. Where a lot with the front or side yard abuts an arterial or expressway or frontage road to an arterial or expressway, based on the land use plan, an additional 10 feet shall be required for the adjacent front or side yard. This requirement does not apply to non-residential land uses. Where existing dwellings have a front yard of more than 20 feet all new development shall be required to have a minimum front yard that is equal to or greater than the front yards of abutting lots that have front yards abutting the same street.

<sup>4</sup> Refer to Subsection 1330.05 B. Maximum Density (5). Single Family Attached.

<sup>5</sup> Larger lots may be necessary for institutional buildings. The lot size shall be at least the minimum necessary to accommodate the building: and meet yard requirements, parking and loading/unloading area requirements, buffering and screening requirements, and maximum lot coverage requirements.

A. Maximum Building Height.

1. Thirty-five (35) feet for principal buildings.
2. Fifteen (15) feet for accessory structures.

B. Maximum Density.

1. Multifamily shall have a minimum of three thousand six hundred thirty (3,630) square feet of land area per dwelling unit or a maximum density of twenty (20) dwelling units per acre. Net acreage shall be gross acreage minus the area of public right-of-way within the area proposed for development under this district.
2. The supervised living facility shall be permitted to house a maximum of twenty-five (25) persons per dwelling and shall provide eight hundred seventy-five (875) square feet of lot area per person.
3. The convalescent home shall be permitted to house a maximum of fifty (50) persons within the convalescent home on at least one (1) acre lot area. Smaller convalescent homes are permitted and shall provide the same ratio of persons to lot area, or one (1) person per eight hundred seventy-one and two-tenths (871.2) square feet of lot area.
4. Boarding/rooming houses shall provide fifteen hundred (1,500) square feet of lot area per boarding/rooming unit in addition to a minimum of two thousand (2,000) square feet of land area for the resident family.
5. Single Family Attached. See definitions in Section 1305.02, Subd. 33, Dwelling Unit: b. Single Family Attached.
  - a. Duplex: Minimum of four thousand (4,000) square feet per unit.
  - b. Townhouse (2 units): four thousand (4,000) square feet for each unit.
  - c. Multifamily/townhouse: B. Maximum Density, 1. Multifamily shall apply. More than two (2) units with a maximum of four (4) units.

d. Quadplex: B. Maximum Density, 1. Multifamily shall apply.

C. Maximum Lot Coverage. Lot coverage including all structures shall not exceed forty percent (40%) of the total lot or development site.

D. Minimum Lot Frontage; Frontage Modification. Where curvilinear streets and cul-de-sacs are used in a subdivision or where other unconventional lot shapes are used, a reduction in the lot frontage shall be permitted provided that:

1. The lot width measured at the required front yard setback shall equal the frontage required in this district; and

2. The lot width measured at the front lot line shall not be less than thirty-five (35) feet.

E. Accessory Structures and Uses. Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted. An accessory building may be erected, detached from, or attached to the principal building as an integral part thereof, or it may be connected by a breezeway or similar structure. Such accessory buildings shall be located in the buildable area, or in the required rear yard, and shall be placed such that the eaves of the building area at least three (3) feet from a lot line. Detached accessory buildings to the principal building shall be placed at least twenty (20) feet from a side street lot line.

F. Off-Street Parking and Loading Requirements. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 1375.11 and 1375.12.

(Ord. 2012-1, passed 1-24-12)

#### **1330.06 Exceptions and Additions to Standards of Section 1330.05a.**

A. Zero lot line development. A single family attached dwelling may reduce one (1) side yard to zero when the following conditions are met:

1. The applicant records a covenant and deed restriction on all properties which will abut the common lot line (zero lot line). Said covenants and deed restrictions shall:

- a. Provide access to the abutting property for the adjacent property owner, and/or his or her representative, for the purpose of construction, reconstruction, repair and maintenance of either side on the total property;

- b. Shall provide for necessary encroachments for footings, eaves, and special structures; and

- c. Provide for restrictions to limit color, material and design of the principal building to be compatible with the attached building.
2. The zero side yard on the zero lot line dwelling shall not abut the side yard of a dwelling built to meet the side yard standards of Subsection 1330.05a, unless said dwelling is on a corner lot and the dwelling and garage, where this applies, are a minimum of fifteen (15) feet from the side lot line, and all other requirements of this district are met or exceeded. The zero side yard of a zero lot line dwelling shall not abut the rear yard of any dwelling located on a corner lot.
3. Windows shall be prohibited in the wall that is on the same side as the zero side yard.
4. The side yard opposite the zero side yard shall have a minimum width equal to the minimum side yard total normally required for that dwelling type in this district.
5. Accessory structures shall be no closer than seven (7) feet to the principal building on adjacent or abutting lots.
6. The wall of the dwelling shall be placed upon said property in a manner not to encroach upon another person's property.
7. Water runoff from building roofs shall not drain onto adjacent or abutting property, but shall be required to drain onto only the lot on which the building is located.
8. The side street side yard, where this applies, shall not be encroached upon by the zero lot line building; it shall be opposite the zero side yard.
9. A site plan shall be required and submitted along with the permit application for zero lot line development under this Section and reviewed as specified under Subsection 1310.13, Conditional Uses.

B. Design Criteria for Dwellings. All dwellings permitted or conditionally permitted in this district shall meet the following established design criteria:

1. All such dwellings shall be constructed upon a permanent foundation that is located along the entire length of all exterior walls of the dwelling and is approved according to the Uniform Building Code (state building code).
2. The minimum width of the dwelling shall be twenty (20) feet, measured between non-intersecting exterior walls along a straight line perpendicular to both walls. The requirement shall not apply to any additions made subsequent to the original construction of the dwelling.

3. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division).

C. Child Care Facilities.

1. Child care facilities that care for ten (10) or fewer children shall be a permitted use within the R-2 District.

2. Child care facilities of any size located in multifamily residential buildings or those facilities that propose to care for eleven (11) to twenty (20) children shall be reviewed under the conditional use provisions of this Chapter.

(Ord. 2012-1, passed 1-24-12)

### **Section 1335 - R-3 High Density Residential**

**1335.01 Intent.** The intent of the R-3 High Density Residential District is to provide areas primarily for residential uses of high relative density for the City that includes multifamily dwellings, manufactured home subdivisions and manufactured home parks, or development compatible with multifamily dwellings.

A. See submittal requirements in Section 1310.10, Zoning Certificate, unless otherwise specified.

(Ord. 2012-1, passed 1-24-12)

**1335.02 Permitted Uses.**

A. Multifamily.

B. Single family attached.

C. Child care facilities.

D. Public parks and recreational open spaces.

E. Public and private schools.

F. Essential services. Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems including elevated water storage facilities.

(Ord. 2012-1, passed 1-24-12)

**1335.03 Accessory Uses.**

A. Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted.

1. An accessory building may be erected, detached from, or attached to the principal building as an integral part thereof, or it may be connected by a breezeway or similar structure. Such accessory buildings shall be located in the buildable area, or in the required rear yard, and shall be placed such that the eaves of the building area at least three (3) feet from a lot line. Accessory buildings to the principal building shall be placed at least twenty (20) feet from a side street lot line. All detached accessory buildings in total shall be no larger than twelve hundred (1,200) square feet and shall meet the maximum lot coverage requirements also. Decks, porches, or other structures attached to the principal building shall meet all yard and lot coverage requirements and setback requirements of this Section and all other applicable sections of this Chapter.

B. Bulletin boards, or signs not exceeding fifty (50) square feet in area pertaining to the construction, lease, hire or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, sold or construction completed.

C. Church bulletin boards.  
(Ord. 2012-1, passed 1-24-12)

**1335.04 Conditional Uses.** The following uses may be permitted in the R-3 High Density District on a conditional basis, following approval in the manner described in Section 1310.13.

A. Bed and Breakfast (B&B) home: See Section 1375.33.

B. Cemeteries.

C. Museums, libraries and other public or private educational institutions.

D. Public buildings erected or used by a department of the City, county, state, or federal government.

E. Parks, playgrounds, golf courses, other recreation uses.

F. Accessory uses customarily incidental to and on the same zoning lot as the principal use.

G. Single family detached dwellings.

H. Manufactured home park.

I. Planned residential development.

J. Manufactured home subdivisions.

K. Church and places of worship.  
(Ord. 2012-1, passed 1-24-12)

### 1335.05 Development Requirements.

A. Lot Area, Frontage and Yard Requirements. The following minimum requirements in 1335.05a shall apply.

HIGH DENSITY RESIDENTIAL DISTRICT (R-3) TABLE 1335.05a						
Use	Lot Area (Sq. Ft.)	Lot Frontage Front Lot Line <sup>2</sup>	Side Yards <sup>1</sup>		Front Yard <sup>3</sup>	Rear Yard <sup>3</sup>
			Least Width	Sum		
Dwellings						
Manufactured Home Lots (Subdivision)	5,000	50'	6'	12'	25'	20'
Boarding/Rooming House	5,000 <sup>4</sup>	50'	6'	12'	25'	20'
Convalescent Home	5,000	60'	6'	12'	25'	20'
Multifamily	<sup>4</sup>	60'	6'	12'	25'	20'
Single Family Attached	8,000 <sup>4</sup>	70'	6'	16'	25'	20'
Single Family Detached	8,000	70'	8'	16'	25'	20'
Supervised Living Facility	5,000	60'	6'	12'	25'	20'
Other Uses						
Institutional Buildings	8,400 <sup>5</sup>	70'	15'	35'	25'	20'

<sup>1</sup> For corner lots, the minimum required side yard abutting the side street shall be twenty (20) feet. Where all residential buildings located along the side street have a front yard less than the required twenty (20) feet, the side street side yard shall be permitted to be reduced to the front yard but in no case shall the side street side yard be less than ten (10) feet.

<sup>2</sup> See also Subsection 1335.05 (E), Minimum Lot Frontage - Frontage Modifications.

<sup>3</sup> This is the minimum required for a lot abutting a local street. Where a front or side yard of a lot abuts an arterial or expressway or frontage road to an arterial or expressway, based on the land use plan, an additional ten (10) feet shall be required for the adjacent front or side yard. This requirement does not apply to non-residential land uses.

<sup>4</sup> Refer to Subsection 1335.05 (B), Maximum Density.

<sup>5</sup> The lot size shall be at least the minimum necessary to accommodate the buildings and meeting yard requirements, parking and loading/unloading area requirements, buffer and screening requirements and maximum lot coverage.

**B. Maximum Density.**

1. Multifamily shall have a minimum of two thousand one hundred seventy eight (2,178) square feet of land area per dwelling unit or a maximum density of twenty (20) dwelling units per acre. Net acreage shall be gross acreage minus the area of public right-of-way within the area proposed for development under this district.

2. The supervised living facility shall be permitted to house a maximum of twenty-five (25) persons per dwelling and shall provide eight hundred seventy-five (875) square feet of lot area per person.

3. The convalescent home shall be permitted to house a maximum of fifty (50) persons within the convalescent home on at least one (1) acre lot area. Smaller convalescent homes are permitted and shall provide the same ratio of persons to lot area, or one (1) person per eight hundred seventy one and two tenths (871.2) square feet of lot area.

4. Boarding/rooming houses shall provide fifteen hundred (1,500) square feet of lot area per boarding/rooming unit in addition to a minimum of two thousand (2,000) square feet of land area for the resident family.

5. Single Family Attached. See definition Section 1305.02, Subd. 33, Dwelling Unit:  
b. Single Family Attached.

a. Duplex: Minimum of four thousand (4,000) square feet per unit.

b. Townhouse (2 units): four thousand (4,000) square feet for each unit.

c. Multifamily/townhouse: 1. Multifamily shall apply. More than two (2) units.

d. Quadplex: B. Maximum Density:, 1: Multifamily shall apply.

C. Maximum Building Height.

1. Thirty-five (35) feet for principal buildings.
2. Fifteen (15) feet for accessory structures.

D. Maximum Lot Coverage. Lot coverage including all structures shall not exceed forty percent (40%) of the total lot or development site.

E. Minimum Lot Frontage - Frontage Modification. Where curvilinear streets and cul-de-sacs are used in a subdivision or where other unconventional lot shapes are used, a reduction in the lot frontage shall be permitted provided that:

1. The lot width measured at the required front yard setback shall equal the frontage required in this district; and
2. The lot width measured at the front lot line shall not be less than thirty-five (35) feet.

F. Accessory Structures and Uses. Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted. An accessory building may be erected, detached from, or attached to the principal building as an integral part thereof, or it may be connected by a breezeway or similar structure. Such accessory buildings shall be located in the buildable area, or in the required rear yard, and shall be placed such that the eaves of the building area at least three (3) feet from a lot line. Detached accessory buildings to the principal building shall be placed at least twenty (20) feet from a side street lot line.

G. Off-Street Parking and Loading Requirements. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 1375.11 and 1375.12.  
(Ord. 2012-1, passed 1-24-12)

**1335.06 Exceptions and Additions to Standards of Section 1335.05a.**

A. Zero lot line development. A single family attached dwelling may reduce one side yard to zero when the following conditions are met:

1. The applicant records a covenant and deed restriction on all properties which will abut the common lot line (zero lot line). Said covenants and deed restrictions shall:
  - a. Provide access to the abutting property for the adjacent property owner, and/or his or her representative, for the purpose of construction, reconstruction, repair and maintenance of either side on the total property;

- b. Shall provide for necessary encroachments for footings, eaves, and special structures; and
  - c. Provide for restrictions to limit color, material and design of the principal building to be compatible with the attached building.
- 2. The zero side yard on the zero lot line dwelling shall not abut the side yard of a dwelling built to meet the side yard standards of Subsection 1335.05a, unless said dwelling is on a corner lot and the dwelling and garage, where this applies, are a minimum of fifteen (15) feet from the side lot line, and all other requirements of this district are met or exceeded. The zero side yard of a zero lot line dwelling shall not abut the rear yard of any dwelling located on a corner lot.
  - 3. Windows shall be prohibited in the wall that is on the same side as the zero side yard.
  - 4. The side yard opposite the zero side yard shall have a minimum width equal to the minimum side yard total normally required for that dwelling type in this district.
  - 5. Accessory structures shall be no closer than seven (7) feet to the principal building on adjacent or abutting lots.
  - 6. The wall of the dwelling shall be placed upon said property in a manner not to encroach upon another person's property.
  - 7. Water runoff from building roofs shall not drain onto adjacent or abutting property, but shall be required to drain onto only the lot on which the building is located.
  - 8. The side street side yard, where this applies, shall not be encroached upon by the zero lot line building; it shall be opposite the zero side yard.
  - 9. A site plan shall be required and submitted along with the permit application for zero lot line development under this Section and reviewed as specified under Subsection 1310.13, Conditional Uses.
- B. Design Criteria for Dwellings. All dwellings permitted or conditionally permitted in this district shall meet the following established design criteria:
- 1. All such dwellings shall be constructed upon a permanent foundation that is located along the entire length of all exterior walls of the dwelling and is approved according to the Uniform Building Code (state building code).
  - 2. The minimum width of the dwelling shall be twenty (20) feet, measured between non-intersecting exterior walls along a straight line perpendicular to both walls. The

requirement shall not apply to any additions made subsequent to the original construction of the dwelling.

3. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division).

C. Child Care Facilities.

1. Child care facilities that care for ten (10) or fewer children shall be a permitted use within the R-3 District.

2. Child care facilities of any size located in multifamily residential buildings or those facilities that propose to care for eleven (11) to twenty (20) children shall be reviewed under the conditional use provisions of this Chapter.

(Ord. 2012-1, passed 1-24-12)

### **Section 1340 - PRD Planned Residential Development**

**1340.01 Intent.** This Section will permit residential development under site design requirements different from the residential districts requirements of Sections 1330 and 1335. Planned Residential Development requirements are listed within these sections. Development under provisions of this Section shall consist exclusively of residential uses and permitted accessory uses to the principal residential uses. Planned Residential Development is allowed in R-2, R-3 Districts as a Conditional Use.

(Ord. 2012-1, passed 1-24-12)

#### **1340.02 Planned Residential Development.**

A. Purposes. The provisions of this Subsection are intended to provide opportunities for alternative development styles and methods that are in accordance with the provisions and regulations contained herein, the intent of the Land Use Plan, and the general intent of the district in which the development is proposed. The provisions of this Section provide design flexibility and amenities in order to obtain a higher quality of development. In return for a potential increase in density and reduced street design requirements the expected attributes from development under these provisions include:

1. Variety in the organization of site elements, housing types and pedestrian/vehicular circulation systems;
2. Higher standards of site and building design through use of trained and experienced professionals in land planning, architecture and landscaping to prepare plans for Planned Residential Developments;

3. Preservation and enhancement of desirable natural site characteristics and open space;
4. More efficient and effective use of streets, utilities and public facilities;
5. More usable and suitably located recreation facilities;
6. Variety of quality housing;
7. Opportunities for energy conservation and the use of solar energy.

B. Permitted Uses. This article shall be applicable and used only for Planned Residential Development located within the residential zoning districts as described in Section 1330 and 1335, Development under the applicable residential zoning district regulations. Where a proposed Planned Residential Development is located in two (2) residential zoning districts, residential building types shall be permitted only in the district in which they are permitted under Subsections 1330 and 1335, Medium Density Residential and High Density Residential. Proposed uses conditionally permitted under this Chapter shall be reviewed within the Planned Residential Development review process and conditionally permitted, or not permitted, based on proper review.

C. Administrative Requirements.

1. Coordination with Subdivision Ordinance. It is the intent of this Chapter that subdivision review under the Subdivision Ordinance be carried out simultaneously with review under this Section for the zoning ordinance. The review procedure shall be as specified in Section 1220 of the Subdivision Ordinance.
2. Preparation of Plans. The applicant is required to have the necessary documents and supporting evidence prepared and endorsed by a qualified professional team consisting of a registered architect, and if the planned residential development requires the subdivision of land and the installation of public site improvements, a registered land surveyor and registered engineer.
3. Effect of Approval. The final plan as approved, together with the conditions and restrictions imposed, if any, shall govern and control the use and development of the land involved. The general zoning regulations which were applicable to the land prior to approval of the plan and which are not inconsistent with the plan continue to be applicable. No building permit shall be issued for any structure within the Planned Residential Development, unless and until, the Zoning Administrator certifies that the planned structure conforms to the provisions of the plan and other applicable zoning requirements.
4. Plan Changes. The Zoning Administrator shall refer all plan changes in use, density and bulk standards, open space and other standards of development to the Planning

Commission and City Council following the zone change procedure. Any such changes shall be recorded as amendments to the final plan.

5. Annual Review. The Zoning Administrator shall review each implemented Planned Residential Development at least once each year and shall make a report, through the Planning Commission, to the City Council on the current construction and site improvement status of the development. If development is not progressing, according to the staging plan or approved schedule, the owner shall be required to submit a statement to the Zoning Administrator setting forth the reasons for the lack of progress. If the City Council finds that the development has not occurred according to the established development schedule or is not otherwise reasonable in the view of the City Council, the Council may initiate rezoning to remove the Planned Residential Development. Where the Zoning Administrator finds that construction of a Planned Residential Development has not been started after one year from the date of adoption, the City Council shall act to initiate rezoning to remove the Planned Residential Development District, unless the owner or owners provide in writing the reasons for lack of progress. If the Council finds such reasons acceptable, they may extend this time limit to start construction for up to one additional year only.

D. General Requirements.

1. Ownership. A tract of land to be developed as a Planned Residential Development shall be under the control of a single person (acting through a corporation), where the person agrees in advance to be bound by the conditions and regulations which will be effective within the district and to record such covenants, easements, and other provisions with the County Recorder.

2. Staging Plan. A staging plan shall be required to be submitted as part of the application at the preliminary plat stage as set forth in the Subdivision Ordinance, 1220.02, Procedures for Subdivision of Plats where the Planned Residential Development is proposed to be developed in stages over a period of more than one (1) year. The staging plan shall be part of the final plan submitted for review by the City Council and shall indicate the areas to be developed and the times of the development. The schedule may be modified by the City Council on the showing of good cause by the developer. If the sequence of construction of various portions of the development is to occur in stages, then the open space recreational facilities, landscaping, and other amenities shall be developed, or committed thereto, in proportion to the number of dwelling units intended to be developed during any given stage of construction as approved by the City Council. Furthermore, at no time during the construction of the project shall the number of constructed dwelling units per acre of developed land exceed the overall density per acre established by the approved final plan.

E. Standards of Development.

1. **Minimum Parcel Size.** The minimum total amount of land required for development under this Section shall be three (3) acres. The parcel or parcels proposed for a Planned Residential Development shall not be divided by major roads; the area shall be one (1) contiguous piece.
2. **Maximum Lot Coverage.** The maximum lot coverage of all structures shall not exceed forty-five percent (45%) in the R-2 and R-3 Zoning Districts for the total lot or development site.
3. **Project Density.** For the two (2) residential zoning districts (R-2 and R-3), a density bonus of up to twenty-five percent (25%) may be permitted where all other requirements of this Section are complied with. (For example, in the R-3 District, using the density of twenty (20) units per acre for multifamily units, a maximum of five (5) additional housing units may be permitted. Where the density figure is not a whole number, it shall be rounded to the nearest whole number, for example, .0 to .05-.0 or .6 to .9-1.0). Where the Planning Commission and City Council find that the proposed Planned Residential Development is incompatible with the surrounding uses and density, the City Council may require that the maximum project density bonus be modified to less than twenty-five percent (25%).
4. **Open Space Requirements.**
  - a. **Definition.** Open Space shall consist of all land within a Planned Residential Development that is not covered by residential structures, accessory structures, with the exception of structures used for recreational purposes, and auto areas (roads, parking, loading/unloading areas) and is under private or common (homeowners association) control.
  - b. **Purpose.** Open Space shall provide as private outdoor space for each dwelling unit; and common open space shall provide for the preservation of natural features, increase site and building design flexibility, improve the overall aesthetics of the site, and provide for common recreational spaces for all residents of the Planned Residential Development.
  - c. **Design.** The common open space areas shall be laid out in accordance with the best principles of site design. The open space areas should be as close to all residents as possible, with greenways leading to major recreation spaces, other common open space areas, or public open space areas.
  - d. **Minimum Area.** Required total open space shall comprise at least fifty percent (50%) of the total gross area of the proposed development site. Where a Planned

Residential Development abuts a City park for one hundred (100) feet or more, the required open space may be reduced to forty-five percent (45%) of the total gross area of the proposed development site. An adequate amount of open space shall be provided as private open space for each unit based on housing type and style and number of units having immediate access to the development grounds. A minimum of fifty percent (50%) of the required open space shall be designated and identified as common open space to be used for passive or active recreational activities by the development residents.

e. Dimension. No common open space area shall be less than six hundred twenty-five (625) square feet in area, nor less than twenty (20) feet in its smallest dimension. All common open space areas shall be contiguous to one another, or be connected by walkways.

f. Physical Characteristics. Common open space shall be equitably distributed within the development in relation to the number of dwelling units which will be served. The common open space shall be useable. This determination shall be made based on slope, wetness and related soils limitations, amount of common open space used for natural drainage ways, and access. The remaining portion of the required open space not designated as private or common open space may be improved or may be left in its natural state. Areas devoted to natural or improved flood plain or natural drainage ways and swales, and those areas encumbered by flowage, or drainage easements may be applied toward satisfying the total open space requirement.

g. Physical Improvements. Landscaping of the common open space and other non-private open space shall be required and shall include shade trees, evergreen trees and deciduous and evergreen shrubbery, all of which are capable of surviving in the southern Minnesota climate. The landscaping shall provide buffering where appropriate, shading of buildings and private and common open space, visual diversity, enhance existing natural features, and improve overall on-site aesthetics. A landscaping plan shall be submitted with other plans at the preliminary and final plat stages. The plan shall indicate plant varieties and numbers of each variety, location and spacing. Landscaping shall be completed in stages along with the construction of dwellings, where the sequence of construction is to occur in stages.

h. The buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

i. Private Space. Private open space shall be provided for all ground level dwellings with main floor levels within five (5) feet of ground level for the following

dwelling types: Single Family Attached. This space shall be at least three hundred (300) square feet in size and made private by fencing or a combination of fencing and appropriate landscaping. All fences shall be between six (6) and eight (8) feet in height and be made of wood, cement block, brick, stone or cement in such a way that the fence is visually solid. Where landscaping is used, no plant material shall be less than four (4) feet in height at the time of planting and shall be a perennial, woody plant material. The location of the fencing, or fencing and landscaping in combination, shall be along the entire perimeter of the private space, except along the exterior walls of dwellings.

j. Access. All common open space areas shall be accessible to all residents of the development. Such access may be provided either by adjacency of the private lots or buildings to the common open space, the use of walkways (minimum width ten (10) feet), leading to the common or public areas, or public right-of-way which have frontage on the common or public open space for a distance of at least forty (40) feet.

5. Traffic Circulation and Road Improvements. Principal vehicular access points shall be located and designed to permit safe and efficient traffic flow. Local streets within the development shall not be connected to streets outside the development in such a way as to encourage their use by through traffic. All streets within the Planned Residential Development shall be designed to standards adequate to accommodate their anticipated uses. Public streets shall be developed to City standards, with the exception of right-of-way and surface width requirements and minimum radius for cul-de-sacs which may be modified by the City Council where the applicant is able to prove that there will be adequate ingress and egress, adequate offstreet parking, safe pedestrian circulation facilities, and that emergency vehicles have adequate access to all structures within the development, and where such modifications are deemed by the City Council as consistent with the public interest.

6. Parking Requirements. Parking requirements, as specified in Subsection 1375.12, shall apply to Planned Residential Developments. Parking areas shall:

- a. Be screened from adjacent buildings and roads with hedges, dense plantings, trees, earth berms, walls or fences;
- b. Be limited in size and shall be landscaped in a manner so as to interrupt the expanse of parking where large parking lots are proposed;
- c. Be arranged so to prevent through traffic to other parking areas; and
- d. Be graded and drained so as to dispose of all surface water without erosion, flooding and other negative effects within the Planned Residential Development there shall be provided a separate area to be used for the storage, indoors or outdoors, of the occupants recreational vehicles. Parking spaces shall be marked and suitably landscaped so as to be harmonious with the rest of the development.

7. Compatible Development. The Planned Residential Development shall be designed to harmonize the scale, setback and overall mass with existing adjacent residential development. Landscaped buffers, earth berms, and fencing may be required where the City Council finds that the proposed building scale, mass or setback are not compatible with existing adjacent residential development.

(Ord. 2012-1, passed 1-24-12)

### **Section 1345 - B-1 Central Business District**

**1345.01 Intent.** The B-1 Central Business District has been established to encourage the continuation of a viable downtown by allowing prime retail sales and service uses, office, entertainment facilities and public and semi-public uses. The purpose of this district is to provide specifically for regulation of the high intensity commercial uses located within the downtown core of the City.

(Ord. 2012-1, passed 1-24-12)

#### **1345.02 Permitted Uses.**

- A. Antique shops.
- B. Art shops and picture framing establishments.
- C. Automobile parts and accessory stores.
- D. Bakeries or bakery outlet, retail sales only.
- E. Baby and children's shops.
- F. Banks, savings and loan associations or similar companies.
- G. Barber shops or beauty shops.
- H. Bicycle shops, sales and repairs.
- I. Blueprinting and photostatting establishments.
- J. Book stores.
- K. Business and professional offices.
- L. Business machine sales and service.

- M. Camera stores.
- N. Carpet and rug stores, retail sales only.
- O. Catalog sales stores.
- P. Catering establishments.
- Q. China and glassware stores.
- R. Cigar, tobacco, and pipe shops.
- S. Clothing stores.
- T. Clubs or lodges, nonprofit or fraternal.
- U. Coin or philatelic stores.
- V. Confectionery stores including ice cream or snack bars.
- W. Dance studios.
- X. Delicatessens.
- Y. Drug stores.
- Z. Dry goods stores.
- AA. Employment agencies.
- BB. Essential services. Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems including elevated water storage facilities.
- CC. Florist shops.
- DD. Food stores, including supermarkets, dairy stores, produce markets and meat and/or fish markets.
- EE. Furniture and home furnishing stores.
- FF. Funeral homes.
- GG. Gift or hobby shops.

- HH. Hardware stores.
- II. Health studios, gyms or recreational establishments.
- JJ. Household appliances, sales and/or repair.
- KK. Jewelry stores and watch repair shops.
- LL. Key shops.
- MM. Labor union offices.
- NN. Leather goods stores. Retail sales only.
- OO. Locksmith and gunsmith shops.
- PP. Magazine and newspaper stores.
- QQ. Music stores or studios.
- RR. Office supply stores.
- SS. Optician sales retail.
- TT. Orthopedic and medical appliance stores.
- UU. Paint, glass, and wallpaper stores.
- VV. Pawn shops.
- WW. Pet stores.
- XX. Photographic studios, including the developing of film and pictures when conducted as part of the principal business on the premises.
- YY. Plumbing and heating shops, and electric shops.
- ZZ. Post offices.
- AAA. Restaurants, taverns, and cocktail lounges including live entertainment or dancing.
- BBB. Shoe or clothing repair shops.

CCC. Sign painting shops.

DDD. Signs.

EEE. Sporting goods stores.

FFF. Stamp redemption stores.

GGG. Tailor and dressmaking shops.

HHH. Telegraph offices.

III. Telephone company offices and answering services.

JJJ. Television and radio studios.

KKK. Theaters, indoor.

LLL. Toy stores.

MMM. Travel bureaus.

NNN. Upholstering shops.

OOO. Video rental stores.

PPP. Public recreation. Facilities and activities provided by a governmental body, including but not limited to public parks, playgrounds, buildings, and grounds.

QQQ. Temporary event functions, activities consisting of temporary amusement enterprises including consignment auctions, circuses, carnivals, fairs, flea markets, concerts, dances, and the like. All functions must have a specified period of time, and receive a permit or license from the City.

RRR. Uses determined by Planning Commission to be similar to those listed in this Section.  
(Ord. 2012-1, passed 1-24-12)

**1345.03 Accessory Uses.** Customary accessory uses and buildings provided such uses are incidental to the principal use and to not include any activity conducted as a business.  
(Ord. 2012-1, passed 1-24-12)

**1345.04 Conditional Uses.** The following uses may be permitted in the B-1 District on a conditional basis, following approval in the manner prescribed in Section 1310.13:

- A. Animal hospitals, veterinary clinics, provided any outdoor exercising runway shall be at least two hundred (200) feet from any residential district boundary.
- B. Ag services - soil preparation services, farm management services, crop services. Public utility and services uses, including, but not limited to, electric substations, gas regulator stations.
- C. Hazardous material storage.
- D. Public and private schools.
- E. Amusement establishments, including bowling alleys, dance halls, pool halls, swimming pools, and skating rinks.
- F. Automobile service stations or washing establishments.
- G. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots), including as incidental to the major uses all repair work in connection with their own or customers' vehicles. However, this paragraph shall not be construed to include automobile, tractor, or machinery wrecking and rebuilding and used parts yards.
- H. Bed and breakfast home, subject to regulations and licensing requirements of the State of Minnesota.
- I. Building materials sales (lumber yards).
- J. Business or secretarial schools or colleges, commercial trade schools or other commercially operated schools for adults.
- K. Carpenter and cabinet making shops for retail custom work.
- L. Churches, temples or synagogues.
- M. Clothes cleaning establishments and laundry pick-up stations.
- N. Community or neighborhood centers or meeting halls.
- O. Department stores.
- P. Dwelling units (apartments) located above street level, first floor, when constructed in conjunction with or as part of a structure occupied by a use permitted or conditionally permissible by this Chapter.

- Q. Garden supply, tool and seed stores.
- R. Hospitals or clinics.
- S. Hotels.
- T. Lawn mower repair shops.
- U. Locker plant, for storage and retail sales only.
- V. Motels, motor hotels, and tourist courts.
- W. Nursery schools or day care centers.
- X. Parking lots, other than accessory, and subject to the provisions of Subsection 1375.12 of this Chapter.
- Y. Public auction rooms.
- Z. Taxidermists.
- AA. Variety stores and convenience stores including fuel sales.
- BB. Any accessory structure, detached, in excess of 144 square feet for Nonconforming Residential.
- CC. Uses that are located in the B-1 Central Business District.
- DD. Uses determined by Planning Commission to be similar to those listed in this Section. (Ord. 2012-1, passed 1-24-12)

#### **1345.05 Bulk Regulations.**

	<b>Other Permitted Uses</b>
Minimum Lot Area	2,000
Minimum Lot Width	25 feet
Front Yard	0
Side Yard	0
Rear Yard	15 feet
Building Height	35 feet
Accessory Buildings or Structures	20 feet

A. Development Requirements.

1. Lot Area, Frontage and Yard Requirements. The following minimum requirements in Table 1345.05 shall apply.
2. All buffering and screening requirements, as referred to in Subsection 1375.23 shall be complied with under these provisions of the Chapter. Where alleys exist, the rear yard measurement may include one-half the width of the alley. All loading/unloading area and storage area requirements shall be complied with.

B. Use Limitations.

1. All commercial activities shall be conducted within building. Exceptions to this requirement include activities using designated loading spaces and temporary waste storage. Outdoor display of retail items shall not be permitted on public right-of-way. An establishment that requires outside storage of materials may locate offices or retail operations within this district, but not storage areas.
2. No building customarily used for night operation shall be located closer than one hundred (100) feet to any residential district.
3. Public streets, alleys or parking areas shall not be used for commercial vehicle storage or parking on a temporary or permanent basis.
4. Storage of Materials. Storage of all materials or machinery related to the use shall be stored in buildings. There shall be no outside storage, with the exception of vehicles used as part of the on-site commercial use. Storage of junk, wrecked vehicles or other waste products shall be enclosed within a building or structures. Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view. The waste materials shall be removed and disposed of in a manner adequate to meet all federal, State of Minnesota and Olmsted County Health Department regulations, and other requirements of this Chapter. No wastes shall be piled on open ground.
5. Dwelling units (apartments) located above the street level first floor, in buildings in the downtown commercial area, shall be permitted where adequate onsite parking is available. A maximum of one dwelling unit per 2,000 square feet of lot area shall be permitted where all other requirements are met and where the lot meets all lot area, lot frontage and yard requirements of this district.
6. Shopping Center. Applicant petitioning for approval of a shopping center shall be required to obtain a conditional use permit. The proposal shall meet all other requirements of specific commercial uses as specified under this or any other section of this Chapter.

7. All commercial uses that have as part of their establishment and structures drive-in, drive-up or drive-through facilities shall be required to be reviewed under the conditional use provisions of this Chapter.

8. Gasoline Service Stations and Convenience Stores that sell gasoline may be conditionally permitted in this district where the site is adjacent to an arterial or higher level street, or to the frontage road adjacent to a higher level street, and where all other requirements of the Chapter are met or exceeded.

9. A conditional use permit shall be required for any outdoor display of retail items, other than for vehicles and farm implements.

10. Accessory Detached Structures. A Conditional Use Permit shall be required for any accessory structure, detached, in excess of one hundred forty-four (144) square feet for nonconforming residential uses that are located in the B-1 Central Business District. Any accessory structure, detached, less than one hundred forty-four (144) square feet shall be considered as a permitted use. All accessory structures, detached, for nonconforming residential uses shall meet the yard requirements as set forth in the (R-2) Residential District, Single Family Detached standards.

11. A conditional use permit shall be required for any additions for nonconforming residential uses that are located in the B1 Central Business District. All additions for nonconforming residential uses shall meet the yard requirements as set forth in the R2 Residential District Single Family Detached Standards.

C. Parking Requirements. See Subsection 1375.12, Parking Requirements. Where commercial uses are located in the central business district, and where the commercial building has over thirty five hundred (3,500) square feet of floor area, and where the commercial use cannot meet the minimum parking requirements as set in Subsection 1375.12, a conditional use permit shall be required. Recommendation by the Planning Commission and decisions by the City Council shall be based on the type of commercial use under consideration.

D. Sign Requirements. See Subsection 1375.14, Signs.  
(Ord. 2012-1, passed 1-24-12)

### **Section 1350 - B-2 Highway Commercial District**

**1350.01 Intent.** The B-2 Highway Commercial District is intended to provide space for commercial areas located outside the central business district. This district can accommodate a wide range of facilities with a citywide impact and generally includes the commercial frontage along the major transportation arteries.

A. See submittal requirements in Section 1310.10, Zoning Certificate, unless otherwise specified.

(Ord. 2012-1, passed 1-24-12)

**1350.02 Permitted Uses.**

A. Antique shops.

B. Art shops and picture framing establishments.

C. Automobile, trailer, motorcycle, boat and farm implement establishments for display, hire, rental and sales (including sales lots), including as incidental to the major uses all repair work in connection with their own or customers' vehicles. However, this paragraph shall not be construed to include automobile, tractor, or machinery wrecking and rebuilding and used parts yards.

D. Automobile parts and accessory stores.

E. Bakeries or bakery outlet, retail sales only.

F. Baby and children's shops.

G. Banks, savings and loan associations or similar companies.

H. Barber shops or beauty shops.

I. Bed and breakfast home, subject to regulations and licensing requirements of the State of Minnesota.

J. Bed and breakfast inn, subject to regulations and licensing requirements of the State of Minnesota.

K. Bicycle shops, sales and repairs.

L. Book stores.

M. Business and professional offices.

N. Business machine sales and service.

O. Camera stores.

P. Carpet and rug stores, retail sales only.

- Q. Catalog sales stores.
- R. Catering establishments.
- S. China and glassware stores.
- T. Cigar, tobacco, and pipe shops.
- U. Clothes cleaning establishments and laundry pick-up stations.
- V. Clothing stores.
- W. Clubs or lodges, nonprofit or fraternal.
- X. Coin or philatelic stores.
- Y. Community or neighborhood centers or meeting halls.
- Z. Confectionery stores including ice cream or snack bars.
- AA. Dance studios.
- BB. Delicatessens.
- CC. Department stores.
- DD. Drug stores.
- EE. Dry goods stores.
- FF. Employment agencies.
- GG. Essential services. Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems including elevated water storage facilities.
- HH. Florist shops.
- II. Food stores, including supermarkets, dairy stores, produce markets and meat and/or fish markets.
- JJ. Furniture and home furnishing stores.

- KK. Funeral homes.
- LL. Garden supply, tool and seed stores.
- MM. Gift or hobby shops.
- NN. Hardware stores.
- OO. Health studios, gyms or recreational establishments.
- PP. Hotels.
- QQ. Household appliances, sales and/or repair.
- RR. Jewelry stores and watch repair shops.
- SS. Key shops.
- TT. Labor union offices.
- UU. Lawn mower repair shops.
- VV. Leather goods stores.
- WW. Locker plant, for storage and retail sales only.
- XX. Locksmith and gunsmith shops.
- YY. Magazine and newspaper stores.
- ZZ. Motels.
- AAA. Music stores or studios.
- BBB. Office supply stores.
- CCC. Optician sales retail.
- DDD. Orthopedic and medical appliance stores.
- EEE. Paint, glass, and wallpaper stores.
- FFF. Pawn shops.

GGG. Pet stores.

HHH. Photographic studios, including the developing of film and pictures when conducted as part of the principal business on the premises.

III. Plumbing and heating shops, and electric shops.

JJJ. Post offices.

KKK. Restaurants, taverns, and cocktail lounges including live entertainment or dancing.

LLL. Shoe or clothing repair shops.

MMM. Sign painting shops.

NNN. Sporting goods stores.

OOO. Stamp redemption stores.

PPP. Tailor and dressmaking shops.

QQQ. Telephone company offices and answering services.

RRR. Television and radio studios.

SSS. Theaters, indoor.

TTT. Toy stores.

UUU. Travel bureaus.

VVV. Upholstering shops.

WWW. Video rental stores.

XXX. Bowling alley.

YYY. Temporary event functions, activities consisting of temporary amusement enterprises including consignment auctions, circuses, carnivals, fairs, flea markets, concerts, dances, and the like. All functions must have a specified period of time, and receive a permit or license from the City.

ZZZ. Essential services. See Definitions 35. Essential Services.

AAAA. Uses determined by Planning Commission to be similar to those listed in this Section.

(Ord. 2012-1, passed 1-24-12)

**1350.03 Accessory Uses.** Customary accessory uses and buildings provided such uses are incidental to the principal use and to not include any activity conducted as a business.

(Ord. 2012-1, passed 1-24-12)

**1350.04 Conditional Uses.** The following uses may be permitted in the B-2 District on a conditional basis, following approval in the manner prescribed in Section 1310.13:

- A. Animal hospitals, veterinary clinics, provided any outdoor exercising runway shall be at least two hundred (200) feet from any residential district boundary.
- B. Ag services: soil preparation services, farm management services, crop services.
- C. Public utility and services uses, including, but not limited to: electric substations, gas regulator stations.
- D. Accessory uses incidental, to and on the same zoning lot as the principal use.
- E. Hazardous material storage.
- F. Amusement establishments, including bowling alleys, dance halls, pool halls, swimming pools, and skating rinks.
- G. Automobile service stations or washing establishments.
- H. Blueprinting and photostatting establishments.
- I. Building materials sales.
- J. Business or secretarial schools or colleges, commercial trade schools or other commercially operated schools for adults.
- K. Carpenter and cabinet making shops for retail custom work.
- L. Churches, temples or synagogues.
- M. Hospitals or clinics.
- N. Motor hotels and tourist courts.

O. Nursery schools or day care centers.

P. Parking lots, other than accessory, and subject to the provisions of Subsection 1375.12 of this Chapter.

Q. Public auction rooms.

R. Taxidermists.

S. Variety stores.

T. Public recreation. Facilities and activities provided by a governmental body, including but not limited to public parks, playgrounds, building and grounds.

U. Other commercial uses determined by the Planning Commission to be of the same general character as the uses permitted in this district.

(Ord. 2012-1, passed 1-24-12)

#### **1350.05 Bulk Regulations.**

	<b>Other Permitted Uses</b>
Minimum Lot Area	5,000 sq. ft.
Minimum Lot Area Coverage by dwellings and other Accessory Buildings	No minimum
Minimum Lot Width	60 feet
Front Yard	45 feet
Side Yard	10 feet
Rear Yard	20 feet
Building Height	25 feet

Transitional Yards	<p>Where the side or rear lot line of a lot in the B-2 District coincides with a side or rear lot line in an adjacent residential district, a yard shall be provided not less in width than 1.25 times the height of the wall of the building on said B-2 zoned lot. Such side yard in the B-2 District shall not be less than 15 feet in width. Such rear yard in the B-2 District shall not be less than 25 feet in width.</p> <p>Where a side or rear lot line in the B-2 District coincides with a side or rear lot line in an adjacent residential district, the yard provided shall contain a wall, screening fence, or densely planted compact hedge not less than 5 feet nor more than 10 feet in height, which wall, fence or hedge shall be well maintained.</p>
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A. Development Requirements.

1. Lot Area, Frontage and Yard Requirements. The following minimum requirements in Table 1350.05 shall apply.
2. Buffering and Screening. Buffering and screening shall required as specified in Subsection 1375.23, Buffering and Screening.

B. Use Limitations.

1. All commercial activities shall be conducted within building. Exceptions to this requirement include activities using designated loading spaces and temporary waste storage. Outdoor display of retail items shall not be permitted on public right-of-way. An establishment that requires outside storage of materials may locate offices or retail operations within this district, but not storage areas.
2. No building customarily used for night operation shall be located closer than one hundred (100) feet to any residential district.
3. Public streets, alleys or parking areas shall not be used for commercial vehicle storage or parking on a temporary or permanent basis.
4. Storage of Materials. Storage of all materials or machinery related to the use shall be stored in buildings. There shall be no outside storage, with the exception of vehicles

used as part of the on-site commercial use. Storage of junk, wrecked vehicles or other waste products shall be enclosed within a building or structures. Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view. The waste materials shall be removed and disposed of in a manner adequate to meet all federal, State of Minnesota and Olmsted County Health Department regulations, and other requirements of this Chapter. No wastes shall be piled on open ground.

5. Shopping Center. Applicant petitioning for approval of a shopping center shall be required to obtain a conditional use permit. The proposal shall meet all other requirements of specific commercial uses as specified under this or any other section of this Chapter.

6. All commercial uses that have as part of their establishment and structures drive-in, drive-up or drive-through facilities shall be required to be reviewed under the conditional use provisions of this Chapter.

7. Gasoline Service Stations and Convenience Stores that sell gasoline may be conditionally permitted in this district where the site is adjacent to an arterial or higher level street or to the frontage road adjacent to a higher level street, and where all other requirements of the Chapter are met or exceeded.

8. A conditional use permit shall be required for any outdoor display of retail items, other than for vehicles and farm implements.

C. Parking Requirements. See Subsection 1375.12, Parking Requirements.

D. Sign Requirements. See Subsection 1375.14, Signs.  
(Ord. 2012-1, passed 1-24-12)

### **Section 1355 M-1 Light Manufacturing District**

**1355.01 Intent.** The M-1 Light Manufacturing District is designed to provide an environment suitable for industrial activities that do not create nuisance and hazards, see Section 1375.15 Environmental Performance Standards. It is intended that the permitted uses be compatible and not detrimental to adjacent properties.

A. See submittal requirements in Section 1310.10, Zoning Certificate, unless otherwise specified.  
(Ord. 2012-1, passed 1-24-12)

**1355.02 Permitted Uses.**

- A. Adult entertainment establishment: Pursuant to Section 1385.
- B. Alcoholic beverages manufacture, bottling or wholesaling.
- C. Automobile assembly, body, and fender works, painting, upholstery, repair, or sales.
- D. Warehousing and distribution plant.
- E. Dry cleaning and laundry establishments with no limitation on number of employees.
- F. Essential services. Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems including elevated water storage facilities.
- G. Paint mixing (no boiling).
- H. Photographic equipment manufacture (except film and chemicals).
- I. Radar installations and towers.
- J. The manufacturing, compounding, processing, packaging or treatment of cosmetics and pharmaceuticals.
- K. The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yards and wood.
- L. Membership organizations. Facilities and activities operated on a membership basis for the promotion of the interests of the members, including trade organizations, political or labor organizations, and civic, social and fraternal associations, with the primary activities related to membership organization functions, amusement/entertainment, or services to the general public.
- M. Farm product raw materials and product storage (such as grain elevators).
- N. Truck terminals.
- O. Temporary event functions, activities consisting of temporary amusement enterprises including consignment auctions, circuses, carnivals, fairs, flea markets, concerts, dances, and the like. All functions must have a specified period of time, and receive a permit or license from the City.

P. Other industrial use determined by the Planning Commission to be of the same general character as the use permitted in this district.  
(Ord. 2012-1, passed 1-24-12)

**1355.03 Accessory Uses.** Accessory uses incidental to, and on the same zoning lot as a permitted principal use.  
(Ord. 2012-1, passed 1-24-12)

**1355.04 Conditional Uses.** The following uses may be permitted in the M-1 Light Manufacturing District on a conditional basis, following approval in the manner prescribed in Section 1310.13:

- A. Airports and commercial heliports including: aircraft landing fields, runways, flight strips and flying schools, together with hangars, terminal buildings and other auxiliary facilities.
- B. Automobile service stations, for the retail sale or dispensing of fuel, lubricants, tires, batteries, accessories and supplies including installation and minor services customarily incidental thereto; facilities for chassis and gear lubrication are permitted only if enclosed in a building.
- C. By-products processing.
- D. Dwelling units for watchmen and their families located on the premises where they are employed in such capacity.
- E. Heliports, private.
- F. Institutions for the care or treatment of alcoholics, drug addict patients or the mentally ill or retarded.
- G. Manufacture, compounding, processing, packaging, or treatment of fish and meat products, cereals, sauerkraut, pickles, vinegar, yeast, stock feed or flour.
- H. Parks and playgrounds.
- I. Penal and correctional institutions.
- J. Race tracks of all kinds.
- K. Radio and television studios, stations and towers, transmitting and receiving.

- L. Recreational buildings or community centers.
- M. Stadiums, auditoriums and arenas, open or enclosed.
- N. Theaters, automobile drive-ins.
- O. Accessory uses incidental to and on the same zoning lot as the principal use.
- P. General agriculture. The production of crops, plants, or trees; or the production, keeping, grazing or feeding of livestock for the sale of livestock, or livestock products, or other animals and animal products. This use includes incidental processing and retail sales of products grown or raised on a farm. A farm dwelling and farmyard shall be considered a part of this use category.
- Q. Animal services. Activities or establishments that consist of veterinary and related services for livestock, domestic pets and equines including kennels, housing or boarding of pets and other domestic animals such as stables and breeding services.
- R. Hazardous or toxic material storage: See Subsection 1375.25, Hazardous Material Storage.
- S. Restaurants. Retail establishments selling, primarily, prepared foods, and secondarily, alcoholic beverages for consumption on the premises; and also cafes, lunch counters, refreshment stands and fast-food establishments.
- T. Agricultural equipment manufacture, rental or sales.
- U. Car wash.
- V. Bottling plants.
- W. Building material sales.
- X. Cartage and express facilities.
- Y. Cold storage plant.
- Z. Contractors, architects and engineers' offices, shops and yards; such as building, cement, electrical, heating, ventilating and air conditioning, masonry, painting, plumbing, refrigeration and roofing.
- AA. Dog kennel and facility for boarding, breeding or training.

- BB. Electrical appliance and equipment manufacturing.
- CC. Electrical supplies sales, warehousing, and distribution.
- DD. Electronic instrument and device manufacturing repair and service.
- EE. Farm and industrial machinery sales and repair.
- FF. Film processing.
- GG. Fuel sales.
- HH. Fumigating contractor.
- II. Garages for storage, repair, and servicing of motor vehicles.
- JJ. Greenhouses, wholesale.
- KK. Ice manufacture, sales and storage.
- LL. Instrument manufacturing - dental, optical, surgical, measuring, musical.
- MM. Laboratories for research, testing and experimental purposes.
- NN. Machine shop.
- OO. Mail order houses.
- PP. Materials recovery facility.
- QQ. Parking lots, other than accessory.
- RR. Plating.
- SS. Plumbing contractor's office and plumbing supplies sales and wholesaling.
- TT. Pottery and statuary manufacturing.
- UU. Printing and publishing.
- VV. Public utility and service uses including bus stations, bus terminals, bus turn-arounds (off-street), bus garages and bus lots.

WW. Fire stations, ambulance service.

XX. Police stations.

YY. Railroad passenger stations.

ZZ. Railroad rights-of-way.

AAA. Telephone exchanges, telephone transmission equipment buildings, microwave relay towers, and

BBB. Wireless communication towers (W.C.T.).

CCC. Utility service substations - electric, gas, and telephone.

DDD. Recycling facility.

EEE. Resource recovery facility.

FFF. Salvage yard.

GGG. Signs.

HHH. Trade schools.

III. Transfer facility.

JJJ. Warehousing and storage facilities.

KKK. Waste facility.

LLL. Other manufacturing, processing, storage or commercial uses determined by the Planning Commission to be of the same general character as the uses permitted in this district and found not to be obnoxious, unhealthful or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, odors, toxic or noxious matter, glare, heat, fire or explosives hazards.

(Ord. 2012-1, passed 1-24-12)

**1355.05 Prohibited Uses.** The following uses are specifically prohibited from the M-1 Light Manufacturing District:

A. Dwelling units and lodging rooms, other than watchmen's quarters.

B. Acid manufacture or storage except on a limited scale as an accessory use to a permitted industry.

C. Manufacture of fertilizer.

D. Manufacture or storage of gun powder, fireworks or other explosives.

E. Slaughterhouses and stockyards.

F. Similar uses which create excessive hazards, noise, vibrations, smoke, dust, odors, heat, glare, or other objectionable influence beyond the property boundaries.

(Ord. 2012-1, passed 1-24-12)

### **1355.06 Bulk Regulations.**

	<b>Permitted Uses</b>
Minimum Lot Area	6,000 feet
Minimum Lot Area Coverage by dwellings and other Accessory Buildings	Maximum lot coverage (see Subdivision 1390.09B)
Minimum Lot Width	60 feet
Front Yard	15 feet
Side Yard	10 feet
Rear Yard	10 feet
Transitional Yards	Where the side or rear lot line in the M-1 District coincides with a side or rear lot line in an adjacent residential district, a yard of not less than 50 feet shall be provided along such side or rear lot line on the industrial lot.

(Ord. 2012-1, passed 1-24-12)

**1355.07 Special Requirements.** Emissions of noise, vibration, dust, smoke or other particulate matter, toxic materials, odor or glare shall not exceed the standard set by the Minnesota Pollution Control Agency (MPCA). Storage or sale of gas, fuel or oil shall comply with and be approved by the Chief of the Fire Department.

(Ord. 2012-1, passed 1-24-12)

**1355.08 Development Requirements.**

A. **Maximum Building Height.** Any principal building within two hundred (200) feet of a residential zoning district, shall have a maximum height of fifty-five (55) feet or less, and all accessory structures shall have a maximum height of twenty-five (25) feet or less. (Refer to Subsection 1375.09, Non Conforming Uses, Lot and Structure for additional requirements.)

B. **Maximum Lot Coverage.** One hundred percent (100%) of the area available for building. The area available for building is that area remaining after providing minimum area or more for yard requirements, buffer and screen requirements, parking area and loading/unloading requirements where required.

C. **Buffering and Screening.** Buffering and screening shall be required as specified in Subsection 1375.23 Buffering and Screening.

D. Where a lot or parcel of land is a corner lot, and therefore has a side street side yard, the minimum yard on a side street shall be fifteen (15) feet.

E. Where the industrial zoning district or use abuts at the front or side yard boundaries of a residential zoning district, or abuts a federal, state or county highway, a minimum front yard of forty-five (45) feet shall be required.

(Ord. 2012-1, passed 1-24-12)

**1355.09 Use Limitations. Storage of Materials.**

A. The open storage of lumber, coal or other combustible material shall be not less than twenty-five (25) feet from an interior lot line.

B. Open storage of junk, wrecked vehicles to be dismantled, or other salvage materials shall be enclosed by an eight (8) foot permanent fence or combination of fence and other structures that entirely blocks the view of the storage area from the public and adjacent property owners located in areas other than in the industrial district.

C. Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and at least twenty-five (25) feet from all interior lot lines. The waste materials shall be removed and disposed of in a manner adequate to meet Olmsted County Health Department regulations and applicable Minnesota State or federal regulations.

(Ord. 2012-1, passed 1-24-12)

**1355.10 Industrial Uses.** All industrial uses shall comply with the requirements of Subsection 1375.25, Hazardous Materials Storage.

(Ord. 2012-1, passed 1-24-12)

**1355.11 Parking Requirements.** See Subsection 1375.12, Parking Requirements.  
(Ord. 2012-1, passed 1-24-12)

**1355.12 Sign Requirements.** See Subsection 1375.14, Signs.  
(Ord. 2012-1, passed 1-24-12)

### **Section 1360 - M-2 General Manufacturing District (Downtown Industrial Area)**

**1360.01 Intent.** The M-2 General Manufacturing District (Downtown Industrial Area) includes areas adjacent to the central business district that recognizes existing industrial establishments and similar uses.

A. See submittal requirements in Section 1310.10, Zoning Certificate, unless otherwise specified.

(Ord. 2012-1, passed 1-24-12)

#### **1360.02 Permitted Uses.**

A. Agricultural equipment manufacture, rental or sales.

B. Automobile laundries.

C. Dry cleaning and laundry establishments.

D. Electrical appliance and equipment manufacturing.

E. Electrical supplies sales, warehousing, and distribution.

F. Essential services. Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems including elevated water storage facilities.

G. Electronic instrument and device manufacturing repair and service.

H. Farm and industrial machinery sales and repair.

I. Garages for storage, repair, and servicing of motor vehicles.

J. Ice manufacture, sales and storage.

K. Instrument manufacturing - dental, optical, surgical, measuring, musical.

L. Parking lots, other than accessory, and subject to the provisions of Section 1375.12 of this Chapter.

M. Plumbing contractor's office and plumbing supplies sales and wholesaling.

N. Printing and publishing.

O. Temporary event functions, activities consisting of temporary amusement enterprises including consignment auctions, circuses, carnivals, fairs, flea markets, concerts, dances, and the like. All functions must have a specified period of time, and receive a permit or license from the City.

(Ord. 2012-1, passed 1-24-12)

**1360.03 Accessory Uses.** Accessory uses incidental to and on the same zoning lot as a permitted principal use.

(Ord. 2012-1, passed 1-24-12)

**1360.04 Conditional Uses.** The following uses may be permitted in the M-2 General Manufacturing District (Downtown Industrial Area) on a conditional basis, following approval in the manner prescribed in Section 1310.13:

A. By-products processing.

B. Parks and playgrounds.

C. Recreational buildings or community centers.

D. Stadiums, auditoriums and arenas, open or enclosed.

E. Theaters.

F. Public utility and services uses, including, but not limited to, electric substations, gas regulator stations, radio, cellular phone, microwave, paging service and television transmitting towers.

G. Accessory uses incidental to and on the same zoning lot as the principal use.

H. Animal services. Activities or establishments that consist of veterinary and related services for livestock, domestic pets and equines including kennels, housing or boarding of pets and other domestic animals such as stables and breeding services.

I. Agricultural services. Activities or establishments that perform services that support or assist the agricultural community such as soil preparation services, crop services or farm

management services. This category is intended to apply where land is used for the building and other structures that provide offices, warehouses, and storage areas for these establishments.

J. Alcoholic beverages manufacture, bottling or wholesaling.

K. Automobile assembly, body, and fender works, painting, upholstery, or repair.

L. Automobile service stations, for the retail sale or dispensing of fuel, lubricants, tires, batteries, accessories and supplies including installation and minor services customarily incidental thereto; facilities for chassis and gear lubrication are permitted only if enclosed in a building.

M. Bottling plants.

N. Building material sales.

O. Cartage and express facilities.

P. Cold storage plant.

Q. Contractors, architects and engineers' offices, shops and yards; such as building, cement, electrical, heating, ventilating and air conditioning, masonry, painting, plumbing, refrigeration and roofing.

R. Distribution plant.

S. Dwelling units for watchmen and their families located on the premises where they are employed in such capacity.

T. Fuel sales.

U. Greenhouses, wholesale.

V. Laboratories for research, testing and experimental purposes.

W. Machine shop.

X. Paint mixing (no boiling).

Y. Plating.

Z. Pottery and statuary manufacturing.

- AA. Public utility and service uses including:
- BB. Bus stations, bus terminals, bus turn-arounds (off-street), bus garages and bus lots.
- CC. Fire stations.
- DD. Police stations.
- EE. Telephone exchanges, telephone transmission equipment buildings, and microwave relay towers, and Wireless Communication Towers (W.C.T.).
- FF. Utility service substations - electric, gas, and telephone.
- GG. Trade schools.
- HH. Warehousing and storage facilities.
- II. The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products except fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour and the rendering or refining of fats and oils.
- JJ. Other manufacturing, processing, storage or commercial uses determined by the Planning Commission to be of the same general character as the uses permitted in this district and found not to be obnoxious, unhealthful or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, odors, toxic or noxious matter, glare, heat, fire or explosives hazards.

(Ord. 2012-1, passed 1-24-12)

**1360.05 Prohibited Uses.** The following uses are specifically prohibited from the M-2 General Manufacturing District:

- A. Acid manufacture or storage except on a limited scale as an accessory use to a permitted industry.
- B. Garbage, waste materials, offal, dead animal or refuse incineration or storage.
- C. Manufacture of fertilizer.
- D. Manufacture or storage of gun powder, fireworks or other explosives.
- E. Slaughterhouses and stockyards.

F. Similar uses which create excessive hazards, noise, vibrations, smoke, dust, odors, heat, glare, or other objectionable influence beyond the property boundaries, as described in Section 1375.15, Environmental Performance Standards.

(Ord. 2012-1, passed 1-24-12)

### **1360.06 Bulk Regulations.**

	<b>Permitted Uses</b>
Minimum Lot Area	5,000 square feet
Minimum Lot Area Coverage	See 1360.07 B.
Minimum Lot Width	50 feet
Front Yard	15 feet
Side Yard	No minimum, except adjacent to an “R” District in which case not less than 15 feet per side yard.
Rear Yard	15 feet
Transitional Yards	Where the side or rear lot line in the M-2 District abut with a side or rear lot line of an adjacent residential district, a yard of not less than 50 feet shall be provided along such side or rear lot line on the industrial lot.

(Ord. 2012-1, passed 1-24-12)

**1360.07 Development Requirements.** Emissions of noise, vibration, dust, smoke or other particulate matter, toxic materials, odor or glare shall not exceed the standard set by the Minnesota Pollution Control Agency (MPCA). Storage or sale of gas, fuel or oil shall comply with and be approved by the Chief of the Fire Department.

#### **A. Maximum Building Height.**

1. Any principal building within two hundred (200) feet of a residential zoning district, shall have a maximum height of fifty-five (55) feet or less, and all accessory structures shall have a maximum height of twenty-five (25) feet or less. (Refer to Subsection 1375.09, A., Non Conforming Uses, Lot and Structure for additional requirements.)
2. Any building that is more than two hundred (200) feet from a residential zoning district shall have a maximum height of no more than two hundred (200) feet, and all accessory structures shall have a maximum height of twenty-five (25) feet or less.

B. **Maximum Lot Coverage.** One hundred percent (100%) of the area available for building. The area available for building is that area remaining after providing minimum area or more for yard requirements, buffer and screen requirements, parking area and loading/unloading requirements where required.

C. **Buffering and Screening.** Buffering and screening shall be required as specified in Subsection 1375.23, Buffering and Screening.

D. Where a lot, or parcel of land is a corner lot, and therefore has a side street side yard, the minimum yard on a side street shall be fifteen (15) feet.

E. Where the industrial zoning district, or use, abuts a front or side yard boundary of a residential zoning district, or abuts a federal, state or county highway, a minimum front yard of forty-five (45) feet shall be required.

(Ord. 2012-1, passed 1-24-12)

#### **1360.08 Use Limitations.**

A. **Storage of Materials.**

1. The open storage of lumber, coal or other combustible material shall be not less than twenty-five (25) feet from an interior lot line.

2. Open storage of junk, wrecked vehicles to be dismantled, or other salvage materials shall be enclosed by an eight (8) foot permanent fence or combination of fence and other structures that entirely blocks the view of the storage area from the public and adjacent property owners located in areas other than in the industrial district.

3. Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and at least twenty-five (25) feet from all interior lot lines. The waste materials shall be removed and disposed of in a manner adequate to meet Olmsted County Health Department regulations and applicable state or federal regulations.

(Ord. 2012-1, passed 1-24-12)

**1360.09 Industrial Uses.** All industrial uses shall comply with the requirements of Subsection 1375.25, Hazardous Materials Storage.

(Ord. 2012-1, passed 1-24-12)

**1360.10 Parking Requirements.** See Subsection 1375.12, Parking Requirements.

(Ord. 2012-1, passed 1-24-12)

**1360.11 Sign Requirements.** See Subsection 1375.14, Signs.  
(Ord. 2012-1, passed 1-24-12)

### **Section 1365 - P/SP Public/Semi-Public**

**1365.01 Intent.** The Public/Semi-Public District is intended to provide areas in which public/semi-public related uses are encouraged.

A. See submittal requirements in Section 1310.10, Zoning Certificate, unless otherwise specified.  
(Ord. 2012-1, passed 1-24-12)

**1365.02 Permitted Uses.**

A. Open spaces.

B. Parks.

C. Public and private forests and wildlife.

D. Reservations or similar conservation projects.

E. Essential services. Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems including elevated water storage facilities.

F. Temporary event functions, activities consisting of temporary amusement enterprises including consignment auctions, circuses, carnivals, fairs, flea markets, concerts, dances, and the like. All functions must have a specified period of time, and receive a permit or license from the City.

(Ord. 2012-1, passed 1-24-12)

**1365.03 Accessory Uses.** Customary accessory uses and buildings provided such uses are incidental to the principal use and to not include any activity conducted as a business. Parking lots shall be considered an accessory use when they are upon the premises of the principal buildings, immediately contiguous thereto, or within two hundred fifty (250) feet thereof, with or without other uses intervening.

(Ord. 2012-1, passed 1-24-12)

**1365.04 Conditional Uses.** The following uses may be permitted in the P/SP - Public/Semi-Public on a conditional basis, following approval in the manner prescribed in Section 1310.13:

- A. Golf courses.
  - B. Campgrounds and recreational trail parks.
  - C. Cemeteries.
  - D. Public and private educational facilities.
  - E. Government buildings.
  - F. Filtration plants.
  - G. Public work facilities.
  - H. Sewage treatment plants publicly operated.
  - I. Aquatic center.
- (Ord. 2012-1, passed 1-24-12)

#### **1365.05 Bulk Regulations.**

	<b>Other Permitted Uses</b>
Minimum Lot Area	10 acres
Minimum Lot Area Coverage by dwellings and other Accessory Buildings	5%
Minimum Lot Width	160 feet
Front Yard	50 feet
Side Yard	25 feet
Rear Yard	50 feet
Maximum Building Height	2 ½ stories not to exceed 35 feet
Accessory Building or Structure	20 feet

(Ord. 2012-1, passed 1-24-12)

**1365.06 Off-Street Parking and Loading Requirements.** Spaces for off-street parking and loading shall be provided in accordance with the provisions of Sections 1375.11 and 1375.12.  
(Ord. 2012-1, passed 1-24-12)

**Section 1370 - FW/FF/FP Flood Plain Districts**

**1370.01 Intent.** The Flood Plain Districts include flood hazard areas of Stewartville that are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

A. See submittal requirements in Section 1310.10, Zoning Certificate, unless otherwise specified.

(Ord. 2012-1, passed 1-24-12)

**1370.02 Methods Used to Analyze Flood Hazards.** This Chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(Ord. 2012-1, passed 1-24-12)

**1370.03 Floodway District (FW).** The Floodway District shall include those areas designated as floodway in the Flood Insurance Study.

A. Permitted Uses. The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Floodway District to the extent that they are not prohibited by this, or any other ordinance, and provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels, any tributary to the main stream, any drainage ditch, any other drainage facility, or:

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial/commercial uses such as loading areas, parking areas, and airport landing strips.
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
4. Residential uses such as lawns, gardens, parking areas, and play areas.

B. Conditional Uses. The following open space uses require accessory structures (temporary or permanent), or fill or storage of materials or equipment. These uses may be permitted in

the Floodway District only after the issuance of a conditional use permit as provided in Subsection 1310.13 of this Chapter. These uses are also subject to the provisions of Subsection 1370.03, which applies to all floodway conditional uses.

1. Structures accessory to open space uses.
2. Placement of fill.
3. Extraction of sand, gravel, and other materials.
4. Boat rentals, docks, piers, wharves, and water control structures.
5. Railroads, streets, bridges, utility transmission lines, and pipelines.
6. Storage yards for equipment, machinery, or materials.
7. Other uses similar in nature to uses described in Subsection 1370.03, A. and B., which are consistent with the provisions set out in Subsection 1310.13 and Section 1370 of this Chapter.

C. Standards for Floodway Conditional Uses.

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials, or equipment, or other uses may be allowed as a conditional use which, acting along or in combination with existing or reasonably anticipated future uses, adversely affects the capacity of the floodway or increases flood heights. In addition, all floodway conditional uses shall be subject to the standards contained in Subsection 1310.13, Subdivision 4 and the following standards (Subsection 1370.03, Subdivision C (1 and 4):

- a. Any fill deposited in the floodway shall be no more than the minimum amount necessary to conduct a conditional use listed in Subsection 1370, Subdivision B. Generally, fill shall be limited to that needed to grade or landscape for that use and shall not in any way obstruct the flow of flood waters;
- b. Spoil from dredging or sand and gravel operations shall not be deposited in the floodway unless it can be done in accordance with a. of this Section;
- c. Fill shall be protected from erosion by vegetative cover.

2. Accessory Structures (temporary or permanent) permitted as conditional uses by Subsection 1370, Subdivision B.

- a. Accessory structures shall not be designed for human habitation.
  - b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters by constructing the structure with the longitudinal axis parallel to the direction of flood flow, and by placing the structure approximately on the same flood flow lines as those of adjoining structures.
  - c. Accessory structures shall be flood-proofed in accordance with the State Building Code.
3. Storage of Materials and Equipment.
  - a. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, or plant life is prohibited.
  - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning.
4. Structural Works for Flood Control. Levees, dikes, and floodwalls shall not be constructed within the limits of the Floodway District. Other structural works for flood control such as dams and channel enlargement that will change the course, current, or cross-section of a public water shall be subject to the provisions of Minn. Stat., Chapter 105.

(Ord. 2012-1, passed 1-24-12)

**1370.04 Flood Fringe District (FF).** The Flood Fringe District shall include those areas designated as floodway fringe in the Flood Insurance Study.

A. Permitted Uses. The following uses shall be permitted uses within the Flood Fringe District to the extent that they are not prohibited by any other section of the Chapter:

1. Any uses permitted in Subsection 1370.03, Subdivision A.
2. Accessory Structures provided they comply with the provision of Subsection 1370.03, Subdivision C, 2, a. of this Chapter;
3. Residences and other structures constructed on fill so that the basement floor or first floor, if there is no basement, is at or above the regulatory flood protection elevation. The finished fill elevation shall be no lower than one (1) foot below the regulatory flood protection elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Fill shall be compacted and the slopes shall be protected by riprap or vegetative covering. Residences constructed on

fill shall be subject to the vehicular access requirement in Subsection 1370.04, Subdivision C. No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

B. Conditional Uses. Other uses are permitted only upon application to the Zoning Administrator and the issuance of a conditional use permit as provided in Subsection 1310.13 of this Chapter and subject to the following provisions:

1. Residences. Where existing streets, utilities, and small lot sizes preclude the use of fill, other methods of elevating the first floor (including basements) above the regulatory flood protection elevation may be authorized, provided that the residence is flood-proofed in accordance with the State Building Code.

2. Non-Residential Structures. Commercial, manufacturing, and industrial structures shall ordinarily be elevated on fill so that their first floor (including basement) is above the regulatory flood protection elevation but may in special circumstances be flood-proofed in accordance with the State Building Code. Structures that are not elevated to above the regulatory flood protection elevation shall be flood-proofed to FP-1 or FP-2 classification as defined by the State Building Code. Structures flood-proofed to FP-3 or FP-4 classification shall not be permitted.

C. Standards for Flood Fringe Uses.

1. Residential Uses. Residences that do not have vehicular access at, or above an elevation not more than two (2) feet below the regulatory flood elevation shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance the Board shall specify limitations on the period of use or occupancy of the residence.

2. Commercial Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would inundate to a depth greater than four (4) feet per second upon occurrence of the regional flood.

3. Manufacturing and Industrial Uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Subsection 1370.04, Subdivision C. 2. above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

(Ord. 2012-1, passed 1-24-12)

**1370.05 General Flood Plain District (GFP).** The general flood plain district shall include those areas designated as unnumbered A zones on the Flood Insurance Rate Map; and annexed lands that prior to annexation were zoned as Flood Plain District (FP) under the Olmsted County Zoning Ordinance.

A. Permitted Uses. Permitted uses shall include those uses permitted by Subsection 1370.03, Subdivision A.

B. Conditional Uses. All other uses are conditional uses and are permitted only upon the issuance of a permit as provided in Subsection 1310.13. The general flood plain district includes the entire flood plain and does not differentiate between those areas that are floodway and flood fringe. Because of this, the Planning and Zoning Commission shall determine whether the proposed use is in the floodway or flood fringe using procedures established in Subsection 1310.13. If it is determined that the use lies in the floodway, the provisions of Subsection 1370.03, Subdivision A. of this Chapter shall apply. If it is determined that the proposed use lies in the flood fringe, the provisions of Subdivision 1370.04 of this Chapter shall apply.

(Ord. 2012-1, passed 1-24-12)

**1370.06 Public Utilities, Railroads, Roads, Bridges, and Individual Sewage Treatment Systems.**

A. Public Utilities. All public utilities and facilities such as gas, electric, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

B. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the floodway district shall comply with Subsection 1370.03, Subdivision C. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety, or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

C. Individual Sewage Treatment Systems. Individual sewage treatment systems may be permitted within a flood plain area only at locations where connections with a public sewer system is not possible or feasible. Such facilities shall conform to the current standards of the Olmsted County Board of Health.

(Ord. 2012-1, passed 1-24-12)

**Section 1375 - General Requirements**

**1375.01 Conformance.** The following requirements shall apply equally to all districts except where otherwise stated or where special provisions provide otherwise.

(Ord. 2012-1, passed 1-24-12)

**1375.02 Bulk Regulations for Residential Districts.** The following bulk regulations shall be within the Ag, R-1, R-2, and R-3 Residential District:

A. The principal structure shall have a floor area of not less than seven hundred sixty eight (768) square feet and the minimum dimension of the main body of the dwelling unit shall not be less than twenty (20) feet.

B. All principal structures shall be sided with a material other than flat or corrugated sheet metal.

C. Manufactured homes shall be located and installed according to the same standards, including but not limited to, a permanent foundation system, set-back, and minimum square footage which would apply to a site built, single family dwelling on the same lot, and shall be assessed and taxed as a site-built dwelling.

(Ord. 2012-1, passed 1-24-12)

**1375.03 Accessory Buildings.** In any zoning district, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building, but may be erected simultaneously. All accessory buildings shall be of a similar material, quality and appearance as the principal structure, except accessory buildings less than one hundred twenty (120) square feet in size may be constructed or erected of a different material, quality and appearance from the principal structure. Accessory buildings of less than one hundred twenty (120) square feet shall use appropriate materials and design features typical of the intended use.

(Ord. 2012-1, passed 1-24-12)

**1375.04 Accessory Buildings Attached, Residential Districts.** An accessory building including carports attached to the principal building, on a lot, shall be made structurally a part thereof and shall comply in all respects with the requirements of this Chapter applicable to the principal building. A breezeway, for the purpose of this Chapter, is an attachment between the garage or carport and the principal building and shall be considered a part of the principal building.

(Ord. 2012-1, passed 1-24-12)

**1375.05 Accessory Buildings or Permanent Structures Detached, Residential Districts.** All detached accessory buildings or structures shall have a minimum of ten (10) feet of separation between building eaves and walls of accessory buildings or the accessory buildings and the principal building located on the same lot as the accessory building or structure. Unenclosed porches and decks shall be considered as part of the principal or accessory building(s), and shall

be required to meet the minimum requirements of this Section. Such accessory buildings or structures shall be located in the buildable area, or in the required rear yard, and shall be placed so that the eaves of the building or nearest part of the structure are at least three (3) feet from a lot line. All storage sheds or buildings shall be permanently anchored to the ground, including all buildings less than one hundred twenty (120) square feet in size.

(Ord. 2012-1, passed 1-24-12)

**1375.06 Accessory Buildings, Attached Buildings.** Accessory buildings for single family attached dwellings may be attached to buildings on an abutting lot in the buildable area and/or in the rear yard of a lot, providing the applicant records a covenant and deed restriction on the property which will abut the common lot line (zero lot line). Said covenants and deed restrictions shall:

A. Provide access to the abutting property for the adjacent property owner and/or his or her representative for the purpose of construction, reconstruction, repair and maintenance of either side on the total property;

B. Provide for necessary encroachments for footings and eaves for said building; and

C. Provide for deed restrictions to limit changes of color, material and design of the accessory building as to be compatible with the attached building.

(Ord. 2012-1, passed 1-24-12)

**1375.07 Structures, Not Included in Height of Building.** Chimneys, elevator bulkheads, drive-in movie theater screens, stacks, water towers, pumping towers, monuments, cupolas, steeples, radio or television towers, solar collectors, wind energy conversion systems, and mechanical apparentness pertaining to, and necessary to the permitted use of the district in which they are located shall not be included in calculating the height of the principal structure. Television dish antennas shall not be excluded from zoning district height limitations.

(Ord. 2012-1, passed 1-24-12)

**1375.08 Yards.**

A. No lot, yard, or other open space shall be reduced in area or dimension so as to make such lot, yard, or open space less than the minimum required by this Chapter, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.

B. The following shall not be considered as encroachments on yard setback requirements:

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

2. Terraces and patios, steps, stoops, fire escapes, 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 five (5) feet from any lot line.
3. In rear yards: recreational and laundry drying equipment, arbors, and trellises, detached outdoor living rooms, and air conditioning or heating equipment, provided they are at a distance of five (5) feet from the rear lot line.
4. A one-story entrance for a detached single family or duplex dwelling may extend into the front yard setback not exceeding five (5) feet.

(Ord. 2012-1, passed 1-24-12)

**1375.09 Nonconforming Uses, Lot, and Structure.** Where the districts established by the zoning ordinance contain structures, lots and uses of land and structures which were lawful, or nonconforming, before this zoning ordinance was passed or amended, but which are prohibited under this Chapter, it is the intent of this Chapter to permit these nonconformities to continue under specified conditions as outlined in the following standards. All nonconformities shall be encouraged to convert to conformity whenever possible.

A. Continuation of Nonconforming Structure or Use.

1. Subject to the provisions of this Chapter, a nonconforming structure or use may be continued and maintained in reasonable repair, but shall not be altered, extended, enlarged or moved in such a way as to increase its nonconformity under this Chapter. Alterations or modifications to nonconforming structures which have the effect of not increasing their nonconformity are permitted subject to zoning certificate approval and compliance with all other applicable ordinance provisions. Additional encroachment of existing structures or buildings into a required yard when a portion of the existing structures already encroaches into that yard, and the proposed addition or alteration will not exceed the existing encroachment, may be permitted subject to zoning certificate approval, where all other provisions of the Chapter are met or exceeded. Encroachments created by a variance shall not be included (new variance needed for additional construction).
2. Grain elevators and other buildings in which operations are conducted that are directly related to grain elevators, located in the M-2 General Manufacturing District, and that do not meet the maximum building height limitations of Subsection 1360.07, Subdivision A.1. shall be permitted to replace or rebuild existing structures to their original height.
3. Furthermore all new structures shall be permitted to be constructed to the same height as other structures already part of the industrial use. However, in no case, and at no time shall a building or structure exceed ninety (90) feet in height in the M-2 General Manufacturing District. Any alteration or addition to a nonconforming use in a flood

plain district which would result in substantially increasing the flood damage potential of that use shall be flood-proofed in accordance with the State Building Code. The term “substantial” as used herein shall mean an increase in the value of the property of ten percent (10%) or more.

B. Continuation of Nonconforming Lots. Any conforming use or conforming structure on a nonconforming lot of record may be enlarged, extended, constructed or moved so long as all other requirements of the Chapter are met.

C. Discontinuance of Nonconforming Use. If a nonconforming use is discontinued for a period of twelve (12) consecutive months, or for eighteen (18) months during any three (3) year period, further use of the property shall conform to this Chapter. If a nonconforming use is replaced by another use, the new use shall conform to this Chapter.

D. Destruction of Nonconforming Structure or Use. If a nonconforming structure or a conforming structure with a nonconforming use located therein is destroyed by any means to an extent of more than fifty percent (50%) of its current replacement cost (including materials and labor) at the time of destruction, it shall not be reconstructed or used except in conformity with the provisions of this Chapter. If the structure is destroyed to less than fifty percent (50%) of its replacement cost, it must be restored to its original condition if said restoration begins within twelve (12) months from the date the damage occurred, otherwise the structure shall be made conforming.

(Ord. 2012-1, passed 1-24-12)

**1375.10 Home Occupations.** In general, a home occupation shall be conducted such that the adjoining property owners, under normal circumstances, would not be aware of its existence other than for a name plate or sign as permitted in this Section.

A. Permitted home occupations include:

1. Artists and sculptors;
2. Authors and composers;
3. Dressmakers, seamstresses, and tailors;
4. Home crafts, such as model making, rug weaving, lapidary work, and carpentry work or furniture repair;
5. Office facility of a minister, rabbi, or priest;
6. Office facility of a salesman, sales representative, or manufacturers representative, provided that no retail or wholesale transactions are made on the premises;

7. Office facility of an architect, artist, broker, dentist, physician, engineer, dance instructor arts and crafts, insurance agent, tax preparer, musician or real estate agent;
8. Office facility of a typist or stenographer;
9. Lessons given by tutors, for example, English, math, sciences, music, or dance; and
10. Computer programmers.
11. All other home occupations not listed shall be required to obtain a conditional use permit before establishing a home occupation.

B. Standards. All standards of the zoning district shall apply. The following specific standards shall apply to all home occupations:

1. Home occupations shall be permitted only in single family attached and single family detached dwellings.
2. Said use shall occupy not more than one-quarter of the area of one (1) floor of the principal building. Home occupations shall not occupy any part of an accessory building attached or detached from the principal building.
3. The use shall not require substantial interior alteration of the dwelling.
4. The use shall not require any exterior alteration of the dwelling.
5. Additional employees who live outside of the dwelling may be permitted. The number of employees shall be stated in the application. If additional employees are necessary for the home occupation, the property owner shall be required to request a new conditional use permit.
6. Said use shall not create odor, dust, noise, electrical disturbances, glare, vibrations, or other hazards, or nuisances noticeable outside of the dwelling.
7. There shall be no outside storage of material, equipment or display of merchandise.
8. Uses shall not involve the use of commercial vehicles for delivery of materials to or from the premises.
9. No sign shall be allowed other than one (1) unilluminated sign measuring not more than one and one-half square feet in area attached to the principal building or near the dwelling entrance.

10. Commodities may be sold as part of the home occupation but shall be only a minor and insubstantial part of the total home occupation.

11. Parking shall be controlled such that no on-street parking will occur and all off-street parking shall require no more than two (2) additional parking spaces located on the current driveway or adjacent side yard, and not in front of any part of the principal building, except the garage or an attached porch.

(Ord. 2012-1, passed 1-24-12)

**1375.11 Off-Street Loading.** Off-street loading requirements as specified below shall be provided.

A. **Dimensions and Location.** Each loading space shall be not less than ten (10) feet in width, twenty-five (25) feet in length and fourteen (14) feet in height and shall be on the same lot as the principal use it serves. Such space may occupy all or any part of any required side or rear yard; except the side yard along the side street in the case of a corner lot. In no event shall any part of a required front yard be occupied by such loading space. Each loading space shall have adequate space for standing, loading and unloading services in order to avoid any interference with public use of the roads or alleys or sidewalks.

B. **Requirements.**

USE	LOADING SPACES
Multifamily buildings	One loading space with 20 or more dwelling units
Motels and Hotels	Under 20,000 square feet in floor area shall require one loading space, over 20,000 square feet one additional loading space
Schools	One loading space
Convalescent or Nursing Homes	One loading space for each 20 beds
Servicing, Merchandising, Leisure Uses and Office Uses	For any building of over 5,000 square feet in gross floor area, one loading space
Industrial or Warehousing	Under 10,000 square feet of gross floor area shall require one loading space; over 10,000 square feet shall require one additional space per each 20,000 square feet of gross floor area.

(Ord. 2012-1, passed 1-24-12)

**1375.12 Parking Requirements.** The following off-street parking requirements shall be provided for each use listed in this Section, unless otherwise specified.

A. Location and Improvements of Parking Facilities.

1. Single family and multifamily uses shall provide parking stalls on the same lot as the dwelling and may occupy all, or part of any required rear yard and shall not be located in the front yard unless on an established driveway that is not located between the principal building and the front lot line. An established driveway and garage may be used to meet the minimum parking requirements for single family conventional uses where the driveway and garage meets the minimum parking space dimensions of this Section 1375.12 Sub. A, 6.
2. Multifamily uses shall have off-street parking, which may include a community garage, on lands owned by the same owner of the building and land and located within two hundred (200) feet of the building they are intended to serve. Tandem parking (one vehicle behind another) including, or not including a garage, shall not be permitted in order to meet the minimum parking requirements of this Section.
3. In any non-residential district, off-street parking may occupy that part of a front yard to within seven (7) feet of the front lot line, and in the case of a corner lot, that part of a side street side yard to within seven (7) feet of front or side street side yard, shall be suitably landscaped with canopy trees, deciduous and evergreen bushes or hedges and grasses or other materials and graded to control surface water runoff from the paved and landscaped area. A site design plan shall be submitted as part of the application for a zoning permit.
4. There shall be adequate provisions for ingress and egress to all parking areas. Said access drive shall not be less than ten (10) feet in width in the case of single family uses, and not less than twenty (20) feet in width for multifamily residential uses, commercial and industrial uses; provided, however, that a one-way access drive for non-residential uses may be reduced to not less than twelve (12) feet in width. All parking areas for more than four (4) vehicles shall be designed so that no vehicle must back out onto any highway, street or road. Aisles between parking spaces within parking lots shall not be less than twenty-four (24) feet in width (90 degree parking only).
5. Necessary curbs or other protection against damage to abutting properties, roads, and sidewalks shall be provided and maintained. Necessary curbs and other structures shall be provided at all ingress and egress areas to clearly delineate such areas.
6. All parking spaces shall be nine (9) feet in width and eighteen (18) feet in length, and shall be clearly marked. Compact car spaces shall be a minimum of eight (8) feet and eight (8) inches in width and sixteen (16) feet in length. The length of compact car spaces shall be increased by fifteen percent (15%) when parallel parking is utilized.

7. It shall be the responsibility of the owner of the principal use, or of the property, to insure that the parking area is maintained in a dust free and safe condition.
8. When calculations for required parking spaces result in a requirement of a fractional space, any fraction of less than one-half shall be disregarded, and fractions of one-half or more shall require one additional parking space.
9. Shopping centers shall have off-street parking on the same lot, or lots, on which the principal building(s) are located and shall meet the minimum requirements listed below.
10. Artificial lighting which shall be provided shall not shine directly onto adjoining dwellings or other types of living units, and shall not be directed towards the public use of a street.
11. Parking areas, aisles and turnaround areas shall be paved with concrete, asphalt or comparable surfacing on all commercial and residential uses requiring six (6) or more parking spaces within one (1) year of the date of initiation of construction on any portion of the lot, or any approved structure.

**B. Required Parking Spaces.**

<b>USE</b>	<b>PARKING SPACES</b>
Single Family	Two parking spaces per dwelling unit
Multifamily	Two parking spaces per dwelling unit
Board/Rooming House Hotels and Motels	One parking space for each living unit. One parking space one per guest room and one parking space per employee during the largest work shift.
Retail Commercial and Shopping Centers	One parking space per 200 square feet of gross floor area.
Restaurants	One parking space for every four seats and one parking space for every two employees.
Bar and Lounge (Eating and drinking establishments)	One parking space for every four based on the maximum building capacity as specified within the State Building Code, and one parking space for every two employees.
Offices, Banks, and Public Administration	One parking space for every 400 square feet of gross floor area.

USE	PARKING SPACES
Furniture Store, Plumbing Supply, Store, Laundry, Motor Vehicle Sales Showroom, or Similar Large Uses	One parking space for every 800 square feet of gross floor area.
Bowling Alley	Two parking spaces for each bowling lane.
Service Station, Car Repair and Car Washes	Five parking spaces per stall or repair bay.
Funeral Homes	One parking space for every five seats or 50 square feet of floor area in public portions of the building.
All Other Commercial Uses	One parking space for every 300 square feet of gross floor area.
Nursing or Convalescent Homes	One parking space for every four beds.
Library	One parking space for every 500 square feet of gross floor area.
Lodges and Meeting Halls (no fixed seating)	One parking space for every five persons, based on the maximum capacity of the building.
Churches and Auditoriums (with fixed seating)	One parking space for every five seats or ten feet of bench seat or pew space.
Industrial/Warehousing	One parking space for every employee of the largest work shift.
Schools, Nurseries and Day Cares	One parking space for every two employees and for high schools, one additional space for each ten students.

#### C. Additional Standards.

1. For all existing and new permitted commercial uses located in the B-1, CBD as identified by the Official Zoning Map, no off-street parking shall be required.
2. Residential uses located on the same lot as the principal commercial use in a commercial district shall be required to have one (1) off-street parking space for each dwelling unit, and for dwelling units with three (3) or more bedrooms, there shall be required two (2) parking spaces.
3. Compact Car Parking. A proportion of the total spaces in a parking lot may be designed and marked for compact car use according to the following table:

<b>Total Spaces Required</b>	<b>Maximum Percentage of Spaces for Compact Cars</b>
5-99	30 %
100 or more	40 %

4. Buffers or screening shall be required for all parking areas used by commercial or industrial uses that are adjacent to or abutting a residential district. (See Subsection 1375.23, Buffers and Screening.)

(Ord. 2012-1, passed 1-24-12)

### **1375.13 Dumping and Disposal of Solid or Liquid Waste Material.**

A. The use of land for the dumping or disposal of scrap iron, junk, garbage, rubbish, sludge or other refuse, or of ashes, slag, or other industrial wastes, or by-products is not permitted in any district. The dumping of dirt, sand, rock, or other material excavated from the earth is permitted in any district, provided the surface of such material is graded within four (4) months of the initiation of dumping activities in a manner preventing the collection of stagnant water, which leaves the ground surface in a stable condition suitable for growing of turf that will not be subject to erosion and is useable for other land uses permitted in the district.

B. No discharge at any point into any public sewer, or stream, or into the ground except in accordance with federal or state pollution control standards, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements shall occur.

C. Where hazardous wastes covered by state and federal regulations are produced, stored or otherwise located on a site, the hazardous wastes shall be stored and disposed of in a manner than meets all state and federal hazardous waste disposal regulations.

(Ord. 2012-1, passed 1-24-12)

### **1375.14 Signs.**

A. General Requirements.

1. Permit Required. No person, corporation, or organization shall be permitted to erect, construct, alter, or maintain signs without first obtaining a permit from the Zoning Administrator, except that signs permitted under this Subsection, or other such exemptions made as part of this Subsection shall not need a permit from the Zoning Administrator for placement of a sign on the lot.

2. In no case shall flashing, rotating or revolving signs be permitted, with the exception of barber poles, changeable message signs, or highway safety signs erected by a governmental jurisdiction.

3. Lighted signs shall be lighted only to the extent that the message on the sign is illuminated, and shall not cast glare onto public streets or adjacent property.
4. No signs shall be erected or maintained that violate this Subsection. Any sign erected or maintained in violation of this Subsection and any sign that is allowed to become dilapidated may be removed by the City at the expense of the owner or lessee of the property on which the sign is located. Signs erected and maintained in violation of this Subsection and signs that are allowed to become dilapidated are hereby declared to be a public nuisance and may be abated by an action commenced by the City for an injunction. Additionally, any person who erects or maintains a sign in violation of the Subsection and any person who allows a sign to become dilapidated is guilty of a misdemeanor and is subject to the applicable criminal sanctions for a misdemeanor violation.
5. When a business or industrial establishment has ceased operations, all signs located on the property shall be removed within sixty (60) days after the establishment is closed.
6. No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon public lands, easements or right-of-ways without City Council approval, or as otherwise allowed by this Subsection.
7. Freestanding signs shall not project beyond the property of the owner or lessee and into a public street or right-of-way. Freestanding signs are permitted anywhere on the lot and are subject to all requirements of Subsection 1375.26. If a freestanding sign projects over a vehicular traffic area, such as a driveway or parking lot aisle, the minimum ground clearance between the bottom of the sign and the ground shall be fourteen (14) feet (14).
8. Freestanding signs may be located in a required yard, provided that the sign is not closer than ten (10) feet to any abutting lot zoned residential.
9. If a lot or legal parcel has more than three hundred (300) feet of frontage, one (1) additional freestanding sign may be erected for each additional three hundred (300) feet of street frontage or portion thereof.
10. Portable signs are allowed in all districts without a permit for a period not to exceed two (2) days. For periods of three (3) or more days, portable signs are only allowed in commercial districts by temporary permit issued by the City Administrator. The length of permits for portable signs shall be either fifteen (15) or thirty (30) days. Permits for portable signs may be obtained for no more than a total of sixty (60) calendar days per legal parcel per calendar year. Only one (1) portable sign per legal parcel may be permitted at a time. Portable sign faces shall not exceed thirty two (32) square feet in size or sixty four (64) square feet, or six (6) feet in height. Portable signs may not be

situated within any public street right-of-way or easement. Temporary sign permit fees shall be established by resolution of the City Council.

11. Business signs in business or manufacturing districts that exist at the time of adoption of this Subsection and that are nonconforming structures shall be treated as described in Subsection 1375.09, Subd. A. Modifications to a nonconforming sign are permitted as specified under Subsection 1375.09, Subd. A.

12. Nonconforming Signs. Subject to the provisions of this Subsection, a nonconforming sign may be continued and maintained in reasonable repair by existing owners or lessees, but shall not be altered, extended, enlarged or moved in such a way as to increase its nonconformity under this Subsection. Alterations and modifications by existing owners or lessees to a nonconforming sign that have the effect of not increasing the nonconformity of the sign are permitted subject to review by the Zoning Administrator. Use of a nonconforming sign is also subject to the following conditions:

- a. If a nonconforming sign is discontinued in its use for a period of sixty (60) business days, further use shall conform to this Subsection;
- b. If a nonconforming sign is destroyed by any means to an extent of more than fifty percent (50%) of its current replacement cost (including materials and labor) at the time of destruction, it shall not be reconstructed or used except in conformity with the provisions of this Subsection. If the sign is destroyed less than 50% of its replacement cost, it must be restored to its original condition if said restoration begins within three (3) months from the date the damage occurred. Otherwise the sign shall be made conforming; and
- c. If sign ownership or lessee designation changes at any time following the effective date of this Subsection, future signs shall be made conforming.

**B. Signs permitted in all districts.**

1. Official highway route number signs, street signs, and other official traffic signs may be erected and maintained.

2. Real estate signs may be erected with one (1) sign allowed per street frontage advertising the sale or rental of the dwelling and/or lot on which the sign is located. The sign may only be erected with written permission from the property owner. The maximum size of signage for single family residential uses shall not exceed twenty four (24) inches by thirty six (36) inches and the sign shall not exceed five (5) feet in height. For commercial and industrial properties, the dimensions of the sign shall not exceed thirty two (32) square feet; the height shall not exceed eight feet (8').

3. Signs used on a temporary basis during political campaigns and elections for informational and political purposes shall be permitted.
4. Identification signs for farms, institutional uses and membership organization uses are permitted.
5. Area Identification Signs. Area identification signs are intended for the identification of residential neighborhoods, subdivisions, and multi-residential complexes; and also referred to as entrance monument signs.
  - a. Area identification signage shall be permitted for each multi-residential project or residential subdivision; for purposes of this Subsection, residential subdivisions shall include platted phases of approved staged developments.
  - b. The area identification signage shall be located at the entrance to the project or subdivision.
  - c. A maximum of two (2) area identification signs, not exceeding a total of thirty two (32) square feet in surface area may be permitted per each project or subdivision. The typical use of two (2) such signs is to create a gateway effect at opposite corners of the entrance to the project or subdivision.
6. Flags, emblems or insignia of any nation or political subdivision.
7. Signs of a primarily decorative nature, clearly incidental and customarily associated with any national, local or religious holiday.
8. Signs required to be maintained or posted by law or governmental order, rule or regulations.
9. Announcements of general community interest for events such as concerts, plays, lectures, church and club activities and the like placed in the windows of consenting business, or as a portable sign on private property within a commercial business district (Said use of portable signs on private property within a commercial business district for activities noted above will not count towards the sixty (60) day limitation as defined in this Subsection 1375.14A.10. Such announcements shall be placed no more than one (1) week before the date of the event and removed no later than one (1) week after the event.
10. Signs which direct or instruct the public without advertising a business or product in any way, located entirely on the property to which they pertain, and not exceeding four (4) square feet in area, including signs identifying bathrooms, public telephones, walkways, parking lot entrance and exists, and like signage.

11. Integral building signs such as building names, erection dates, monumental citations, commemorative tablets, plaques and like signage when carved, incised or cast into stone, concrete, metal or some other permanent material made an integral part of a structure.

12. No trespassing and no dumping signs not exceeding two (2) square feet in area per sign and not exceeding four (4) in number per lot.

13. Construction signs announcing the future construction on a site may be erected on that site when a building permit of the construction is obtained. The signs shall be removed upon expiration of the building permit if construction does not begin. If construction begins, the sign may remain on the site until thirty (30) days after the project is completed, which date will be determined on the occupancy permit. The total area of the construction sign shall not exceed forty (40) square feet and the height shall not exceed ten (10) feet.

14. Subdivision and housing development signs advertising an undeveloped subdivision or housing development of six (6) or more units may be erected on a dedicated street entrance to the subdivision or development. Signs shall be removed as soon as more than seventy-five percent (75%) of the lots or units are sold, developed and/or occupied. The sign shall be removed one (1) year after erection if no development occurs. The area of the sign shall not exceed thirty two (32) square feet and the height shall not exceed eight (8) feet.

C. Signs Prohibited in all zones.

1. Signs that advertise a product, place, activity, person, service, institution or business no longer conducted on the premises on which the sign is located.

2. Signs and poles that contain or consist of reflectors or lights that flash, strobe, chase one another, or appear to display these characteristics. This prohibition does not preclude all electronic message signs.

3. Signs that are not permanently anchored or secured to either a building or the ground.

4. Signs erected in such a manner as to obstruct free and clear vision of streets, alleys or driveways, or erected, designed, positioned so as to interfere with, obstruct or be confused with any authorized sign, signal of device or which may mislead or confuse traffic.

5. Signs posted on public property, including utility poles, lighting fixtures, street signs, benches and other like items.

6. Off premises signs with the exception of billboard signs.
  7. Signs placed within the public right-of-way unless specifically authorized by the City Council.
  8. Flashing signs are prohibited in all areas.
- D. Permitted Signs in the Agricultural, Residential (R-1, R-2, R-3), Business (B1, B-2) and Manufacturing (M-1, M-2) Districts. The following types of signs shall be permitted:
1. Agricultural, Residential (R-1, R-2, R-3).
    - a. Signs permitted and limited as provided in this Subsection.
    - b. One (1) non-illuminated sign of not more than one and one half (1 ½) square feet in area, giving the name and occupation of the occupant of a building carrying on a home occupation, as defined in Subsection 1375.10.
    - c. One (1) non-illuminated sign of not more four (4) square feet in area giving the name of a bed-and-breakfast as defined in Subsection 1375.33.
    - d. One (1) wall sign of not more than eight (8) square feet identifying an apartment building or manufactured home court, except that an apartment complex or manufactured home park of ten (10) or more apartments or manufactured homes in the R-2 and R-3 districts, respectively, may have either a wall sign or a freestanding identification sign of no more than thirty (30) square feet.
    - e. Permitted signs in B1 Central Business District; B2 High Commercial District and M1 Light Manufacturing District shall include electronic signs.
    - f. Requirements of all signs:
      - (1) The maximum height of all freestanding signs shall be eight (8) feet.
      - (2) All illuminated signs shall be shielded in a way as to protect the rights of adjacent property owners from nuisance.
      - (3) Permitted freestanding signs shall observe a minimum of an eight (8) foot front yard and ten (10) foot side yard setback.
  2. B-1 Central Business District.

- a. Signs permitted and limited as provided in this Subsection.
- b. For single-tenant building: One (1) business wall sign or identification fascia; and one projecting or ground sign fronting each street bounding the property on which the sign is located.
- c. For multi-tenant building: One (1) freestanding sign identifying each occupant/business of a building; and, for each Occupant I business, one (1) canopy or fascia (wall), projecting, roof or awning sign fronting each street, alley or public park lot bounding a property on which the sign is located and shall be allowed.
- d. One (1) sandwich board sign per business not exceeding two (2) feet wide by three (3) feet in height and located no more than ten (10) feet from the business frontage to which it pertains and must be located within the sidewalk easement. Under no circumstance will sandwich board signage be allowed in the Highway 63 right-of-way. Said sandwich board sign must be professionally constructed and painted to a professional standard of design and finish; can only displayed during open business hours and must be removed and stored when business is closed; and, cannot impede the regular movement of pedestrians or vehicles.
- e. Temporary cloth signs stretched on substantial wooden or metal frames and banners with sufficient wind holes, supported across the top and secured at the lower corners, may be erected on a premises in for a period not to exceed thirty (30) days. Total size of sign shall not exceed thirty two (32) square feet.
- f. Requirements of all signs:
  - (1) The maximum height of all freestanding signs shall be twenty (20) feet with a total area not to exceed twenty five (25) square feet.
  - (2) Total area of all signage such as projecting signs, fascia (wall), canopy, accessory gas canopy or other accessory structures, or permanent/ temporary painted window signage, shall not exceed twenty-five percent (25%) of the total wall surface of the principal building facing a street as measured from the average ground elevation to the roof edge, and from sidewall to sidewall, including windows.
    - (a) Projecting signs shall project no more than six (6) feet from the wall on which they are attached with a total area not to exceed twelve (12) square feet per side with a maximum of two (2) sides. Only one (1) projecting sign per wall will be allowed.

(b) Permanent window signs painted on, or otherwise displayed from the inside surface of a window, shall not exceed two (2) square feet or twenty-five percent (25%) of the total window area, whichever is greater.

(c) Temporary window signs painted on, or otherwise displayed from the inside surface of a window, shall not exceed two (2) square feet or twenty-five percent (25%) of the total window area, whichever is greater if it is the only sign in the window; or, four (4) square feet, or fifty percent (50%) of the total window area, when in combination with permanent window signs, whichever is greater. Temporary window signage shall be limited to language announcing an event or sale within the building premises and shall be placed no more than one (1) week before the date of the event or sale, and removed no later than two (2) days after the event or sale. In no case shall temporary window signage placement exceed three (3) weeks in duration at any one time, and ninety (90) days total in any calendar year.

3. B-2 Highway Commercial District.

a. Signs permitted and limited as provided in this Subsection.

b. For single-tenant building: One (1) business wall or identification fascia; and, one (1) projecting or ground sign fronting each street bounding the property on which the sign is located.

c. For multi-tenant building: One (1) freestanding sign identifying each occupant/business of a building; and, for each occupant/business, one (1) canopy or fascia (wall), projecting, roof or awning sign fronting each street, alley or public park lot bounding a property on which the sign is located and shall be allowed.

d. One (1) sandwich board sign per business not exceeding two (2) feet wide by three (3) feet in height and located no more than ten (10) feet from the business frontage to which it pertains. Said sandwich board sign must be professionally constructed and painted to a professional standard of design and finish; can only be displayed during open business hours and must be removed and stored when business is closed; and, cannot impede the regular movement of pedestrians or vehicles.

e. Temporary cloth signs stretched on substantial wooden or metal frames and banners with sufficient wind holes, supported across the top and secured at the lower corners, may be erected on a premises for a period not to exceed thirty (30) days. Total size of sign shall not exceed thirty two (32) square feet.

f. A conditional use permit shall be required for a freeway oriented ground sign, when located within one thousand five hundred feet (1,500) of the right-of-way of

Federal Interstate Highway 90, and which shall meet all Minnesota Department of Transportation, Federal Highway Administration, and Federal Aviation Administration requirements, shall require a conditional use permit.

g. A conditional use permit shall be required for a shopping center sign. No more than one (1) shopping center sign shall be allowed for each road providing access to the shopping center. Such a sign may list all the stores in the shopping center. The size and location of the sign shall be at the Planning Commission's discretion. The sign shall not be erected until the Planning Commission has approved a conditional use permit and sign permit. Shopping center signs shall be set back from all property lines a minimum of ten (10) feet.

h. Advertising Signs (Billboards). Advertising signs shall be permitted in B-2 Highway Commercial District and shall meet or exceed all of the following requirements:

(1) Maximum size of all signs shall be three hundred (300) square feet per side, with only two (2) sides per sign. If more than one (1) side of a sign is visible from one (1) vantage point it shall be considered as two (2) signs.

(2) All signs shall have a maximum height as permitted for principal structures of the zoning district in which the sign is located.

(3) Signs shall be located a minimum of one thousand (1,000) feet from each other.

(4) Any signs in existence at the time of adoption of this Subsection that do not conform to all of the above requirements shall be considered and treated as nonconforming structures by the City.

i. Requirements of all signs:

(1) The maximum height of all freestanding signs shall be twenty (20) feet with a total area not to exceed twenty-five (25) square feet.

(2) Total area of all signage such as projecting signs, fascia (wall), canopy, accessory gas canopy or other accessory structures, or permanent/ temporary painted window signage, shall not exceed twenty-five percent (25%) of the total wall surface of the principal building facing a street as measured from the average ground elevation to the roof edge, and from sidewall to sidewall, including windows.

(3) Projecting signs shall project no more than six (6) feet from the wall on which they are attached with a total area not to exceed twelve (12) square feet per side with a maximum of two (2) sides. Only one (1) projecting sign will be allowed.

(4) Permanent window signs painted on, or otherwise displayed from the inside surface of a window, shall not exceed two (2) square feet or twenty-five (25%) of the total window area, whichever is greater.

(5) Temporary window signs painted on, or otherwise displayed from the inside surface of a window, shall not exceed two (2) square feet or twenty-five percent (25%) of the total window area, whichever is greater if it is the only sign in the window; or, four (4) square feet, or fifty percent (50%) of the total window area, when in combination with permanent window signs, whichever is greater. Temporary window signage shall be limited to language announcing an event or sale within the building premises and shall be placed no more than one (1) week before the date of the event or sale, and removed no later than two (2) days after the event or sale. In no case shall temporary window signage placement exceed three (3) weeks in duration at any one time, and ninety (90) days total in any calendar year.

4. M-1 Light Manufacturing District.

a. Signs permitted and limited as provided in this Subsection.

b. For single-tenant building: Two (2) business signs, including not more than one (1) freestanding and fascia (wall) or projecting sign on each street bounding the property on which the building is located.

c. For multi-tenant building: One (1) freestanding sign identifying each occupant/business of a building; and, for each occupant/business, one (1) canopy or fascia (wall), projecting, roof or awning sign fronting each street, alley or public park lot bounding a property on which the sign is located and shall be allowed. In addition, one (1) sign for each entrance.

d. A conditional use permit shall be required for a freeway oriented ground sign, which exceeds the required municipal height standards when located within one thousand five hundred (1,500) feet of the right-of-way of Federal Interstate Highway 90, and which shall meet all Minnesota Department of Transportation, Federal Highway Administration and Federal Aviation Administration requirements, shall require a conditional use permit.

e. One (1) sandwich board sign per business not exceeding two (2) feet wide by three (3) feet in height and located no more than ten (10) feet from the business frontage to which it pertains. Said sandwich board sign must be professionally constructed and painted to a professional standard of design and finish; can only be displayed during open business hours and must be removed and stored when business is closed; and, cannot impede the regular movement of pedestrians or vehicles.

f. Temporary cloth signs stretched on substantial wooden or metal frames and banners with sufficient wind holes, supported across the top and secured at the lower corners, may be erected on a premises in for a period not to exceed thirty (30) days. Total size of sign shall not exceed thirty two (32) square feet.

g. No more than one (1) industrial park sign shall be allowed for each road providing access to the industrial park. Such a sign may list all the business in the industrial park. The size and location of the sign shall be at the Planning Commission's discretion. The sign shall not be erected until the Planning Commission has approved a sign permit. Industrial park signs shall be set back from all property lines a minimum of ten (10) feet.

h. Advertising Signs (Billboards). Advertising signs shall be permitted in M-1 Highway Commercial District and shall meet or exceed all of the following requirements:

(1) Maximum size of all signs shall be three hundred (300) square feet per side, with only two (2) sides per sign. If more than one (1) side of a sign is visible from one (1) vantage point, it shall be considered as two (2) signs.

(2) All signs shall have a maximum height as permitted for principal structures of the zoning district in which the sign is located.

(3) Signs shall be located a minimum of one thousand (1,000) feet from each other.

(4) Any signs in existence at the time of adoption of this Subsection that do not conform to all of the above requirements shall be considered and treated as nonconforming structures by the City.

i. Requirements of all signs:

(1) The maximum height of freestanding sign shall be twenty five (25) feet.

(2) The maximum area of a freestanding sign shall be one hundred (100) square feet. Double-faced signs shall be counted as one (1) sign.

(3) The total area of fascia (wall) signs shall not exceed fifteen percent (15%) of the area of the front face of a building.

5. M-2 General Manufacturing District.

a. Signs permitted and limited as provided in this Subsection.

b. For single-tenant building: Two (2) business signs, including not more than one (1) freestanding and fascia (wall) or projecting sign on each street bounding the property on which the building is located.

c. For multi-tenant building: One (1) freestanding sign identifying each occupant/business of a building; and, for each occupant/business, one (1) canopy or fascia (wall), projecting, roof or awning sign fronting each street, alley or public park lot bounding a property on which the sign is located and shall be allowed. In addition, one (1) sign for each entrance.

d. Temporary cloth signs stretched on substantial wooden or metal frames and banners with sufficient wind holes, supported across the top and secured at the lower corners, may be erected on a premise for a period not to exceed thirty (30) days. Total size of sign shall not exceed thirty two (32) square feet.

e. A conditional use permit shall be required for all industrial park entrance signs. No more than one (1) industrial park entrance sign shall be allowed for each road providing access to an industrial park. Such a sign may list all the businesses in the industrial park. The size and location of the sign shall be at the Planning Commission's discretion. The sign shall not be erected until the Planning Commission has approved a conditional use permit and sign permit. Industrial park signs shall be set back from all property lines a minimum of ten (10) feet.

f. Requirements of all signs:

(1) The maximum height of freestanding sign shall be twenty five (25) feet.

(2) The maximum area of a freestanding sign shall be one hundred (100) square feet. Double-faced signs shall be counted as one (1) sign.

(3) The total area of fascia (wall) signs shall not exceed (fifteen percent ) 15% of the area of the front face of a building.

E. Special Signs. Impaired child signs will be provided through a permit process and in accordance with the provisions of this Subsection.

1. Blind child, deaf child or autistic child special signs may be provided within the City streets right-of-way.
2. Special signs as defined by Subd. A of this Subsection may only be installed pursuant to a revocable permit.
3. The City Clerk will administer the revocable sign process and maintain installation records.
4. A person seeking to have a special sign installed pursuant to this Subsection must complete, sign and submit an "Impaired Child Signing Permit" form and provide the City with two hundred dollars (\$200) to cover the cost of the signs and installation. The City Council may waive the payment of this fee in cases of financial hardship. A person seeking a waiver of the fee must complete application form and provide those supporting documents that the applicant believes to be relevant to the City Council's hardship determination.
5. Twenty-four (24) inch signs will be placed in the boulevard of the person requesting the sign (one (1) post with two (2) signs placed back to back).
6. The revocable sign permit will not be approved if the placement of the requested sign will block to interfere with other required signs, such as school zone signs.
7. The permittee must notify the City Clerk when he or she moves or when the signs are no longer required. The City will remove the sign upon notification from the permittee.

(Ord. 2012-1, passed 1-24-12)

#### **1375.15 Environmental Performance Standards.**

A. Compliance Required. No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosion; or other hazard; noise; vibration; smoke, dust, fumes, odors or other forms of air pollution; heat; glare; liquid or solid wastes or other substance, condition or element in such a manner, or in such amount, as to adversely affect the surrounding area or adjoining premises; provided that any use permitted or not expressly prohibited by the zoning code may be undertaken and maintained if it conforms to the regulations of this Subsection.

B. Use Restrictions. All commercial and industrial uses shall be subject to the performance standards.

C. Enforcement. The Zoning Administrator shall investigate any purported violation of performance standards and if there are reasonable grounds for the same, shall serve the owner

with a written notice of violation thereof. Where the State of Minnesota environmental regulations addresses purported violation, the Zoning Administrator may report the same to the Minnesota Pollution Control Agency or any other responsible state agency. If it should become necessary for the City to employ the services of any qualified expert to advise in the establishing a violation, the fee shall be paid by the violator if said violation is established, otherwise it shall be paid by the City.

D. Performance Standards.

1. Fire and Explosion Hazards. All activities involving, and all storage of flammable and explosive materials shall provide adequate fire fighting and fire suppression equipment and devices standard in the industry or commercial use that meet or surpass all minimum building code requirements. Burning of waste materials in open fires shall be prohibited at any time. The relevant provisions of state and county laws and regulations shall also apply.
2. Noise. All sound sources, including nonconforming uses, shall comply with the state noise regulations, as administered by the Minnesota Pollution Control Agency.
3. Vibration. No vibration shall be permitted which is discernible without instruments at the property line of said use.
4. Smoke. No emission shall be permitted at any point, from any chimney or any other emission point, of visible smoke greater than twenty percent (20%) opacity for any measured time, or a forty percent (40%) opacity for any four (4) minutes per one (1) hour time period for existing uses; and not greater than twenty percent (20%) opacity for any measured time for new uses. Opacity should be measured using U.S. E.P.A Method 9. All Minnesota Pollution Control Agency regulations shall be met or exceeded.
5. Dust, Fumes, Vapors and Gases. The emission of dust, dirt, fly ash, fumes, vapors or gases which can cause any damage to human health, to animals, to vegetation, or to property, or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission, is herewith prohibited. All Minnesota Pollution Control Agency regulations shall be met or exceeded.
6. Odor. No use, other than agriculture related activities, shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point on, or beyond its lot lines. All applicable Minnesota Pollution Control Agency regulations shall be met or exceeded.
7. Glare. In the M-1 Light Manufacturing District and M-2 General Manufacturing District, no direct sky reflected glare, whether from flood lights or from high temperature processes such as combustion or welding, or other activities shall cause

illumination in excess of 0.5 foot candles at the property line. In all other districts no operation or activity producing glare shall be conducted so that any glare, whether direct or reflected, is visible at the property line.

8. Heat. No use shall produce heat perceptible with instruments beyond its lot lines.

9. Liquid or Solid Wastes. Refer to Subsection 1375.13, Dumping and Disposal of Solid or Liquid Waste Material.

(Ord. 2012-1, passed 1-24-12)

**1375.16 Temporary Storage.** In residential districts, all lots shall be maintained and kept in a reasonably clean and neat condition. Vehicles which are partially dismantled, or do not have a valid state license, shall not be stored more than ten (10) days in a front yard, side yard, or on an established driveway, or more than thirty (30) days in a rear yard in all residential districts.

(Ord. 2012-1, passed 1-24-12)

**1375.17 Lot Limitations.** Any platted parcel, lot, or area of land recorded in the County Records Office shall have no more than one (1) principal use located thereon.

(Ord. 2012-1, passed 1-24-12)

**1375.18 Manufactured Home Park Regulations.** Manufactured homes in all manufactured home parks shall comply with the applicable State of Minnesota laws and regulations on manufactured housing and manufactured home parks. These parks shall be designed and developed to create a desirable residential environment.

A. Park Size. A manufactured home park shall contain not less than twenty (20) lots for manufactured homes.

B. Building Height. Building height within a mobile home park shall be limited by the regulations of the appropriate residential district.

C. Uses permitted within the park shall include only manufactured homes, storm shelters, recreational facilities, and accessory uses to the manufactured homes including common laundering facilities and activities necessary for the operation and maintenance of the park.

D. Yard Requirements.

1. An open area shall be provided on each manufactured home lot to insure privacy, adequate natural light, and ventilation to the home, and to provide sufficient area for outdoor uses essential to the manufactured home. The minimum lot area shall be four thousand (4,000) square feet. The maximum lot coverage for the manufactured home, carport or accessory structures and driveway shall be fifty percent (50%).

2. Manufactured homes shall be no closer than twenty-five (25) feet to adjacent manufactured homes in the side yard area, and not less than twenty five (25) feet in the rear yard area. A front yard area of twenty (20) feet shall be required between the paved roadway and manufactured home. Each lot shall be clearly defined by permanent markers located in the ground.

3. No manufactured home shall be located closer than fifty (50) feet to the right-of-way line of a trunk highway, and twenty-five (25) feet from the right-of-way line of all other public roads or streets. A manufactured home shall be located no closer to the park boundary than twenty (20) feet.

E. Site Improvements.

1. Off-street parking spaces shall be provided to minimize the disruption of traffic movement. Driveway area shall not be located on the lot such that the remaining open space area of each lot is substantially reduced in size. Each lot shall be required to have two (2) off-street parking spaces. These spaces may be provided on the individual lot, or in parking bays within one hundred (100) feet of the lot they are intended to serve. Parking bays shall not be permitted to be located on any public street within the park. On-lot spaces may be provided in tandem.

2. Streets shall be provided within the park. The internal street system shall provide convenient and safe circulation and access to each lot. These streets shall be private streets.

The minimum street width (pavement surface) shall be as follows:

TABLE 1375.18 LOCAL STREETS*			
Traffic Direction	Parking on Street		No Parking**
	One Side	Both Sides	
One Way	18'	26'	10'
Two Way	28'	36'	20'

\* Travel lanes shall be ten (10) feet in width and parking lanes eight (8) feet in width.

\*\* Where no parking on-street is permitted, property signing shall be required to indicate that no parking is permitted. Where no parking is permitted on-street, additional off-street parking shall be required at one (1) additional parking space per lot.

3. Streets shall be paved to City construction standards for surface and subsurface materials and construction methods. Streets shall be maintained in good condition.

4. The ground surface of all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe and efficient manner without risk or erosion or flooding of lots within the park, or to lands adjoining, or in the vicinity of the manufactured home park.
5. No manufactured home shall be erected on a lot except upon a manufactured home pad that shall meet all applicable Uniform Building Code (City building code) standards. Each pad shall have a minimum dimension equal to the dimensions of the manufactured home to be placed on a lot.
6. A buffer shall be provided and located along all exterior boundary lot lines not bordering local streets. A buffer shall be required along exterior boundary lot lines that are abutting a county, state or federal highway (Subsection 1375.23, Buffering and Screening).
7. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division) and consistent with the City building code. Skirting is required and shall be compatible with the decor of the individual manufactured homes and properly maintained. Skirting means a rigid waterproof material designed and installed so as to provide a solid or visual barrier between the underside of a manufactured home and its stand.
8. There shall be provided within each manufactured home park suitable storm shelter facilities constructed according to the Minnesota Uniform Building Code. Said facilities shall provide a minimum of ten (10) square feet of shelter floor area for each lot in the park.
9. A municipal sanitary sewer and municipal water system shall be installed in accordance with City specifications. Each manufactured home lot shall be equipped with a public water outlet, a public sewer, a telephone outlet, an electrical outlet, a natural gas outlet, and a cable TV outlet, all to be placed underground. Fire hydrants shall be located in accordance with generally accepted practices as determined by the City Engineer.
10. Trash and refuse disposal shall be in common disposal areas with adequately sized bins in a walled or fenced area, and be located within one hundred fifty (150) feet of each lot, and meet all Olmsted County Health Department regulations. Individual garbage cans shall not be permitted.
11. There shall be provided within each manufactured home park, open space for play lots and recreation facilities for the exclusive use of the park occupants. Such open space area shall be a total of twenty thousand (20,000) square feet for each fifty (50) manufactured home lots, or an equal portion thereof. Play lots shall be a minimum of

five hundred (500) square feet in area, and recreational areas shall be a minimum of ten thousand (10,000) square feet in area. These open space areas shall be of appropriate design and provided with appropriate recreational equipment.

F. Manufactured Home and Lot Improvements.

1. No building or structure shall be attached to the manufactured home other than one (1) removable cabana, or awning. One (1) carport and one (1) utility shed shall be permitted on a manufactured home lot. Tuck-under garages, where the appropriate foundation walls are provided, shall be permitted.

2. All recreational vehicles, trailers and other similar equipment shall be required to be parked in an area designated for such use on the manufactured home park plan. No on-street parking of recreational vehicles shall be permitted. This storage area shall be screened with a fence, berm, or trees and shrubs.

G. Permit Required. A conditional use permit shall be required and site design review required and approval granted prior to the development and operation of a manufactured home park.

(Ord. 2012-1, passed 1-24-12)

**1375.19 Manufactured Home Subdivision.** Manufactured home subdivisions shall comply with the adopted subdivision ordinance for the City.

A. Subdivision Size. A manufactured home subdivision shall contain not less than fifteen (15) lots.

B. Manufactured home subdivisions shall be required to meet all requirements of the R-3 zoning district. Subdivisions shall be required to have a minimum lot size of five thousand (5,000) square feet.

C. All manufactured homes shall be equipped with an anchoring system approved by under the City Building Code.

D. All manufactured homes shall have skirting and the skirting shall meet or exceed the requirements of the City Building Code.

E. Manufactured homes shall be the exclusive dwelling type permitted within the subdivision.

(Ord. 2012-1, passed 1-24-12)

**1375.20 Travel Trailer Parks and Campgrounds.** The following requirements shall apply to travel trailer parks and campgrounds in addition to zoning district regulations:

- A. The park shall abut a paved public highway or street and have safe access onto such public roadway.
  - B. A buffer shall be required along the entire property boundary perimeter as specified in Subsection 1375.23, Buffering and Screening.
  - C. Each travel trailer parking site or camping site shall be within two hundred (200) feet of a community building which shall provide separate toilet facilities for each sex. Drinking water outlets shall be provided throughout the park or campground.
  - D. Interior streets or paths for safe vehicle circulation shall be constructed in a manner so as to be usable during any time of the year and kept in a dust-free condition. Recreational travel trailer or other recreational vehicle parking areas shall be similarly constructed so as to be usable and dust-free during any time of year.
  - E. The park shall be graded and equipped to drain all surface water in a safe and efficient manner without risk of erosion or flooding of lands adjoining or in the vicinity of the park. All surface area, excluding paved areas, shall be required to maintain vegetative cover of grasses, herbs or similar vegetative material on the entire park.
  - F. Proper waste disposal methods shall be used that meet Olmsted County Department of Health standards and State Department of Health standards.
  - G. The applicant shall be required to provide an accurate scaled drawing of the design of the planned park or campground. Information on all requirements of this Chapter shall be included on the application by the applicant.
  - H. All State of Minnesota Laws and regulations and Olmsted County Department of Health regulations shall be complied with.
- (Ord. 2012-1, passed 1-24-12)

**1375.21 Common Open Space Ownership.** At the time of development review, the City shall not require dedication of common open space, or otherwise obtain such open space, unless the City determines that a public purpose will be served by providing open space within the area of the City under development review, where common open space has been proposed as part of a development. Common open space shall remain in private ownership unless the City Council determines that it is in the best interest of the City to obtain the open space and make it available to the public.

(Ord. 2012-1, passed 1-24-12)

**1375.22 Ownership and Maintenance of Common Improvements.** All developments involving common open space area and other common improvements shall meet the requirements herein set

forth, and no development application shall be approved until compliance with this Subsection is established.

A. The applicant or developer shall provide for, and establish, a non-profit organization or other legal entity under the laws of Minnesota for the ownership, care and maintenance of common landscaped areas, recreational areas, private streets, parking lots or other commonly owned facilities.

B. Such organization shall be created by covenants and restrictions running with the land and shall be composed of all persons having ownership within the development. Such organization shall be responsible for the perpetuation, maintenance and function of all common lands, uses and facilities.

C. If the common areas are deeded to a homeowners association (association), the proposed documents governing the association shall be filed with the Zoning Administrator. Such documents shall meet the following requirements:

1. The association must be established before any residences are sold.
2. Membership in the association must be mandatory for each residence owner.
3. Common area restrictions must be permanent and not for a period of years.
4. The association must be made responsible for liability insurance, taxes and maintenance of recreational and other facilities.
5. The association must have the power to levy assessments which can become a lien on individual premises for the purpose of paying the cost of operating and maintaining common facilities.
6. The governing board of any such association shall consist of at least three (3) members who shall be owners of property in the development.

D. All lands and improvements shall be described and identified as to location, size, use and control in a restrictive covenant, and such covenant shall set forth the method of assessment for the maintenance of such land.

E. Such restrictive covenant and association shall continue in effect so as to control the availability of the facilities and land thereby provided, to maintain the land and facilities for their intended function on, and to protect the development from additional and unplanned densities of use. Such association shall not be dissolved, nor shall such association dispose of any common open space, unless that land is dedicated to the City.

F. **Open Space Maintenance Guarantee.** In the event the association established to own and maintain common open spaces, recreational areas, communally owned facilities and private streets, or any successor association, shall at any time fail to maintain the common facilities in responsible order and condition in accordance with the approved plan, the City Council may cause written notice to be served upon such association or upon the owners of property in the development, setting forth the manner in which the common facilities have failed to be maintained in reasonable condition, which notice shall include the demand that the deficiencies noted be cured within thirty (30) days thereafter and shall state the date and place of a hearing to be held within fourteen (14) days of the notice. At the time of hearing, the City Council may modify the terms of the original notice as to deficiencies and may extend the time within which the same may be cured. If the deficiencies set forth in the original notice or modifications are not cured within the time set, the City Council, in order to preserve the taxable values of properties within the development, and to prevent the common facilities from becoming a public nuisance, may enter upon such common facilities and maintain the same for a period of six (6) months. Such entry and maintenance shall not vest in the public any right to use the common facilities non-dedicated to public use. Before expiration of such six (6) months, the City Council shall, upon its own initiative or upon the written request of the association therefore responsible for maintenance, call a public hearing and give notice of such hearing to the organization responsible for maintenance or the property owners of the development.

G. At such hearing, the association responsible for maintenance and/or the residents of the development may show cause why maintenance by the City should not be continued for a succeeding six (6) months. If the City Council determines that it is not necessary for the City to continue such maintenance, the City shall cease such maintenance at the time established by the City Council. Otherwise, the City shall continue maintenance for the next succeeding six (6) months subject to a similar hearing and determination at the end of each six (6) months thereafter.

H. The cost of maintenance by the City shall be a lien against the common facilities of the development and the private properties within the development. The City Council shall have the right to make assessments against properties in the development on the same basis that the organization responsible for maintenance of the facilities could make such assessments. Any unpaid assessments shall be a lien against the property responsible for the same, enforceable the same as a mortgage against such property. The City may further foreclose its lien on the common facility by certifying the same to the County Treasurer for collection as in the case of collection of general property taxes.

(Ord. 2012-1, passed 1-24-12)

### **1375.23 Buffering and Screening.**

A. **Purpose.** Buffering and screening serves to soften the outline of buildings, to screen glare and noise, and to create a visual and/or physical barrier between conflicting land uses.

Buffering and screening are required between specified lots in different zoning districts, and between land developments and along existing streets. The extent of buffering and screening required shall be determined by the type of use proposed and the adjacent uses and/or zoning surrounding the proposed development. The impact of the proposed use on adjoining properties is the basis for establishing buffering and screening standards.

**B. Required Buffering and Screening.** All buffering and screening required by this Chapter shall conform to the regulations set forth in this Subsection of the Chapter. Buffering and screening that conform to the requirements of this Subsection shall be required as specified in Table 1375.23A or Subsection 1375.23, Subdivision E., 1. - 5.

**C. Determination of Buffering and Screening Class.** Table 1375.23A specifies the buffering and screening that shall be required. For each property boundary, the applicant shall determine the adjacent zoning district(s). Then, the applicant shall match the proposed land use/zoning district -- whether the land is vacant, or there is an existing use that is proposing a major structural change or expansion or rezoning -- with the identified adjacent zoning district(s) in Table 1375.23A. The letter indicates the buffer class. After determining the buffer class from Table 1375.23A, the applicant shall select a planting option from Table 1375.23B.

**D. Responsibility for Bufferyard.**

1. When a use is the first to develop between two (2) adjacent parcels, this first use shall provide the buffer, which Table 1375.23A requires, for the adjacent zoning district.
2. The second use to develop the adjacent property shall, at the time it develops, provide all additional plant material and/or land necessary to provide the total bufferyard required between those two (2) uses by this Subsection of the Chapter where necessary.

Proposed Land Use/ Rezoning, Major Structural Changes, Expansion	<b>TABLE 1375.23A ADJACENT ZONING</b>				
	Agriculture	Low/Mixed Low Density Residential	High Density Residential	Business Commercial	Manufacturing M-1 Light Mfg. M-2 Gen. Mfg.
Agriculture					
Low/Mixed Low Density Residential			A	A	B

High Density Residential				A	B
Commercial B-1 CBD B-2 HCD		A A	A A		A A
Industrial M-2 Gen. Mfg. M-1 Light Mfg.		C  A	C  A	A  A	

Where a street or alley is located between the proposed and adjacent land uses, the required class (A-C) shall be reduced to the next less restrictive class, such as from Class C to Class B, except industrial uses which shall be required to use the same classes as indicated in Table 1375.23A (See Table 1375.23B for an explanation of the classes A-C).

E. Special Planting Option Requirements.

1. Buffering and screening shall be required to be located along the perimeter of all parking areas of non-residential uses located in residential districts. The buffering and screening planting option required shall be Class B.
2. Buffering and screening shall be required around the perimeter of manufactured home parks as follows:
  - a. Where adjacent to Low or Mixed Low Density areas, it shall require a Class C planting option;
  - b. Where adjacent to High Density areas, it shall require a Class B planting option.
  - c. For travel trailer parks and campgrounds, the buffering and screening planting option shall be Class C.
3. Buffering and screening shall be required around the perimeter of parking areas serving multifamily uses located in the Medium Density Residential (R-2) District. The buffering and screening planting required shall be one deciduous canopy tree per forty (40) feet, and one (1) understory tree per forty (40) feet, or a hedge planted on three (3) foot centers and meeting all other requirements of this Subsection.
4. Low or high density residential uses proposed for development adjacent to arterial streets, as designated in the land use plan or railroad right-of-way, shall be required to provide buffering and screening to the level specified in Planting Options, Class B.

5. Where a railroad right-of-way is located between the proposed industrial and adjacent residential uses/zoning, no buffer or screening shall be required adjacent to the railroad right-of-way.

F. Planting Options. The options below indicate the amount of plant material and fencing that is required. Unless specified, plantings are not required to be aligned on property or right-of-way boundaries, but may be sited in any required yard on the property for buffering and screening purposes. The Planning Commission and City Council may permit staggering or grouping of plant materials if a satisfactory buffer is achieved. Determination of the total number of plants shall be made by dividing the dimensions of the area where buffering and screening is required by the specification of Tables 1375.23A and 1375.23B.

<b>TABLE 1375.23B</b>		
Class	Option	
A	(1)	10 feet wide with one hedge row on lot line (plants on 3 foot centers), and one canopy tree per 50 feet.
	(2)	7 feet wide with a minimum of 6 foot high fencing on lot line, and one canopy tree per 50 feet.
B	(1)	10 feet wide with one canopy tree per 40 feet, one understory tree per 20 feet, one shrub per 15 feet, and 6 foot high fencing on lot line.
	(2)	15 feet wide with one deciduous canopy tree per 40 feet, one coniferous canopy tree per 40 feet, one understory tree per 30 feet, and one shrub per 20 feet.
	(3)	20 feet wide with one deciduous canopy tree per 40 feet, one coniferous canopy tree per 50 feet, one understory tree per 40 feet, and one shrub per 30 feet.
	(4)	25 feet wide with one deciduous canopy tree per 40 feet, one coniferous canopy tree per 60 feet, and one understory tree per 40 feet.
C	(1)	25 feet wide with one deciduous canopy tree per 60 feet, one coniferous tree per 40 feet, one understory tree per 50 feet, and one hedge on boundary (hedge plants on 3 foot centers).
	(2)	25 feet wide with one deciduous canopy tree per 60 feet, one coniferous canopy tree per 30 feet, and one berm averaging 4 feet in height.
	(3)	30 feet wide with one deciduous canopy tree per 60 feet, one coniferous canopy tree per 50 feet, one understory tree per 30 feet.
	(4)	20 feet wide with one deciduous canopy tree per 40 feet, one coniferous tree per 30 feet, one understory tree per 40 feet, and one coniferous shrub per 10 feet or one deciduous shrub per 5 feet.
	(5)	10 feet wide with one deciduous canopy tree per 40 feet, one coniferous canopy tree per 40 feet, one understory tree per 30 feet, one shrub per 10 feet, and 6 foot high fencing on lot line.

1. All shrubs shall be planted in groupings of shrubs, or shrubs and understory trees. Shrubs may be evergreen or deciduous unless otherwise specified.
2. Fencing shall be visually solid and constructed of wood or a likeable material that is weather resistant and permanently anchored in the ground.

G. General Requirements.

1. Existing Buffer. All existing deciduous and coniferous trees larger than two (2) inches in diameter, six (6) inches above ground level, and/or six (6) feet in height may be considered to contribute to the required buffering and screening. Where the amount of existing plant material of that size, or greater, equals or contributes to the required number of plants under the appropriate class, an equivalent reduction may be taken in the number and type of required plants. In all cases, existing plant material of the above diameter and height shall be preserved in any bufferyard except where clearance is required to insure adequate sight distance. Any removal shall, where feasible, involve relocation rather than clearing.
2. The bufferyard may be the same with required front, side, or rear yards and in case of conflict, the larger yard requirements shall apply.
3. All buffering and screening areas shall be maintained and kept clean of all debris, rubbish, weeds and tall grass in conformance with existing regulations.
4. No structure, manufacturing or processing activity, or storage of materials shall be permitted in the buffering and screening areas; however, parking of passenger automobiles shall be permitted in the portion of the buffering and screening area exclusive of the exterior fifteen (15) feet adjacent to the lot line, unless otherwise not permitted under the applicable zoning district.
5. The buffering and screening areas shall be located on the outer perimeter of the lot, extending to the property line. No bufferyard shall be located on any portion of an existing or dedicated public or private street right-of-way.
6. Plant Materials.
  - a. By this Chapter, canopy trees (deciduous or coniferous) shall be considered to be trees that when full-grown, will attain a height of over thirty (30) feet; understory trees shall be considered to be trees that when full-grown will attain a height of between ten (10) and thirty (30) feet; shrubs shall be considered to be woody perennial plants that when full-grown attain a height of between three (3) and fifteen (15) feet.

## b. Minimum Size.

TABLE 1375.23C		
Canopy Tree	deciduous conifers	1 ½" or more in diameter 6 feet or more in height
Understory Tree		1 ½" or more in diameter
Shrub	deciduous and coniferous	2 feet or more in height

c. Plant materials shall be permanently maintained and any plant material which does not live shall be replaced within one year. All plant materials shall be native to Minnesota or have been known to be able to survive and grow in the southeast Minnesota climate. All planting material shall meet the standards of the American Association of Nurserymen.

d. Planting Design. It is encouraged that plant materials in buffering and screening areas be planted in natural clusters that will give privacy but will not block views or vistas. The exception shall be commercial or industrial uses bordering residential uses. Here a dense, visual screen is encouraged.

e. Prior to the issuance of any zoning permit, complete plans showing the arrangement of all buffering and screening areas; the placement, species and size of all plant materials; and the placement, size, materials and type of all fences to be placed in such buffering and screening areas shall be reviewed by the Zoning Administrator to ascertain that the plans are in conformance with the terms of this Chapter.

(Ord. 2012-1, passed 1-24-12)

### 1375.24 Earth-Sheltered Building Requirements.

A. Purpose. Earth-sheltered buildings located either below the existing average ground level on a sloping lot or above the existing average ground level prior to construction and covered over fifty percent (50%) of the building by earth, create different development opportunities and challenges on a site-by-site basis. Due to major differences between above-grade housing and earth-sheltered buildings, the potential for soil erosion and slope failure and increased storm water runoff from the development site, development of earth-sheltered building shall be reviewed on a site basis and be required to comply with the following standards.

**B. Minimum Requirements.**

1. A landscaping plan shall be required. The purpose of landscaping shall be to insure maximum compatibility with adjacent above-ground housing and to insure that no soil erosion occurs following the completion of the building. The landscaping plan shall be a part of the application and shall be approved, approved with conditions, or denied. No zoning and building permit shall be issued until a landscaping plan is submitted and approved, or approved with conditions.
2. Following the completion of all construction activities, soil erosion shall not occur. All soil surface laid bare during construction shall be promptly seeded and mulched to prevent erosion. Additional methods of erosion control may be required by the City Council where it is found that seeding and mulching will not be sufficient. Where construction is completed at some time other than during the growing season, the property owner shall protect against soil erosion by appropriate means and shall seed all unvegetated ground at the beginning of the next growing season.
3. Where earth-sheltered buildings are developed on a naturally occurring sloped site, the applicant shall evaluate the potential for slope failure. Earth-sheltered buildings located on sloping sites shall not be the cause of slope failure.
4. All surface water (storm water) runoff shall be controlled on-site by proper grading, landscaping and permanent soil cover such that the peak rate of runoff shall not be increased by more than two percent (2%).
5. Earth-sheltered buildings shall be required to meet all minimum yard requirements of the zoning district in which located. Computations for yard area shall be made from the exterior surface of the building. (The exterior surface shall be the surface opposite from the interior building wall and ceiling/roof interior surface.)
6. Maximum lot coverage requirements of the district in which located shall apply only to above-grade buildings and shall cover not more than fifteen percent (15%) of the total lot area.

(Ord. 2012-1, passed 1-24-12)

**1375.25 Hazardous Material Storage.**

A. Purpose. Hazardous materials, or materials that may become hazardous if improperly treated so as to create a hazardous substance, are specifically addressed within this Subsection of the Chapter. A potential exists that such materials, if improperly treated, stored, or handled will affect the health and safety of a portion of, or all of the residents of the City. This Subsection shall specify minimum standards of operation and related requirements to protect the public health, safety and welfare. Household consumer products that are

hazardous materials under the definition in this Chapter are excluded from the requirements of this Subsection.

**B. Minimum Requirements.**

1. Industrial and commercial establishments, and the buildings, structures and land used by such establishments, shall be required to comply with all requirements in the State Building Code that may provide protection against accidents and the results of accidents, or improper treatment of actual, or potential hazardous materials.
2. Storage areas for actual or potentially hazardous materials shall be protected from unauthorized or forced entry. Storage areas shall be fenced and locked, and buildings and structures shall be locked or otherwise protected from unauthorized entry.
3. Property, buildings or structures on which actual or potential hazardous materials are stored shall be required to control potential runoff of hazardous substances in the case of an accident.
4. All industrial or commercial establishments handling actual, or potential hazardous, materials shall be required to report to the Stewartville Volunteer Fire Department and Olmsted County Sheriffs Department on a periodic basis, and at least one time each year, the actual or potential hazardous materials to be located on this property. This requirement should allow the fire and sheriff's departments to react to accidents in a timely fashion and in a manner that will protect, to the fullest extent possible, fire and police personnel and citizens of Stewartville.
5. The City Council may require that concentrations of actual or potential hazardous materials in storage be limited to safe levels where, if accidents occur or materials are improperly managed, the impact of hazardous materials will be minimal to the surrounding properties and permit safety personnel to control such impacts.
6. A conditional use permit shall be required of any proposed land use where any actual or potential hazardous materials will be used in operations of the establishment or stored for sale or other use.
7. Gas service stations shall be exempt under this Subsection of the Chapter. However, such uses shall be required to meet state laws and regulations and all other requirements of this Chapter, including Subsection 1375.13, Dumping and Disposal of Solid or Liquid Waste Material.
8. All related Minnesota and federal laws and regulations addressing a hazardous material shall be complied with.

(Ord. 2012-1, passed 1-24-12)

**1375.26 Clear Vision Areas.** A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, or a street and a railroad. A clear vision area shall be a triangular shaped area with two (2) sides following lot lines; the clear vision area shall extend along both curb lines for a distance of not less than twenty-five (25) feet. The clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction exceeding thirty-six (36) inches above the adjacent street grade, except for trees with branches and foliage removed to a height of eight (8) feet above the ground, and open wire or other fencing that does not obscure sight.

(Ord. 2012-1, passed 1-24-12)

**1375.27 Fences, Walls, and Hedges.** A fence, wall, column, pier, post or any similar type structure, or any combination of such structures, may be permitted in the required yards of the various districts, subject to the following requirements:

A. General Requirements.

1. **Permit Required.** No person, firm or corporation shall hereafter construct or cause to be constructed or erected within the City any fence without first making an application for and securing a zoning permit.
2. **Locations.** All fences shall be located entirely upon the private property of the persons, firms or corporations constructing, or causing the construction, of such fence unless the owner of this property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties. The Zoning Administrator may require any applicant for a fence permit to establish the boundary lines of his or her property by a survey thereof to be made by any Registered Land Surveyor.
3. **Construction and Maintenance.** Every fence shall be constructed in a substantial manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance. Any such fence which is, or has become dangerous to the public safety, health, or welfare, is a public nuisance, and the Zoning Administrator shall commence proper proceedings for the abatement thereof. Link fences, wherever permitted, shall be constructed in such a manner that no barbed ends shall be at the top.
4. **Fences shall be at least five percent (5%) open (space for the passage of light and air).**
5. **In those instances where a boundary line fence acts as an enclosure which restricts access from the front yard, a gate, identifiable collapsible section, or other such means of recognizable ingress points shall be unobstructed and a minimum of ten (10) feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line between the side lot line and the principal structure.**

**B. Residential District.**

1. Fences extending across front yards shall not exceed three (3) feet in height, and shall be at least fifty percent (50%) open for the passage of air and light.

a. No fence, screen or structure that obstructs view shall be located within thirty (30) feet of any front lot line, and twenty-five (25) feet of any corner formed by the intersection of street or railroad right-of-ways, as measured from the intersecting property lines.

b. Except as provided in Subdivision B.1.a., fences, hedges, or shrubs less than three (3) feet in height may be located on any part of the lot.

c. Fences may be erected to a height of six (6) feet in rear and side yards, but shall be subject to all other provisions of the Chapter.

d. Fences located on a side street lot line must have a fifteen (15) feet minimum set back.

e. Fences of a purely decorative nature, not designed or intended to enclose or conceal, shall be exempt from the setback requirements, as long as it is located entirely upon the private property of the person erecting the fence.

2. Chain link fences (without slate screens) used for the enclosure of tennis courts or other such recreational purposes shall not exceed ten (10) feet in height and shall be located in a rear yard only.

**C. Special Purpose Fences.**

1. Fences for special purposes, and fences differing in construction height or length, may be permitted in any district by issuance of a conditional use permit. Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which the fence is intended.

D. Fences, walls, and hedges shall not interfere with solar energy access to existing solar energy systems located on adjacent lots.

(Ord. 2012-1, passed 1-24-12)

**1375.28 Soil Erosion and Sedimentation Control.**

A. Definitions. For the purpose of this Subsection.

1. Soil Erosion. Removal and/or loss of soil by the action of water, ice, gravity or wind. Erosion includes both the detachment and transport of soil particles.
2. Sedimentation. The settling out of the soil particles which are transported by water or wind. Sedimentation occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree, and for a sufficient period of time to allow the particles to settle out of suspension, or when the degree of slope is lessened to achieve the same result.
3. Erodible Slope. All slopes with inclines in excess of four percent (4%).
4. Large Flat Surface Area (unpaved). An area which is flat or whose slope is less than four percent (4%), and which consists of more than one thousand (1,000) square feet of exposed soil.

B. Erosion Control Policies. Any conditional use permit or other application requiring site plan approval and subdivision plats shall prepare a soil erosion plan addressing the following policies. Such plan shall be approved by the City Engineer as a condition to site plan approval.

1. The smallest practical area of land shall be exposed at any given time during development.
2. Such minimum area exposure shall be kept to as short a duration of time as is practicable.
3. If at all practicable, temporary vegetation, mulching or other cover shall be used to protect areas exposed during development.
4. Provision shall be made to accommodate effectively the increased surface water runoff caused by changed soil and surface conditions during and after development on upstream and downstream flooding, surface water runoff volumes and soil erosion and sedimentation, such that there is no significant increase thereof.
5. Permanent, final plant covering or structures shall be installed as soon as possible.
6. The plan of development shall relate to the topography and soils of the site so that the lowest potential for erosion is created.
7. Natural plant covering shall be retained and protected and shall be deemed a dominating factor in developing the site.

(Ord. 2012-1, passed 1-24-12)

**1375.29 Wind Energy Conversion Systems (WECS).** The location, design and maintenance of WECS shall be governed as follows.

A. Applicants requesting a building permit for a WECS shall furnish such scale drawings and information as the City deems necessary. This information shall include, but is not limited to the following: A site plan of the premises involved showing lot lines, the accurate location of all buildings or structures on the premises and on each adjacent lot, and the location of proposed tower and all guy wires, poles or anchors, and a sketch elevation of the premises accurately depicting the proposed tower and its relationship to structures on adjacent lots.

B. The permitted maximum height of a WECS shall be determined in one (1) of two (2) ways:

1. A ratio of one(1) to one (1) between the distance from the closest property line to any part of the WECS tower to the height of the tower;
2. A maximum of one hundred (100) feet in the agriculture and manufacturing districts, and fifty (50) feet in residential and commercial/business districts.

The shortest height of the two (2) above-mentioned methods shall be used in determining maximum height. Height shall be measured from the surrounding grade to the rotor hub or top of the tower, whichever is higher.

C. No part of the WECS shall be located within, or above any required front, side or rear yard.

D. No part of the WECS shall be located such that it could potentially affect or come into contact with any telephone, TV, cable or electrical lines on the same adjacent properties.

E. All WECS shall be designed to meet the following minimum standards:

1. The tower and tower footing be engineered to withstand wind and icing loads for this geographic area;
2. The WECS shall have an automatic braking device capable of halting operation in conditions of imbalance or excessive wind speeds (40 m.p.h. or greater);
3. The WECS shall be designed, constructed and operated so as to not cause radio and television interference;
4. The WECS blade design and materials shall be adequate to insure safe operation in an urban area;
5. The wind turbine and the tower shall be compatible;

6. The WECS shall be operated and maintained in a condition which will not exceed the noise level prescribed by Minnesota State Regulation NPC 1 and 2 Noise Standards and any amendments thereto;

7. The WECS shall be guarded against unauthorized climbing. The first twelve (12) feet of the tower shall be unclimbable by unauthorized person by design or be enclosed by a six (6) foot high, non-climbable fence with a secured access;

8. The WECS shall be designed and installed to withstand natural lightning strikes;

9. The WECS electrical equipment and connections shall adhere to all state and local government, as well as power company regulations and standards.

F. Any WECS not in operation for twelve (12) consecutive months shall be dismantled.

G. The City shall require liability insurance to be maintained on the WECS by its owner.

H. In order to insure adequate wind access, the City does encourage the use of private easements and restrictive covenants as a means to protect wind access.

(Ord. 2012-1, passed 1-24-12)

### **1375.30 Solar Energy Systems. Performance Controls.**

A. Solar energy systems shall be considered as accessory structures and shall meet all requirements as such, however, provided that lot coverage requirements shall not apply and that such systems may be located closer than six (6) feet to the principal building which the system serves, although all building code requirements shall be met or exceeded.

B. Use of solar energy systems is subject to the constraints imposed by the topography and any existing vegetation or tall structures on adjacent and nearby lots at the time of adoption of this Chapter.

C. Solar energy systems shall be exempted from lot coverage restrictions. However, in all residential districts, if the total surface of the solar energy systems is equal to, or more than ten percent (10%) of the lot area, then a conditional use shall be required prior to construction of any system elements.

D. After placement of a solar energy system on a lot, all new vegetation on public lands including rights-of-way, shall not interfere with the proper and efficient operation of existing solar energy systems on adjacent and nearby private property.

E. As a general policy, reasonable care should be taken to protect the opportunity for the utilization of solar energy systems at all locations where solar energy is available.

F. The City does encourage the use of private easements and restrictive covenants as a means to protect access to sunlight. All such documents should be recorded with the Olmsted County Recorder.

G. Where a solar-energy system is installed on a lot, a statement to the effect shall be filed and recorded with the Olmsted County Recorder, and the date of installation shall be the date of recordation. Furthermore, as a means of evidencing conditions, the owner of a solar energy system may file notarized photographs of the affected area with the City prior to installation of said system.

(Ord. 2012-1, passed 1-24-12)

### **1375.31 Sanitary Sewer Provisions.**

A. Providing treatment capacity is available, the owners of all dwellings, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located, or may in the future be located a public sanitary or combined sewer of the City, are hereby required at the owners expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line and the structure to be served is reasonably close to the property line where tracts larger than a normal municipal lot are to be served.

B. The provisions of this Subsection shall not apply to temporary construction sites, or portable units used in farming operations.

C. No portion of this Subsection shall restrict the City from enforcing other City ordinances related to the construction, location, maintenance or operation, connections and uses of the sanitary sewer system.

(Ord. 2012-1, passed 1-24-12)

**1375.32 Satellite Earth Stations.** The purpose of this Subsection is to set minimum requirements for satellite earth stations used in residential districts and as an accessory use to commercial or industrial establishments as covered under Section 1315, Establishment of Districts. This Subsection shall not be construed to permit satellite earth stations that are used as part of a broadcasting system.

A. Satellite earth stations shall be considered accessory structures and uses for the purposes of the yard requirements of the Chapter, and shall meet all requirements for placement and height of the structure on the lot in the district in which it is located. However, in no case shall a satellite earth station be located in such a way as to create the potential for any part of the structure to encroach across lot lines and into adjacent lots.

B. Satellite earth stations shall be permanently anchored on the lot in conformance with all state building code requirements.  
(Ord. 2012-1, passed 1-24-12)

**1375.33 Bed and Breakfast Homes (B&B).** B&B homes may be allowed by conditional use, subject to the following standards:

- A. The owner shall reside in the B&B and manage the premises.
- B. The establishment shall comply with State Health and Building Code requirements.
- C. The only meal served to B&B guests shall be breakfast between the hours of 6:00 a.m. and 11:00 a.m. and shall be served to guests only.
- D. No cooking or cooking facilities shall be allowed or provided in the guest rooms.
- E. The establishment shall be limited to four (4) guest rooms or a maximum guest capacity of eight (8).
- F. Each guest shall be limited to staying not more than seven (7) days within any thirty (30) day period.
- G. The owner shall maintain a guest register showing the name, address, motor vehicle license number, and inclusive dates of visits of all guests.
- H. A minimum of one (1) off-street parking space for each guest room and two (2) off-street parking spaces for the resident owner shall be provided, in accordance with parking standards set forth in Subsection 1375.12.
- I. Signage for each B&B property shall be limited to one (1) non-illuminated sign per property, having a maximum sign area of four (4) square feet and a height not exceeding five (5) feet. Signs shall be placed in the front of the B&B.
- J. There shall be no external vending machines.
- K. Sales of souvenirs and items representative of the area shall be accessory to the B&B and shall be restricted to one (1) sales space of not more than two hundred (200) square feet. Sales shall be restricted to sales to overnight guests only.
- L. Screening and fencing. All trash and refuse must be contained and all refuse receptacles shall be enclosed in opaque fencing at least six (6) feet in height. Screening, in the form of shrubbery, trees, or a fence to a height of at least five (5) feet, may be required along any property line abutting a residential use.

M. Landscaping. The entire front yard space shall be landscaped with grass or other natural material, with the exception of areas needed for access drives. At least fifty percent (50%) of the rear yard shall be landscaped with grass or other natural material.

N. Residential appearance and character. Each property shall maintain an exterior residential appearance and character, meaning an exterior facade that is compatible with the surrounding single family or duplex houses, and is, of an appearance that would be found in a structure designed for and occupied by a family as detached single or two-family residence.

O. Distance between B&B's. The minimum distance between B&B's shall be fifteen hundred (1,500) feet.

P. The initial conditional use permit for a B&B shall be valid from the date of issuance until January 31 of the following year. All conditional use permits for B&B's shall be reviewed by the Planning Commission on the date of the regularly scheduled January Planning Commission meeting. The City Council shall consider the renewal of all conditional use permits for B&B's on the date of the regularly scheduled City Council meeting on the fourth Tuesday in January. The Council shall hold a public hearing on the renewal of conditional use permits for all B&B's. Notice of the time and place of such hearing, and the fact that the renewal of conditional use permits for B&B's will be considered shall be published in the official newspaper ten (10) days in advance of the hearing. An opportunity shall be given to any person to be heard for or against the granting of a renewal of said conditional use permits. The Council may grant or refuse the renewal of said conditional use permits, and may add or delete conditions to the conditional use permit if the renewal is granted.

Q. Prior to the sale or transfer of B&B premises, the proposed purchaser or transferee shall apply to the City for a transfer of the conditional use permit for the B&B to the proposed owner or transferee. The application for the transfer of the conditional use permit shall be reviewed by the Planning Commission, and the Council shall grant or deny the application. The Council may add or delete conditions to the transfer of the conditional use permit at the time of approval of said transfer.

(Ord. 2012-1, passed 1-24-12)

#### **1375.34 Residential Pools.**

A. Definitions. Residential swimming pools shall be defined as any constructed pool, permanent or portable, which is intended for non-commercial use as a swimming pool by the owner's family and their guests and which is over 24 inches in depth and has a surface area exceeding two hundred (200) square feet.

B. Construction.

1. Utility Lines. Pools shall not be located beneath utility lines or over underground utility lines of any type.

2. Setback. No person shall build, situate or install a pool within ten feet of any side or rear lot line, nor within six (6) feet of any principal structure nor within any required front yard.

3. Portable Fences. While being constructed, the pool must be fenced with a portable fence, such as snow fence, of not less than five (5) feet in height.

C. Fencing.

1. Minimum Height. All outdoor pools hereafter constructed shall be completely enclosed by a fence or wall of the non-climbing type so as to be impenetrable by toddlers, afford no external handholds and a minimum of five (5) feet in height.

2. Self-Closing. All outdoor fence openings or outdoor points of entry into the pool area shall be equipped with self-closing and self-latching devices. The openings between the bottom of the fence and the ground or other surface shall not be more than three (3) inches.

D. Permits. No person shall construct, alter or renovate a pool without a zoning permit. (Ord. 2012-1, passed 1-24-12)

**1375.35 Commercial/Business and Manufacturing Design Standards.**

A. Intent. It is the intent of this Subsection to promote high standards of design and construction for the Commercial/Business and Manufacturing uses in the City. These standards are set forth in order to enhance the visual appearance of the Commercial/Business and Manufacturing areas within the City, to increase the taxable value of the City, and to promote the community public health, safety, and welfare.

B. Exterior Building Materials. The exterior surface of all buildings in the Commercial/Business and Manufacturing zones shall be one of, or a combination of, the following materials. If any of the following materials are used, they may constitute no more than eighty percent (80%) of the building elevation facing a roadway. The remaining twenty percent (20%) must be of a different color, material, or architectural relief provided that the visual effect of this relief is deemed substantially similar to a change in color or material.

1. Permitted Materials:

- a. Face brick, stone, glass or similar material;
- b. Architecturally treated concrete;

- c. Stucco or other cementitious coating applied in a manner so as to create a harmonious design with other exterior materials;
  - d. Decorative concrete block whose color and texture is integral to the material.
  - e. Textured or architecturally treated concrete masonry units, or panels, if either sealed or painted in a manner guaranteed by the manufacturer against blistering, peeling, cracking, flaking, checking, or chipping for a minimum of five (5) years;
  - f. Metal panels with interlocking, concealed, or tongue-and-grove seams and approved fasteners, if the exterior surface finish is warranted by the manufacturer for twenty (20) years against blistering, peeling, cracking, flaking, checking, or chipping.
2. Acceptable Accent Materials. To satisfy the requirements of the remaining twenty percent (20%) of a building surface area, the following accent materials are acceptable:
- a. Any of the permitted materials listed above;
  - b. Wood if sealed or treated in manner guaranteed for a minimum of five (5) years.
3. Prohibited Materials. Plain, flat, unpainted concrete block, or any metal not meeting the standards outlined in 1.f. above.
4. The exposure of party walls shall require the exterior surface of the exposed party wall(s) to comply with the requirements of Paragraph B. 1. of Subdivision 1375.35.
- C. Accessory Structures. Garages and accessory structures shall be of a similar material, quality and appearance as the principal structure. The height of the accessory structure shall not exceed that of the principal structure. Screen walls and exposed areas of retaining walls shall be constructed of a permanent material and finish and shall be of a compatible color and material as the principal structure.
- D. Rooftop and Ground Level Mechanical Equipment. The ground level view of all rooftop and ground level mechanical equipment, including rooftop structures related to elevators and other mechanical utilities shall be screened from contiguous properties and adjacent streets with materials of similar type, quality, and appearance as that of the principal structure. If due to factors unique to the property or the project, it is either physically impossible or impracticable to completely screen these utilities, the Planning Commission may approve an alternative solution that renders them aesthetically compatible with the principal structure.
- E. Loading and Service Areas/Outdoor Storage. The perimeter views of all external loading and service areas and any areas of outdoor storage must be screened from residential uses and

adjacent public streets and the public front and office sides of all commercial and industrial uses, except at access points. Such screening can be accomplished through the placement of the building on the lot or the placement of a building on an adjacent lot. Screening can also be accomplished through the use of berming, landscaping (80% opaque at the time of maturity) or existing vegetation. If screen walls are proposed then the materials used shall be of similar type, quality, and appearance as that of the principal structure. If due to factors unique to the property or the project, it is either physically impossible or impracticable to completely screen these areas, the Planning Commission may approve an alternative solution that renders them aesthetically compatible with the principal structure.

F. Trash Handling. All trash and trash handling equipment shall be stored within the principal structure or within an attached structure accessible from within the principal structure or within an accessory structure totally screened from eye level view from public streets and adjacent residential properties. Such structures shall be constructed of the same building material as the principal structure. If due to factors unique to the property or the project, it is either physically impossible or impracticable to completely screen these structures, the Planning Commission may approve an alternative solution that renders them aesthetically compatible with the principal structure.

G. Commercial and Industrial Building Design.

1. Evaluation of the appearance of a project shall be based on the quality of its design and the relationship to its surroundings.
2. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
3. Materials shall have good architectural character and shall be selected for harmony with adjoining buildings. Materials shall also be of durable quality.
4. Building components, such as windows, doors, eaves, and parapets shall have good proportions and relationships to one another.
5. Colors shall be harmonious and shall use only compatible accents.
6. Exterior building lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
7. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent monotonous appearance.

H. Site Lighting. All exterior lighting shall be designed and arranged to direct illumination away from contiguous residential district property. No exterior lighting shall be arranged and designed to create direct viewing angles of the illumination source by pedestrian or vehicular traffic in the public right of way. Lenses, deflectors, shields, louvers, and prismatic control devices shall be used to eliminate nuisance and hazardous lighting. The light cast by these fixtures shall be restricted to 0.5 lumens at the property line. Such lighting shall be no greater than twenty-five (25) feet in height.

(Ord. 2012-1, passed 1-24-12)

### **1375.36 Wireless Communications Facilities.**

A. Purpose. Establish regulations that protect the public health, safety and general welfare of the community, for the siting, construction and maintenance of wireless communication towers (WCT) and similar facilities within the City. This does not pertain to amateur radio, or receive only antennas or structures.

1. Objectives. The regulations of this Subsection are intended to:

- a. Maximize the use of existing approved structures for siting new antennas in order to reduce the number of new towers needed to serve the community;
- b. Provide for the appropriate location and development of antennas and towers within the City;
- c. Minimize adverse visual effects of wireless communication towers through siting standards;
- d. Utilize standard structural and setback requirements to avoid potential damage to adjacent properties from antenna and tower failure;
- e. Wireless communication towers are permitted with a conditional use in areas with the following uses:
  - (1) M-1 Light Manufacturing District, M-2 General Manufacturing District;
  - (2) Government buildings, school buildings, churches, and public utility structures.

B. Definitions.

1. Antenna. Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna, directional antenna or parabolic antenna.

2. Co-location. The location of more than one (1) antenna or set of antennas on the same wireless communication tower or structure.
  3. Engineer. Any person practicing as a professional engineer shall be duly licensed and certified under the guidelines stipulated in Minn. Stat. Chapter 326 for their particular field.
  4. FAA. Federal Aviation Administration.
  5. FCC. Federal Communication Commission.
  6. Height. The distance measured from the ground level at the base of the tower or structure to the highest point on a tower or structure.
  7. Tower. Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, such as monopoles and similar structures.
  8. Tower accessory structure. Any structure located at the base of a tower for housing receiving or transmitting equipment.
  9. Wireless Communication. Any personal wireless services as defined in the Federal Communications Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), paging and similar services that currently exist or may be developed.
- C. Conditional Use. Wireless communication towers and similar facilities are a conditional use within all zoning districts subject to the following performance standards:
1. Permit Required. It shall be unlawful for any person, firm, or corporation to erect, construct, place, replace or structurally repair any wireless communication tower or adjoining/accessory buildings without first making application to the Zoning Administrator and securing appropriate permit approval. Building permits are not required for adjustment or replacement of the elements of an antenna array affixed to a tower or antenna. All applications shall be accompanied by a coverage/interference and capacity analysis, including a technical evaluation of existing and proposed transmissions indicating all potential interference problems including, but not limited to, residential broadcast reception and public safety communications. All applications must demonstrate compliance with existing FCC, FAA, Uniform Building Code and other pertinent regulations. As regulations change, wireless communication operators must demonstrate continued compliance at their expense. All subsequent co-locators must apply for individual building and conditional use permits in conformance to this Chapter.

2. Permitted Locations. No wireless communication tower shall be erected in the City unless the applicant demonstrates that the equipment planned for the purpose of the proposed wireless communication cannot be accommodated on the existing or approved tower, building or structure within a one (1) mile search radius of the proposed tower due to one (1) or more of the following reasons.

- a. The planned equipment would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer; and the existing or approved structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
- c. Existing or approved wireless communication towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
- d. Other unforeseen reasons that make it impossible to locate the planned equipment upon an existing or approved structure.

D. Design Standards. All applications must meet the following minimum requirements:

1. All towers and antennas shall comply with all FCC and FAA rules and regulations. Wireless communication towers attached to a building or existing structure shall comply with the setbacks of the zoning district and shall not exceed twenty (20) feet in height beyond the top of the primary structure. Free standing towers shall be set back one (1) foot from any property line or building for each one (1) foot of structural height. Freestanding towers shall not be located in a front yard, nor shall any part of the antenna or tower extend across or over any part of the public right-of-way, street, highway or sidewalk. The base of any free standing tower or antenna shall occupy not more than five hundred (500) square feet and the top of the tower shall be no larger than the base.
2. Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration (FAA).
3. Towers shall be without the use of wires, cables, beams or other, the design shall utilize a monopole configuration that is designed to collapse in on itself in the event of

structural damage. Design and installation of towers and antennas shall comply with all applicable federal and state standards, including FCC and FAA standards and the current Uniform Building Code, and shall be approved and stamped by a licensed professional structural engineer. The City Council may allow an alternative tower design if it would better blend into the surrounding neighborhood.

4. Towers shall be designed to allow the future co-location of equipment at varying heights. Tower operators are required to accept co-location of communication equipment if reasonable and necessary to conform to Subsection 1360.03 of this Chapter and shall not make such co-location economically prohibitive. Towers over one hundred fifty (150) feet in height shall be designed for co-location of at least three (3) additional antennas. Towers of one hundred twenty five (125) feet to less than one hundred fifty (150) feet shall be designed for co-location of at least two (2) additional antennas. Towers of one hundred (100) feet to less than one hundred twenty-five (125) feet shall be designed for co-location of at least one (1) additional antenna. Subsequent co-locators are subject to the same provisions and procedures as the primary conditional use applicant.

5. Towers shall not be illuminated by artificial means unless such light is required by federal (FAA) or state regulations; towers may be used to illuminate ball fields, parking lots or similar areas and for crime preventative measures.

6. The use of any portion of a tower for signs other than required warning or equipment information is prohibited. All mechanical and utility equipment shall be enclosed in an approved structure or cabinet; all buildings and structures shall meet the minimum performance standards in that zoning district.

7. The ground level perimeter may be required to be screened with pre-approved landscaping and/or fencing at the operator's expense. The tower shall be reasonably protected against unauthorized access and vandalism.

8. All construction, installation, wiring and maintenance of towers shall not create a safety hazard or damage to the property of others, nor interfere with public safety communications.

9. Operators shall remove abandoned, unused towers and similar structures within twelve (12) months of the cessation of operations and restore the area to its original condition. Failure to abide by this condition will result in the City removing the structure and assessing costs to the property or operator.

10. All wireless communication facilities that are in existence as of the date of this Chapter may continue to operate, but may not be replaced or structurally altered without complying in all respects to this code. This does not include routine adjustment or replacement of the primary or co-location antennae.

11. When the property's use no longer conforms to this Chapter, any existing tower shall be removed prior to preliminary plat approval or building permit issuance, whichever occurs first.

(Ord. 2012-1, passed 1-24-12)

**1375.37 Opt-Out of Minn. Stat. § 462.3593.** Pursuant to authority granted by the Minnesota Statutes, the City of Stewartville opts-out of the requirements of MN Statue 462,3593 which defines and regulates Temporary Family Health Care Dwellings.

### **Section 1379 - National Flood Insurance Program Compliance**

#### **1379.01 Statutory Authorization, Findings of Fact and Purpose.**

**Subd. 1 Statutory Authorization.** The legislature of the State of Minnesota has, in Minn. Stat. Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City, does ordain as follows.

#### **Subd. 2 Purpose.**

A. This section regulates development in the flood hazard areas of City, These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this section to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

B. National Flood Insurance Program Compliance. This section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

C. This section is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Ord. 2017-1, passed 3-28-17)

**1379.02 General Provisions.**

**Subd. 1 Lands to Which This Section Applies.** This section applies to all lands within the jurisdiction of the City shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map, or as modified in accordance with 2.12 below.

A. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this section. In case of a conflict, the more restrictive standards will apply.

B. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.

C. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

**Subd. 2 Incorporation of Maps by Reference.** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this section. The attached material includes the Flood Insurance Study for Olmsted County, Minnesota, and Incorporated Areas, dated September 25, 2023 and the Flood Insurance Rate Map panels enumerated below, dated April 19, 2017, all prepared by the Federal Emergency Management Agency. These materials are on file in the City Clerk's Office.

27109C0295E	27109C0432E	27109C0452E
27109C0313E	27109C0451E	27109C0453D

**Subd. 3 Abrogation and Greater Restrictions.** It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this section imposes greater restrictions, the provisions of this section prevail. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.

**Subd. 4 Warning and Disclaimer of Liability.** This section does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This section does not create liability on the part of the City or its officers or employees for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

**Subd. 5 Severability.** If any section, clause, provision, or portion of this section is adjudged unconstitutional or invalid by a court of law, the remainder of this section shall not be affected and shall remain in full force.

**Subd. 6 Definitions.** Unless specifically defined below, words or phrases used in this section must be interpreted according to common usage and so as to give this section its most reasonable application.

A. “Accessory Use or Structure” shall mean a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

B. “Base Flood” shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

C. “Base Flood Elevation” shall mean the elevation of the "regional flood." The term "base flood elevation" is used in the flood insurance survey.

D. “Basement shall mean any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

E. “Conditional Use” shall mean a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

1. Certain conditions as detailed in the zoning ordinance exist.
2. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

F. “Critical Facilities” shall mean facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

G. “Development” shall mean any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

H. “Equal Degree of Encroachment” shall mean a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

- I. "Farm Fence" shall mean a fence as defined by Minn. Stat. § 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this section. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid wails, are regulated as structures under this section.
- J. "Flood" shall mean a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- K. "Flood Frequency" shall mean the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- L. "Flood Fringe" shall mean the portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood insurance Study for Olmsted County, Minnesota.
- M. "Flood Insurance Rate Map" shall mean an official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- N. "Flood Prone Area" shall mean any land susceptible to being inundated by water from any source (see "Flood.")
- O. "Floodplain" shall mean the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- P. "Floodproofing" shall mean a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- Q. "Floodway" shall mean the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- R. "Lowest Floor" shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.
- S. "Manufactured Home" shall mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "Recreational Vehicle."

T. "New Construction" shall mean structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this section.

U. "Obstruction" shall mean any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

V. "One Hundred Year Floodplain shall mean lands inundated by the "Regional Flood" (see definition).

W. "Principal Use or Structure" shall mean all uses or structures that are not accessory uses or structures.

X. "Reach" shall mean a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Y. "Recreational Vehicle" shall mean a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this section, the term "Recreational Vehicle" is synonymous with the term "Travel Trailer/Travel Vehicle."

Z. "Regional Flood" shall mean a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1 % chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

AA. "Regulatory Flood Protection Elevation (RFPE)" shall mean an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

BB. "Repetitive Loss" shall mean flood-related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25 % of the market value of the structure before the damage occurred.

CC. "Special Flood Hazard Area" shall mean a term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

DD. "Start of Construction" shall include substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

EE. "Structure" shall mean anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Subd. 2B. of Subsection 1379.10 and other similar items.

FF. "Substantial Damage" shall mean damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

GG. "Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
2. Any alteration of a "Historic Structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this section, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

**Subd.7 Annexations.** The Flood Insurance Rate Map panels adopted by reference into Subd.2 above may include floodplain areas that lie outside of the corporate boundaries of the City at the time of adoption of this section. If any of these floodplain land areas are annexed into the City adoption of this section, the newly annexed floodplain lands will be subject to the provisions of this section immediately upon the date of annexation.

(Ord. 2017-1, passed 3-28-17; Am. Ord. 2023-1, passed 9-12-23)

### **1379.03 Establishment of Zoning Districts.**

#### **Subd.1 Districts.**

A. Floodway District. The Floodway District includes those areas within Zones AE that have a floodway delineated, as shown on the Flood Insurance Rate Map adopted in Subd.2 of 1379.02.

B. Flood Fringe District. The Flood Fringe District includes areas within Zones AE on the Flood Insurance Rate Map adopted in Subd.2 of 1379.02, but located outside of the floodway.

C. General Floodplain District. The General Floodplain District includes those areas within Zone A as shown on the Flood Insurance Rate Map adopted in Subd.2 of 1379.02.

D. Applicability. Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in 1379.05 and 1379.06 will apply, depending on the location of a property. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in 1379.05 apply unless the floodway boundary is determined, according to the process outlined in Subd. 2 of 1379.07.  
(Ord. 2017-1, passed 3-28-17)

### **1379.04 Requirements for All Floodplain Districts.**

**Subd. 1 Permit Required.** A permit must be obtained from the Zoning Administrator to verify a development meets the standards outlined in this section prior to conducting the following activities:

A. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this section.

B. The use or change of use of a building, structure, or land.

C. The construction of a dam, on-site septic system, or fence, although a permit is not required for a farm fence as defined in this section.

- D. The change or extension of a nonconforming use.
- E. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- F. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- G. Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
- H. Any other type of "development" as defined in this section.

**Subd. 2 Building Sites.** 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.

**Subd. 3 Flood Capacity.** In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.

**Subd. 4.** The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

**Subd. 5.** "Critical Facilities," as defined in Subd.4F. of 1379.02, are prohibited in all floodplain districts.

(Ord. 2017-1, passed 3-28-17)

### **1379.05 Floodway District (FW).**

**Subd. 1 Permitted Uses.** The following uses, subject to the standards set forth in Subd. 2 of 1379.05, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

- A. General farming, pasture, grazing, farm fences, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
- B. Industrial-commercial loading areas, parking areas, and airport landing strips.
- C. Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- D. Residential yards, lawns, gardens, parking areas, and play areas.
- E. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources Area Hydrologist is notified at least ten days prior to issuance of any permit.

**Subd. 2 Standards for Floodway Permitted Uses.**

- A. The use must have a low flood damage potential.
- B. The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.
- C. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1 % chance) flood.

**Subd. 3 Conditional Uses.** The following uses may be allowed as conditional uses following the standards and procedures set forth in Subd. 4 of Section 1379.04 and further subject to the standards set forth in Subd. 4 of this section, if otherwise allowed in the underlying zoning district or any applicable overlay district.

- A. Structures accessory to the uses listed in of Subd.1A. and B. of 1379.05 above and the uses listed in 5.32 - 5.33 below.
- B. Extraction, fill and storage of soil, sand, gravel, and other materials.
- C. Marinas, boat rentals, permanent docks, piers, wharves, and water control structures.
- D. Storage yards for equipment, machinery, or materials.
- E. Construction of fences that obstruct flood flows. "Farm fences", as defined in section Subd.4 of 1379.02, are permitted uses.

F. Travel-ready recreational vehicles meeting the exception standards in Subd. 2B.

G. Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

**Subd. 4 Standards for Floodway Conditional Uses.**

A. All Uses. A conditional use must not cause any increase in the regional flood elevations or cause an increase in flood damages in the reach or reaches affected.

B. Fill; Storage of Materials and Equipment:

1. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

2. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the Planning Commission has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

C. Accessory Structures. Accessory structures, as identified in Subd. 3A. of 1379.05, may be permitted, provided that:

1. Structures are not intended for human habitation;
2. Structures will have a low flood damage potential;
3. Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
4. Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;
5. Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.

6. As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

- a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

**Subd. 5.** Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minn. Stat. § 103G.245.

**Subd. 6.** A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

**Subd. 7.** Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.  
(Ord. 2017-1, passed 3-28-17)

#### **1379.06 Flood Fringe District (FF).**

**Subd. 1 Permitted Uses.** Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Subd. 2 of this section. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

#### **Subd. 2 Standards for Flood Fringe Permitted Uses.**

A. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

B. Accessory Structures. As an alternative to the fill requirements of this Subsection, structures accessory to the uses identified in Subd. 1 of this section may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:

1. The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.
  2. All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls, (ii) be constructed with materials resistant to flood damage, and (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.
  3. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
    - a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
    - b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- C. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Subd. 2A. of this section, or if allowed as a conditional use under Subd. 3C. below.
- D. The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
- E. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
- F. All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- G. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the Planning Commission.

H. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

I. Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

J. Manufactured homes and recreational vehicles must meet the standards of 1379.10 of this section.

**Subd. 3 Conditional Uses.** The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in 1379.11D.

A. Any structure that is not elevated on fill or floodproofed in accordance with Sections Subd. 2A. and B. of this Subsection.

B. Storage of any material or equipment below the regulatory flood protection elevation.

C. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Subd. 2A. of this Subsection.

D. The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in Subd. 4F. of this Subsection.

**Subd. 4 Standards for Flood Fringe Conditional Uses.**

A. The standards listed in Subd. 2D. through I. of this Subsection apply to all conditional uses.

B. Residential basements, as defined by Subd. 2D. of this Subsection, are not allowed below the regulatory flood protection elevation.

C. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, meeting the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

D. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

1. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1 % chance} flood event.
2. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Planning Commission.
3. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
4. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
5. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
  - a. Design and Certification. The structure's design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding. Structure shall be subject to a nonconversion agreement with upon the issuance of any permit.
  - b. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
    - (1) The minimum area of openings in the walls where interna! flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area

subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

(2) That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(Ord. 2017-1, passed 3-28-17)

### **1379.07 General Floodplain District (GF).**

#### **Subd.1 Permitted Uses.**

A. The uses listed in Subd. 1 of 1379.05, Floodway District Permitted Uses, are permitted uses.

B. All other uses are subject to the floodway/flood fringe evaluation criteria specified in Subd. 2 of this Subsection. 1379.05 applies if the proposed use is determined to be in the Floodway District. 1379.06 applies if the proposed use is determined to be in the Flood Fringe District.

C. Procedures for Determining Floodway and Flood Fringe Boundaries and Regional Flood Elevations:

1. Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

2. If regional flood elevation and floodway data are not readily available, or the application involves a project exceeding the lesser of five acres or 50 lots, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Subd. 1C.3. of this section.

3. The determination of floodway and flood fringe must include the following components, as applicable:

(a) Estimate the peak discharge of the regional (1% chance) flood.

(b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

4. The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

5. Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of 1379.05 and 1379.06.

(Ord. 2017-1, passed 3-28-17)

#### **1379.08 Subdivision Standards.**

**Subd. 1 Subdivisions.** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this section.

A. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

B. All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the Planning Commission. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

C. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

D. In the General Floodplain District, applicants must provide the information required in Subd.1B. of 1379.07 to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

E. Subdivision proposals must be reviewed to assure that:

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

(Ord. 2017-1, passed 3-28-17)

#### **1379.09 Public Utilities, Railroads, Roads, and Bridges.**

**Subd. 1 Public Utilities.** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

**Subd. 2 Public Transportation Facilities.** Railroad tracks, roads, and bridges to be located within the floodplain must comply with 1379.04 and 1379.05. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

**Subd. 3 On-site Water Supply and Sewage Treatment Systems.** Where public utilities are not provided: (1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minn. Rules Chapter 4725.4350, as amended; and (2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minn. Rules Chapter 7080.2270, as amended.

(Ord. 2017-1, passed 3-28-17)

#### **1379.10 Manufactured Homes and Recreational Vehicles.**

**Subd. 1 Manufactured Homes.** New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

A. Placement or replacement of manufactured home units is prohibited in the Floodway District.

B. Placement or replacement of manufactured home units in the Flood Fringe District is subject to the requirements of 1379.06 and the following standards.

1. New and replacement manufactured homes must be elevated in compliance with 1379.05 and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
2. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Subd. 1B. of 1379.08.

**Subd. 2 Recreational Vehicles.** New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the requirements below.

A. Recreational vehicles are exempt from the provisions of this section if they are placed in any of the following areas and meet the criteria listed in Subd. 2B. of this Subsection:

1. Individual lots or parcels of record.
2. Existing commercial recreational vehicle parks or campgrounds.
3. Existing condominium-type associations.

B. Criteria for Exempt Recreational Vehicles.

1. The vehicle must have a current license required for highway use.
2. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
3. No permanent structural type additions may be attached to the vehicle.
4. Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Subd. 2 of 1379.04 and Subd. 2B. of 1379.06.

(Ord. 2017-1, passed 3-28-17)

**1379.11 Administration.**

**Subd. 1 Duties.** The Zoning Administrator or other official designated by the City Council must administer and enforce this section.

**Subd. 2 Permit Application Requirements.**

A. Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

1. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
2. Location of fill or storage of materials in relation to the stream channel.
3. Copies of any required municipal, county, state or federal permits or approvals.
4. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

B. Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section. Floodproofing measures must be certified by a registered professional engineer or registered architect. Accessory structures designed in accordance with Subd. 2B. of 1379.06 are exempt from certification, provided sufficient documentation is provided.

C. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

D. Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

E. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities, if the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

F. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

### **Subd. 3 Variances.**

A. Variance Applications. An application for a variance to the provisions of this section will be processed and reviewed in accordance with applicable state statutes and Section 1379 of the zoning ordinance/code.

B. Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

C. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

1. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
2. Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

E. General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

1. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

2. The danger that materials may be swept onto other lands or downstream to the injury of others;
  3. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
  4. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
  5. The importance of the services to be provided by the proposed use to the community;
  6. The requirements of the facility for a waterfront location;
  7. The availability of viable alternative locations for the proposed use that are not subject to flooding;
  8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
  9. The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
  10. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- F. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- G. Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- H. Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

**Subd. 4 Conditional Uses.**

A. **Administrative Review.** An application for a conditional use permit under the provisions of this section will be processed and reviewed in accordance with Section 1379 of the zoning ordinance/code.

B. **Factors Used in Decision-Making.** In passing upon conditional use applications, the Planning Commission must consider all relevant factors specified in other sections of this section, and those factors identified in Subd.3E. of this Subsection.

C. **Conditions Attached to Conditional Use Permits.** The Planning Commission may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this section. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
5. Floodproofing measures, in accordance with the State Building Code and this section. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

D. **Submittal of Hearing Notices to the Department of Natural Resources (DNR).** The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

E. **Submittal of Final Decisions to the DNR.** A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(Ord. 2017-1, passed 3-28-17)

**1379.12 Nonconformities.**

**Subd. 1 Continuance of Nonconformities.** A use, structure, or occupancy of land which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may be continued subject to the following conditions. Historic structures, as defined in Subd.4GG. of 1379.02, are subject to the provisions of Subd.1E. through F. of this Subsection.

A. A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in Subd. 3 of this Subsection. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

B. Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Subd. 5 of this Subsection.

C. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this section.

D. If any structure experiences a substantial improvement as defined in this section, then the entire structure must meet the standards of 1379.05 or 1379.06 for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50% of the market value of any nonconforming structure, the entire structure must meet the standards of 1379.05 or 1379.06.

E. If any nonconformity is substantially damaged, as defined in this section, it may not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures in 1379.05 or 1379.06 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

F. If any nonconforming use or structure experiences a repetitive loss, as defined in Subd.4BB. of 1379.02, it must not be reconstructed except in conformity with the provisions of this Subsection.

(Ord. 2017-1, passed 3-28-17)

### **1379.13 Violations and Penalties.**

**Subd. 1 Violation Constitutes a Misdemeanor.** Violation of the provisions of this section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

**Subd. 2 Other Lawful Action.** Nothing in this section restricts the City from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this section and will be prosecuted accordingly.

**Subd. 3 Enforcement.** Violations of the provisions of this chapter will be investigated and resolved in accordance with the provisions of Section 1310 of the zoning ordinance/code. In responding to a suspected ordinance violation, the Zoning Administrator and Planning Commission may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(Ord. 2017-1, passed 3-28-17)

#### **1379.14 Amendments.**

**Subd. 1 Floodplain Designation; Restrictions on Removal.** The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

**Subd. 2 Amendments Require DNR Approval.** All amendments to this section must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

**Subd. 3 Map Revisions Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Subd. 2 of 1307.02.

(Ord. 2017-1, passed 3-28-17)

### **Section 1380 - Shoreland District Regulations**

**1380.01 Shoreland District.** The uncontrolled use of shorelands within the City affects the public health, safety, and general welfare not only by contributing to the pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of public waters. The Legislature of Minnesota has delegated this responsibility to local governments within the state. This responsibility is hereby recognized by the City.

(Ord. 2012-1, passed 1-24-12)

**1380.02 Jurisdiction.** The shoreland provisions shall apply to the shorelands of the public water bodies as classified in Subsection 1380.03. Pursuant to Minn. Stat. Chapters 104F, 394 and 462, and Minnesota Rules 6120.2500 - 6120.3900, no lake, pond, or flowage less than ten (10) acres in municipalities need be regulated by the local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from the shoreland provisions.  
(Ord. 2012-1, passed 1-24-12)

**1380.03 Shoreland Classification System.** The public waters of the City have been classified below consistent with the criteria found in Minn. Rules 6120.3300, and the Protected Waters Inventory Map for Olmsted County, Minnesota.

A. The shoreland area for the following waterbodies shall be as shown on the Official Zoning Map:

1. Urban Rivers.
2. Agricultural Rivers.
3. Tributary Streams. All protected watercourses in the City shown on the Protected Waters Inventory Map for Olmsted County, a copy of which is hereby adopted by reference, not given a classification shall be classified as tributary streams.

B. Land use district descriptions.

1. Criteria for designation. The land use districts in this Subsection and the delineation of a land use district's boundaries on the official zoning map, must be consistent with the

goals, policies, and objectives of the comprehensive land use plan (when available) and the following criteria, considerations, and objectives:

a. General considerations and criteria for all land uses:

- (1) Preservation of natural areas;
- (2) Present ownership and development of shoreland areas;
- (3) Shoreland soil types and their engineering capabilities;
- (4) Topographic characteristics;
- (5) Vegetative cover;
- (6) In-water physical characteristics, values, and constraints;
- (7) Recreational use of the surface water;
- (8) Road and service center accessibility;
- (9) Socioeconomic development needs and plans as they involve water and related land resources;
- (10) The land requirements of industry which, by its nature, requires location in shoreland areas; and
- (11) The necessity to preserve and restore certain areas having significant historical or ecological value.

b. Factors and criteria for planned unit developments:

- (1) Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
- (2) Physical and aesthetic impacts of increased density;
- (3) Suitability of lands for the planned unit development approach;
- (4) Level of current development in the area; and
- (5) Amounts and types of ownership of undeveloped lands.

2. Land use district descriptions. The land use districts provided in this Subsection, and the allowable land uses therein for the given classifications of waterbodies, are delineated on the official zoning map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Rules 6120.3200. See Table - Schedule of Use Regulations - Shoreland Overlay District.

C. Specific standards. All development occurring within the mapped shoreland shall not exceed an impervious surface lot coverage of twenty-five percent (25 %) for all such properties in the Shoreland Overlay District. (Shown as SO zones on the official zoning map.), except that:

1. The maximum impervious surface coverage for land within Lots 1 through 9, Dewey Avenue Subdivision and Lots 8, 9, 14, Woolridges 2nd Addition, City of Stewartville, Olmsted County, Minnesota shall not exceed forty percent (40%); and

2. The maximum impervious surface coverage for the land within Lot 1 (Parcel Number 02997), River Oaks Addition; Lots 1 and 2, Block 1, Riverside Addition; and Lot 17 (Parcel Numbers 030549, 030546), Block 3, Riverside Addition; City of Stewartville, Olmsted County, Minnesota shall not exceed forty percent (40%).

(Ord. 2012-1, passed 1-24-12)

#### **1380.04 Notifications to the Department of Natural Resources.**

A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner, or the Commissioner's designated representative, and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

B. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner, or the Commissioner's designated representative, and postmarked within ten (10) days of final action.

(Ord. 2012-1, passed 1-24-12)

#### **1380.05 Physical Limitations.**

A. Lot Area and Width Regulations.

1. The use of private sewage disposal systems and private water supply to serve any new development within the City is subject to the requirements of this Subsection. In addition, the lot width requirements in Subsection 1380.06. A. must be met.

2. River/Stream segments must meet the underlying zoning district lot area requirements. In addition, the following lot width standards must be met:

Dwelling Type	Agricultural	Urban/Tributary (sewered)	Urban/Tributary (unsewered)
Single	150 feet	75 feet	100 feet
Duplex	225 feet	115 feet	150 feet
Triplex	300 feet	150 feet	200 feet
Quad	375 feet	190 feet	250 feet

**B. Additional Special Provisions.**

1. Residential developments located within three hundred (300) feet of the ordinary high water level of a lake or stream shall not exceed a base density of four (4) units/acre of land within the development (this is to include any portion of a proposed lot). Lands located beyond three hundred (300) feet of the ordinary high water level will be subject to the underlying zoning district density requirements of the City.

2. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots may be platted as outlots. These lots do not need to meet the applicable lot area requirements, however, they must meet the minimum lot width standards set forth in this Section.

3. The zoning definitions in Subsection 1380.12 shall be utilized for the purpose of this Shoreland Ordinance. To the extent that these uses are the same or similar to definitions in Section 1305, the provisions in Subsection 1380.12 shall supersede.

4. Allowable Uses within the Shoreland District must meet the underlying zoning district and shall be further restricted as indicated in the Table - Schedule of Use Regulations - Shoreland Overlay District.

(Ord. 2012-1, passed 1-24-12)

**1380.06 Placement, Design, and Height of Structures.**

A. Placement of Structures on Lots. When more than one (1) setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

1. Structure and on-site sewage system setbacks from ordinary high water level.

<b>River Type</b>	<b>Setback</b>
Agricultural	100 feet
Urban	50 feet
Tributary	75 feet

2. Water Oriented Accessory Structure. One (1) water oriented accessory structure designed in accordance with the provisions of Subsection 1380.06B. may be set back a minimum distance of ten (10) feet from the ordinary high water level.

3. Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody.

<b>Setback From:</b>	<b>Setback (in feet)</b>
Top of Bluff	30 feet
Unplatted Cemetery	50 feet

4. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

5. The height of all structures must meet the underlying zoning district height requirements.

**B. Design Criteria for Structures.**

1. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- a. For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher;
- b. For rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data is available. If data is not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by

conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three (3) approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minn. Rules 6120.5000 - 6120.6200 governing the management of flood plain areas. If more than one (1) approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

c. Water oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation, and if long duration flooding is anticipated, the structure is built to withstand ice action and wind driven waves and debris.

2. Water oriented accessory structures. Each lot may have one (1) water oriented accessory structure not meeting the normal structure setback in Subsection 1380.06A., if this water oriented accessory structure complies with the following provisions:

a. The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks must not exceed eight (8) feet above grade at any point;

b. The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet;

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

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

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

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

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

- a. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties or public open space recreational properties;
- b. Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty two (32) square feet may be used for commercial properties or public open space recreational properties;
- c. Canopies or roofs are not allowed on stairways, lifts, or landings;
- d. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer leaf on conditions, whenever practical; and
- f. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of Subsection 1380.06 B.1. through B.5. are complied with in addition to the requirements of Minn. Rules, Ch. 1325.

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

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

(Ord. 2012-1, passed 1-24-12)

#### **1380.07 Shoreland Alterations.**

##### **A. Vegetation Alterations.**

1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by this Subsection 1380.07 are exempt from the vegetation alteration standards.
2. Removal or alteration of vegetation is allowed subject to the following standards:
  - a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
  - b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water oriented accessory structures or facilities, provided that:
    - (1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer leaf on conditions, is not substantially reduced;
    - (2) Along rivers, existing shading of water surfaces is preserved; and
    - (3) The above provisions are not applicable to the removal of tree limbs, or branches that are dead, diseased, or pose safety hazards.

**B. Topographic Alterations/Grading and Filling.**

1. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Subsection must be incorporated into the issuance of permits for construction of the above mentioned items.
2. Public roads and parking areas are regulated by Subsection 1380.07.
3. Notwithstanding Subsection 1380.07B.1. and B.2., a grading and filling permit will be required for:
  - a. The movement of more than ten (10) cubic yards of material on steep slopes and shore and bluff impact zones; and

- b. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
4. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
- a. Grading or filling within any wetland area must meet the applicable requirements of the Minnesota Wetlands Conservation Act.
  - b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
  - c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
  - d. Methods to minimize erosion and to trap sediments before they reach any surface water feature must be used;
  - e. Altered areas must be stabilized to meet the erosion control policies of the City.
  - f. Fill or excavated material must not be placed in a manner that creates an unstable slope;
  - g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater;
  - h. Fill or excavated materials must not be placed in bluff impact zones;
  - i. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minn. Stat. § 103G.245;
  - j. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
  - k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the Ordinary High Water Level, and the height of the riprap above the Ordinary High Water Level does not exceed three (3) feet.

5. Connections to Public Waters: Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

(Ord. 2012-1, passed 1-24-12)

#### **1380.08 Placement and Design of Road, Driveways, and Parking Areas.**

A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Construction of roads and parking areas must be designed and constructed to minimize and control erosion to public waters.

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

C. Public and private watercraft access ramps, approach roads, and access related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this Subsection are met.

(Ord. 2012-1, passed 1-24-12)

#### **1380.09 Stormwater Management.**

A. General Standards.

1. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible.

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

4. Public utility projects located within shoreland areas will be processed through the Type II review process, and stormwater management standards will be considered in the review process.

**B. Specific Standards.**

1. Impervious surface coverage of lots must not exceed twenty-five percent (25%) of the lot area.

2. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the local soil and water conservation district guidelines.

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

(Ord. 2012-1, passed 1-24-12)

**1380.10 Land Suitability.**

A. Each lot created through subdivisions must be suitable in its natural state for the proposed use with minimum alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the subdivision.

B. Subdivisions must conform to all official controls of the community. A subdivision will not be approved where a later variance from one (1) or more standards in the official controls would be needed to use the lots for their intended purpose.

C. Sufficient information must be submitted by the applicant for the local unit of government to make a determination of land suitability. The information should include at a minimum:

1. The surface water features required in Minn. Stat. § 505.02 Subd. 1 to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

2. Extent of anticipated vegetation and topographic alterations; near shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

3. Location of one-hundred (100)-year flood plain areas and floodway districts from existing adopted maps or data; and

4. A line or contour representing the ordinary high water level, the “toe” and “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(Ord. 2012-1, passed 1-24-12)

#### **1380.11 Planned Unit Development.**

A. Types of PUDs permissible. Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in Subsection 1380.03 and the official zoning map.

B. Processing of PUDs. Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving six (6) or less new dwelling units or sites since the date this Subsection was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in 1380.11E.

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

1. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten (10) foot intervals or less. When a PUD is combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.

2. A property owner’s association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of 1380.11F. of this Subsection;

3. Deed restrictions, covenants, permanent easements or other instruments that properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD’s; and ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in 1380.11F. of this Subsection;

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

5. Those additional documents as requested by the Zoning Administrator, Planning Commission, or the City Council, that are necessary to explain how the PUD will be designed and will function.

D. Site “suitable area” evaluation. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Division E of this Subsection.

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

<b>Shoreland Tier Dimensions</b>	<b>Unsewered (feet)</b>	<b>Sewered (feet)</b>
General development lakes: first tier	200	200
General development lakes: second and additional tiers	267	200
Recreational development lakes	267	267
All river classes	300	300
All river classes	300	300

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

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

1. Residential PUD “base” density evaluation. The suitable area within each tier is divided by the single residential lot size standard for lakes, for rivers, or the single

residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot sizes for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in 1380.11F.

2. Commercial PUD “base” density evaluation.

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

b. Select the appropriate floor area ratio from the following table:

<b>Commercial Planned Unit Development Floor Area Ratios*</b> <b>Public Water Classes</b>			
<i>*Average unit floor area (square feet)</i>	<i>Sewered general development lakes; first tier on unsewered general development lakes; urban, agricultural, tributary river segments</i>	<i>Second and additional tiers on unsewered general development lakes; transition and forested river segments</i>	<i>Natural environment lakes and remote river segments</i>
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

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

- c. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
  - d. Divide the total floor area by tier computed in Subsection 1380.11E.2.c. by the average inside living area size determined in Subsection 1380.11E.2.a. This yields a base number of dwelling units and sites for each tier.
  - e. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Subsection 1300.11F.
3. Density increase multipliers.
- a. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 1380 are met or exceeded and the design criteria in Subsection 1380.11F. are satisfied. The allowable density increases in Subsection 1300.11E.3.b. will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty percent (50%) greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the City, and the setback is at least twenty-five percent (25%) greater than the minimum setback.
  - b. Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments:

<i>Maximum density increase</i>	
<b>Density evaluation tiers</b>	<b>within each tier (percent)</b>
First	50 %
Second	100 %
Third	200 %
Fourth	200 %
Fifth	200 %

F. Maintenance and design criteria.

1. Maintenance and administration requirements:

a. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

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

(1) Commercial uses prohibited (for residential PUDs);

(2) Vegetation and topographic alterations other than routine maintenance prohibited;

(3) Construction of additional buildings or storage of vehicles and other materials prohibited; and

(4) Uncontrolled beaching of watercraft prohibited.

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

(1) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

(2) Each member must pay a pro rated share of the association's expenses, and unpaid assessments can become liens on units or sites;

(3) Assessments must be adjustable to accommodate changing conditions; and

(4) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

2. Open space requirements. Planned unit developments must contain open space meeting all of the following criteria:

- a. At least fifty percent (50%) of the total project area must be preserved as open space;
  - b. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
  - c. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
  - d. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
  - e. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
  - f. Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
  - g. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
  - h. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least fifty percent (50%) of the shore impact zone area of existing developments or at least seventy percent (70%) of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least fifty percent (50%) of the shore impact zone must be preserved in its natural state.
3. Erosion control and stormwater management. Erosion control and stormwater management plans must be developed and the PUD must:
- a. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

- b. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed twenty-five percent (25%) of the tier area, except that for commercial PUDs thirty-five percent (35%) impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Subsection 1380.08.
4. Centralization and design of facilities. Centralization and design of facilities and structures must be done according to the following standards:
- a. Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the provisions of this Subsection. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
  - b. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Subsection 1380.11E.3. for developments with density increases;
  - c. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one (1) for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
  - d. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetations, topography, increased setbacks, color, or other means acceptable to the City, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

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

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

G. Conversions. The City may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

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

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

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

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

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

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

4. Existing dwelling unit or dwelling site densities that exceed standards in Subsection 1380.11E.3. may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

(Ord. 2012-1, passed 1-24-12)

**1380.12 Definitions.**

- A. Accessory structure or facility. Any building or improvement subordinate to a principal use that, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.
- B. Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics: an area with an average slope of less than eighteen percent (18%) over a distance of fifty (50) feet or more shall not be considered part of the bluff:
1. Part or all of the feature is located in a shoreland area;
  2. The slope rises at least twenty five (25) feet above the ordinary high water level of the waterbody;
  3. The grade of the slope from the toe of the bluff to a point twenty five (25) feet or more above the ordinary high water level averages thirty percent (30%) or greater; and
  4. The slope must drain toward the waterbody.
- C. Bluff impact zone. A bluff and land located within twenty (20) feet from the top of a bluff.
- D. Boathouse. A structure designed and used solely for the storage of boats or boating equipment.
- E. Building line. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
- F. Commercial planned unit developments. Provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
- G. Conditional use. A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.
- H. Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three (3) feet above ground.

- I. Duplex, triplex, and quad. A dwelling structure on a single lot, having two (2), three (3), and four (4) units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.
- J. Dwelling site. A designated location for residential use by one (1) or more persons using a temporary or movable shelter, including camping and recreational vehicle sites.
- K. Nonconformity. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms or the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.
- L. Ordinary High Water Level. The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourse, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- M. Planned unit development. A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- N. Public waters. Any waters as defined in Minn. Stat. § 103G.005, Subd. 15, 15a.
- O. Residential planned unit development. A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, timeshare condominiums, townhouse, cooperatives and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five (5) dwelling units or sites.
- P. Semipublic use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

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

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

S. Sewage treatment system. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in this Subsection.

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

U. Shore impact zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback.

V. Shoreland. Land located within the following distances from public waters: one thousand (1,000) feet from ordinary high water level of a lake, pond, or flowage; and three hundred (300) feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the Commissioner.

W. Significant historic site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minn. Stat. § 307.08. A historic site meets these criteria if is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

X. Steep slope. Land where agriculture activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Subsection. Where specific information is not available, steep slopes are lands having average slopes over twelve percent (12%), as measured over horizontal distance of fifty (50) feet or more, which are not bluffs.

Y. Structure. Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.

Z. Subdivision. Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

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

BB. Toe of the bluff. The lower point of a fifty (50) foot segment with an average slope exceeding eighteen percent (18%).

CC. Top of the bluff. The higher point of a fifty (50) foot segment with an average slope exceeding eighteen percent (18%).

DD. Variance. The same as that term is defined or described in Minn. Stat. Chapter 394 (for counties) or Ch. 462 (for municipalities).

EE. Water-oriented accessory structure or facility. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouse, gazebos, screen houses, fish houses, pump houses and detached decks.

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

(Ord. 2012-1, passed 1-24-12)

### **Section 1385 - Adult Entertainment Establishments**

#### **1385.01 Purpose and Findings.**

A. Purpose. It is the purpose of this Chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented

materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

B. Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Council, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *City of Erie v. Pap's A.M.*, 120 S.Ct. 1382 (2000), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin; and also on findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Council finds:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
2. Certain employees of sexually oriented businesses defined in this Chapter as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
4. Offering and providing such space encourages such activities, which creates unhealthy conditions.
5. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
6. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States -- 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985 and 253,448 through December 31, 1992.
8. As of December 31, 2001, there have been an estimated 4,331 cases of HIV/AIDS in the State of Minnesota.
9. Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Minnesota.
10. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.
11. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
12. The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
13. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
14. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
15. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.
16. The findings noted in paragraphs number 1. through 15. raise substantial governmental concerns.
17. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
18. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent

incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

19. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

20. Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

21. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

22. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Chapter is designed to prevent or who are likely to be witnesses to such activity.

23. The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Chapter.

24. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

25. The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Chapter.

(Ord. 2012-1, passed 1-24-12)

### **1385.02 Definitions.**

A. Adult Arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and

where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting “specified sexual activities” or “specified anatomical areas.”

B. Adult Bookstore, Adult Novelty Store or Adult Video Store. A commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of anyone or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or display of “specified sexual activities” or “specified anatomical areas”;
2. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

C. Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. Persons who appear semi-nude; or
2. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas.”

D. Adult motel. A hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; and either
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten (10) hours.
- E. Adult Motion Picture Theater. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
- F. Adult theater. A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”
- G. Distinguished or Characterized by an Emphasis Upon. The dominant or principal theme of the object referenced. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or display of Specified Sexual Activities or Specified Anatomical Areas,” the films so described are those whose dominant or principal character and theme are the exhibition or display “Specified Anatomical Areas” or “Specified Sexual Activities.”
- H. Employee, Employ, and Employment. Any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or other status. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
- I. Enforcement Officer. The City Administrator or such person as may be designated by the City Council.
- J. Escort. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- K. Escort Agency. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- L. Establish or Establishment.
  1. The opening or commencement of any sexually oriented business as a new business;
  2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

3. The additions of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

M. Licensee. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

N. Nudity or a State of Nudity. The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

O. Operate or Cause to be Operated. To cause to function or to put or keep in a state of doing business. "Operator" means any persons on the premises of a sexually oriented business who is authorized to exercise operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

P. Person. An individual, proprietorship, partnership, corporation, association, or other legal entity.

Q. Semi-Nude or in a Semi-Nude Condition. The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

R. Semi-nude model studio. Any place where a person appears semi-nude and is provided to be observed, sketched, drawn, painted, sculptured, or photographed by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Minnesota or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

2. Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

3. Where no more than one (1) nude or semi-nude model is on the premises at any one time.

S. Sexual Encounter Center. A business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of “specified sexual activities.” The definition of sexual encounter establishment or any sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

T. Sexually Oriented Business. An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

U. Specified Anatomical Areas.

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

2. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

V. Specified Criminal Activity. Any of the following offenses:

1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity relating to a sexually oriented business; sexual assault; molestation of a child; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

2. For which:

- a. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

b. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

c. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24)-month period.

3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

W. Specified Sexual Activities. Any of the following:

1. The fondling of another person's genitals, pubic region, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
3. Excretory functions as part of or in connection with any of the activities set forth in 1. through 2. above.

X. Substantial enlargement. The increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this Chapter takes effect.

Y. Transfer of Ownership or Control. Any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 2012-1, passed 1-24-12)

**1385.03 Classification.** Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores, adult novelty stores, or adult video stores;

- C. Adult cabarets;
  - D. Adult motels;
  - E. Adult motion picture theaters;
  - F. Adult theaters;
  - G. Escort agencies;
  - H. Semi-nude model studios; and
  - I. Sexual encounter centers.
- (Ord. 2012-1, passed 1-24-12)

**1385.04 License Required.**

- A. It is unlawful:
  - 1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this Chapter.
  - 2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this Chapter.
  - 3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this Chapter.
- B. An application for a license must be made on a form provided by the City. All applicants must be qualified according to the provisions of this Chapter.
- C. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file with the Enforcement Officer a completed application made on a form prescribed and provided by the City Administrator. An application shall be considered complete if it includes the information required in this Subsection. The applicant shall be qualified according to the provisions of this Chapter. The application shall be notarized. The application shall include the information called for in Paragraphs 1. through 6. as follows:
  - 1. The full true name and any other names used in the preceding five (5) years.
  - 2. Current business address.

3. Either a set of fingerprints suitable for conducting necessary background checks pursuant to this Chapter or the applicant's Social Security Number to be used for the same purpose.
  4. If the application is for a sexually oriented business license, the name, business location, legal description, business mailing address and phone number of the proposed sexually oriented business.
  5. Written proof of age, in the form of either:
    - a. A copy of a birth certificate and current photo,
    - b. Current driver's license with picture, or
    - c. Other picture identification document issued by a governmental agency.
  6. The issuing jurisdiction and the effective dates of any license or permit held by the applicant relating to a sexually oriented business, whether any such license or permit has been denied, revoked or suspended and, if so, the reason or reasons therefor.
  7. If the application is for a sexually oriented business license, the name and address of the statutory agent or other agent authorized to receive service of process. The information provided pursuant to Paragraphs 1. through 7. of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the Enforcement Officer within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.
- D. The application for a sexually oriented business license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- E. If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, such as a corporation, each officer, director, general partner or other person who will participate directly in decisions relating to management of the business shall sign the application for a license as applicant. Each applicant must be qualified under Subsection 1385.05 each applicant shall be considered a licensee if a license is granted.

F. A person who possesses a valid business license is not exempt from the requirement of obtaining any required sexually oriented business license. A person who operates a sexually oriented business and possesses a business license shall comply with the requirements and provisions of this Chapter, where applicable.

G. The information provided by an applicant in connection with the application for a license under this Chapter shall be maintained by the Enforcement Officer on a confidential basis, and may be disclosed only:

(1) To other governmental agencies in connection with a law enforcement or public safety function, or

(2) As may otherwise be required by law or court order.

(Ord. 2012-1, passed 1-24-12)

#### **1385.05 Issuance of License.**

A. Upon the filing of a completed application for a sexually oriented business license or a sexually oriented business employee license, the Enforcement Officer shall issue a temporary license to the applicant, which temporary license shall expire upon the formal decision of the Enforcement Officer to deny or grant the license. Within twenty (20) days after the receipt of a completed application, the Enforcement Officer shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Enforcement Officer shall approve the issuance of a license unless one or more of the following is found to be true:

1. An applicant is less than eighteen (18) years of age.
2. An applicant is delinquent in the payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.
3. An applicant has failed to provide information as required by Subsection 1385.04 for issuance of the license.
4. An applicant; a business entity for which the applicant had, at the time of an offense leading to a criminal conviction described herein, a management responsibility or a controlling interest, has been convicted of a specified criminal activity as defined in this Chapter. The fact that a conviction is being appealed shall have no effect.
5. The license application fee required by this Subsection has not been paid.
6. An applicant has falsely answered a question or request for information on the application form.

7. The proposed sexually oriented business is located in a zoning district other than a district in which sexually oriented businesses are allowed to operate under the Stewartville Zoning Ordinance or is not in compliance with the location restrictions established for sexually oriented businesses in the appropriate zoning district(s).

B. An applicant ineligible for a license due to Paragraph A. 4. of this Subsection may qualify for a sexually oriented business license only when the time period required by the applicable paragraph has elapsed.

C. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to that applicant, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. A sexually oriented business employee license shall contain a photograph of the licensee. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon request by a law enforcement officer or other authorized city official.

(Ord. 2012-1, passed 1-24-12)

**1385.06 Fees.** The annual fee for a sexually oriented business license or a sexually oriented business employee license shall be two thousand five hundred dollars (\$2,500) and may be reviewed by the City Council annually.

(Ord. 2012-1, passed 1-24-12)

#### **1385.07 Inspection.**

A. An applicant, operator or licensee shall permit law enforcement officers, and any other federal, state, county or city agency in the performance of any function connected with the enforcement of this Chapter, normally and regularly conducted by such agencies, to inspect those portions the premises of a sexually oriented business where patrons or customers are permitted to occupy for the purpose of ensuring compliance with this Chapter, at any time the business is occupied or open for business.

B. The provisions of this Subsection do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(Ord. 2012-1, passed 1-24-12)

#### **1385.08 Expiration of License.**

A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Subsection 1385.04. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

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

(Ord. 2012-1, passed 1-24-12)

#### **1385.09 Suspension.**

The City shall issue a written intent to suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

A. Violated or is not in compliance with any Subsection of this Chapter;

B. Refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter.

(Ord. 2012-1, passed 1-24-12)

#### **1385.10 Revocation.**

A. The Enforcement Officer shall issue a written statement of intent to revoke a sexually oriented business license if a cause of suspension in Subsection 1385.09 occurs and the license has been suspended within the preceding twelve (12) months.

B. The Enforcement Officer shall issue a written statement of intent to revoke a sexually oriented business license if the Officer determines that:

1. A licensee gave false or misleading information in the material submitted during the application process;
2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. A licensee has knowingly allowed prostitution on the premises;
4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
5. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises. This subsection will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either (a) in exchange for money, or (b) in a public place or within public view.

C. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

D. When, after the notice and hearing procedure described in Subsection 1385.11 Enforcement Officer revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation becomes effective, provided that, if the conditions of Subsection 1385.11 B. are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the Enforcement Officer finds that the basis for the revocation found in subsections B.1. and B.4. above has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

(Ord. 2012-1, passed 1-24-12)

### **1385.11 Hearing: License Denial, Suspension, Revocation; Appeal.**

A. If the Enforcement Officer determines that facts exist for denial, suspension, or revocation of a license under this Chapter, the Enforcement Officer shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend or revoke the license, including the grounds therefor, by personal delivery, or by certified mail. The notification shall be directed to the most current business address on file with the Enforcement Officer. Within five (5) working days of receipt of such notice, the respondent may provide to the City Manager in writing a response that shall include a statement of reasons why the license or permit should not be denied, suspended, or revoked. Within three (3) days of the receipt of respondent's written response, the City Manager shall notify respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding.

1. Within ten (10) working days of the receipt of respondent's written response, the City Council shall conduct a hearing at which respondent shall have the opportunity to be represented by counsel and present evidence and witnesses on his or her behalf. If a response is not received by the City Council in the time stated or, if after the hearing the City Council finds that grounds as specified in this resolution exist for denial, suspension, or revocation, then such denial, suspension, or revocation shall become final five (5) days after the City Council sends, by certified mail, written notice that the license has been denied, suspended, or revoked. Such notice shall include a statement advising the applicant or licensee of the right to appeal such decision to a court of competent jurisdiction.

2. If the City Council finds that no grounds exist for denial, suspension, or revocation of a license, then within five (5) days after the hearing, the City Council shall withdraw the intent to deny, suspend, or revoke the license and shall so notify the respondent in writing by certified mail of such action and shall contemporaneously therewith issue the license.

B. When a decision to deny, suspend or revoke a license becomes final, the applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain or otherwise enjoin the City's enforcement of the denial, suspension, or revocation, the City shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the aggrieved party's action to appeal, challenge, restrain or otherwise enjoin the City's enforcement.

(Ord. 2012-1, passed 1-24-12)

**1385.12 Transfer of License.** A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

(Ord. 2012-1, passed 1-24-12)

**1385.13 Location of Sexually Oriented Businesses.**

A. A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than Industrial under conditional use permit, as defined and described in the zoning code.

B. A person commits an offense if the person operates or causes to be operated a sexually oriented business within one thousand (1,000) feet of:

1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
2. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
3. A boundary of a residential district as defined in the zoning code;
4. A boundary of an area designated for future residential development on any Urban Service Area Land Use Plan;
5. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, swimming pool, athletic field,

basketball or tennis courts, or other similar public land within the city which is under the control, operation, or management of the city;

6. The property line of a lot devoted to a residential use as defined in the zoning code;

7. An entertainment business which is oriented primarily towards children or family entertainment; or

8. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the state.

C. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

D. A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

E. For the purpose of subsection B. of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Subsection.

F. For purposes of subsection C. of this Section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

G. Any sexually oriented business lawfully operating on January 1, 2003, that is in violation of subsection A. through F. of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

H. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection B. of this Section within one thousand (1,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application is made for a license after the applicant's previous license has expired or been revoked.

(Ord. 2012-1, passed 1-24-12)

#### **1385.14 Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms.**

A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The City may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City.
4. It is the duty of the licensee of the premises to ensure that at least one (1) licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any

patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the licensee to ensure that the view area specified in subsection A.5. remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection A.1. of this Section.

7. No viewing room may be occupied by more than one (1) person at any time.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot-candles as measured at the floor level.

9. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

10. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

13. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

14. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.

B. A person having a duty under Subsection 1. through 14. of Subsection A. above commits a misdemeanor if he knowingly fails to fulfill that duty.

(Ord. 2012-1, passed 1-24-12)

**1385.15 Additional Regulations for Escort Agencies.**

- A. An escort agency shall not employ any person under the age of eighteen (18) years.
- B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.  
(Ord. 2012-1, passed 1-24-12)

**1385.16 Additional Regulations Concerning Public Nudity.**

- A. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or engages in specified sexual activities.
- B. It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.
- C. It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity directly to any employee, while said employee is semi-nude in a sexually oriented business.
- D. It shall be a misdemeanor for an employee, while semi-nude, to knowingly and intentionally touch a customer or the clothing of a customer.  
(Ord. 2012-1, passed 1-24-12)

**1385.17 Prohibition Against Children in a Sexually Oriented Business.** A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business.  
(Ord. 2012-1, passed 1-24-12)

**1385.18 Hours of Operation.** No sexually oriented business, except for any adult motel, may remain open at any time between the hours of 1:00 a.m. and 8:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 p.m. on Sundays.  
(Ord. 2012-1, passed 1-24-12)

**1385.19 Exemptions.** It is a defense to prosecution under Section 1385.16 that a person appearing in a state of nudity did so in a modeling class operated:

- A. By a proprietary school, licensed by the state of; a college, junior college, or university supported entirely or partly by taxation;

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

C. In a structure:

1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

2. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

3. Where no more than one (1) nude model is on the premises at any one (1) time.

(Ord. 2012-1, passed 1-24-12)

**1385.20 Injunction.** A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of Subsection 1385.13 of this Chapter is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be misdemeanors punishable by a fine of five hundred dollars (\$500) or ninety (90) days imprisonment. Each day a sexually oriented business so operates is a separate offense or violation.

(Ord. 2012-1, passed 1-24-12)

**1385.21 Severability.** Each section and provision of this Chapter are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

(Ord. 2012-1, passed 1-24-12)

**1385.22 Conflicting Ordinances Repealed.** All ordinances or parts of ordinances in conflict with the provisions of this Chapter are hereby repealed.

(Ord. 2012-1, passed 1-24-12)

### **Appendix A - Site Development Guide**

**Appendix A.** The Appendix titled Site Development Guide attached to Ordinance 2012-1, passed 1-24-12, is hereby adopted by reference as a part of this Zoning Code. A complete copy of the appendix is on file in the office of the City Clerk.

