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TELECOMMUNICATIONS TOWER AND ANTENNAS

§ 150.001 TITLE.

This subchapter regulating the location, construction, screening, and use of a telecommunications tower and antennas within the City of North Oaks shall hereafter be known, cited, and referenced to as the Telecommunications Tower and Antennas Ordinance of the City of North Oaks, except as referred to herein, where it shall be known as this subchapter.
(Ord. 90, passed 5-14-1998)

§ 150.002 PURPOSE.

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

(A) Provide for the appropriate location and development of a telecommunications tower and antennas within the city;

(B) Maximize the use of an existing tower, structures, or buildings to accommodate new telecommunications antennas in the city; and

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

(Ord. 90, passed 5-14-1998)

§ 150.003 DEFINITIONS.

In the construction of this subchapter, the definitions set forth in the city zoning code shall be applicable. In addition, for the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANTENNA. Any device which by use of any means is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves, of any type or purpose.

ANTENNA STRUCTURE. Any building, ground, or roof-mounted pole, spire, telescoping mast, tower, tripod, structure, or combination thereof to which a telecommunications antenna is or may be attached or affixed, including structural support of the foregoing.

WIRELESS TELECOMMUNICATION SERVICES. Licensed or unlicensed wireless telecommunication services including cellular, digital cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), commercial or private paging services, or similar services that are marketed to the general public.

(Ord. 90, passed 5-14-1998)

§ 150.004 ANTENNA STRUCTURE LIMITED TO LI LIMITED INDUSTRIAL DISTRICT.

An antenna structure shall be allowed only in the LI Limited Industrial District.

(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.005 ANALYSIS/PROOF OF NEED.

(A) Antenna structures shall not be erected, constructed, used, or located within the city unless a building permit is obtained from city.

(B) A building permit shall not be issued unless the following requirements are met.

(1) The applicant demonstrates to the satisfaction of the city that the proposed antenna structure will reasonably meet the radio frequency and spacing needs of the applicant and anticipated co-locators to provide wireless telecommunications service within the city;

(2) The applicant demonstrates to the satisfaction of the city that applicant's needs for an antenna cannot be accommodated on an existing approved antenna structure within the city due to 1 or more of the following reasons:

(a) No antenna structure exists at a height necessary for the proposed antenna to function as documented by a qualified licensed professional engineer;

(b) The planned antenna would exceed the structural capacity of any existing approved antenna structure in the city as documented by a qualified and licensed professional engineer, and the existing or approved antenna structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent antennas; and/or

(c) The planned antenna would cause interference materially impacting existing or planned antennas at the existing approved antenna structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

(3) The applicant demonstrates to the satisfaction of the city that the proposed antenna structure site is at least 1/4 mile from any existing antenna structure within the city.
(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.006 CO-LOCATION REQUIREMENTS.

(A) Any proposed antenna structure shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antenna and comparable antennas for additional users.

(B) Any antenna structure must be designed to allow for future expansion (at new co-locator's expense) or rearrangement of antennas upon the antenna structure and to accept antennas mounted at varying heights.

(C) A letter of intent as required in § 150.016(B)(2) committing the applicant, antenna structure owner, user, property owner upon which situated, and successors to allow the shared use of the antenna structure shall be submitted to the city at the time of application to accommodate co-location.

(D) The applicant shall negotiate in good faith with any and all potential co-locators.

(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.007 ANTENNA STRUCTURE REQUIREMENTS.

(A) *Generally.* Proposed or modified antenna structures shall meet the following design requirements.

(B) *Design requirements.*

(1) (a) Any antenna structure 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.

(b) Any antenna structure location shall be screened as required by the city to inhibit off-site views of the antenna structure.

(2) (a) The use of guyed towers is prohibited.

(b) Any antenna structure must be self-supporting without the use of wires, cables, beams, or other means.

(c) The design should utilize an open framework or monopole configuration unless the city determines that an alternative design would better blend into the surrounding environment or better facilitate co-location.

(3) Any antenna structure shall be constructed and maintained so as to meet recognized applicable standards or regulations, such as, but not limited to, those standards and regulations established by (ANSI), (EIA), (FCC), (FAA), (IEEE), (MBC), (NEC), (NFDA), (OSHA), or their successors.

(4) The base of the antenna structure shall occupy no more than 500 square feet and the top of any antenna structure and antennas shall be no larger than the base.

(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.008 ACCESSORY STRUCTURES.

(A) Transmitting, receiving, switching, and other equipment necessary for use of any antenna shall be housed within an existing structure whenever possible.

(B) All new structures accessory to an antenna shall be designed and screened as required by the city to minimize off-site and other visibility and blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district.

(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.009 ANTENNA STRUCTURE AND ANTENNA HEIGHT.

(A) Antenna structure height shall meet, but not exceed, the height needed for the proposed use and co-location requirements of this subchapter.

(B) No antenna shall be located any higher on an antenna structure than is reasonably necessary for proper operation of the antenna.

(C) In the event that actual uses for any 12-month period do not require the full tower height, at city's request, applicant shall reduce the tower height to a height no higher than reasonably necessary for the actual use, to the extent technically feasible.

(D) In any event, an antenna structure shall not exceed 150 feet in height.

(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.010 SETBACKS.

Any antenna structure shall be setback from any residential building a distance equal to the height of the antenna structure, and setback from any property line by at least 40 feet.

(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.011 ANTENNA STRUCTURE LIGHTING.

(A) Any antenna structure shall not be illuminated by artificial means and shall not display strobe lights unless the lighting is specifically required by the Federal Aviation Administration or other federal or state authority.

(B) When incorporated into the design of the antenna structure approved by the city, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the antenna structure.

(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.012 SIGNS AND ADVERTISING.

The use of any portion of an antenna structure or antenna for signs other than warning or equipment information signs is prohibited.
(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.013 SECURITY FENCING.

If requested by the city, an antenna structure shall be provided with security fencing to prevent unauthorized entry.
(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.014 ON-SITE VEGETATION.

Existing on-site vegetation shall be preserved to the maximum extent practicable.
(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.015 ABANDONED OR UNUSED ANTENNA STRUCTURE OR PORTIONS OF ANTENNA STRUCTURE.

(A) *Generally.* Any abandoned or unused antenna structure or portions of the antenna structure shall be removed as follows.

(B) *Removal.*

(1) (a) Any abandoned or unused antenna structures and accessory structures shall be removed (or retained) as required by city.

(b) Any antenna structures and accessory structures shall be deemed abandoned or unused if all antennas are not used for transmitting or receiving for 6 consecutive months.

(c) A copy of the relevant portions of a signed lease which requires the applicant to remove or retain the antenna structure and accessory structures as required herein shall be submitted at the time of application.

(d) In the event that an antenna structure and accessory structure is not removed as required herein, the same may be removed by the city and the costs of removal shall be paid to the city by the applicant upon demand.

(2) Unused portions of any antenna structure above a manufactured connection shall be removed within 6 months of the time of antenna relocation.
(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.016 ADDITIONAL SUBMITTED REQUIREMENTS.

(A) *Generally.* In addition to the information required elsewhere in this subchapter, applications for an antenna structure shall include the following supplemental information.

(B) *Supplemental information.*

(1) A report from a qualified and licensed professional engineer, which:

(a) Describes the antenna structure height and design including a cross section and elevation;

(b) Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

(c) Describes the antenna structure's capacity, including the number and type of antennas that it can accommodate;

(d) Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

(e) Certifies that applicant will construct and operate its antenna structure in a manner so as to comply with all regulations and requirements referenced in § 150.007(B)(3); and

(f) Includes an engineer's stamp and registration number.

(2) (a) For any wireless telecommunications service antenna structure, a letter of intent shall be provided to the city committing the antenna structure owner, property owner, and his, her, or its successors to allow the shared use of the antenna structure if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

(b) Any disputes arising out of any shared use agreements shall be resolved through arbitration conducted under the then current rules of the American Arbitration Association.

(3) The following supplemental information shall also be submitted:

(a) Proof that the proposed antenna structure complies with regulations administered by Federal Aviation Administration;

(b) Any proof of noninterference or other report which applicant has submitted or is required to submit under any Federal Communications Commission regulation or requirement regarding interference with radio or television service enjoyed by adjacent residential and nonresidential properties;

(c) A report from a qualified engineer or other professional which demonstrates that the antenna structure is in compliance with the aforementioned standards; and

(d) Proof of reasonable liability insurance acceptable to the city.
(Ord. 90, passed 5-14-1998)

§ 150.017 ANTENNA ATTACHMENT.

No antenna may be attached as a co-location on any antenna structure without first submitting the supplemental information required under § 150.016(B)(3)(b) and obtaining a building permit pursuant to the city zoning code.

(Ord. 90, passed 5-14-1998) Penalty, see § 10.99

§ 150.018 COSTS AND FEES.

(A) The applicant shall also pay the application fee established by resolution of the City Council which shall not exceed all costs the city may incur in employing the services of engineers, attorneys, and other professional consultants in connection with an application.

(B) The city may require the applicant to pay an initial deposit for these services at the time of application.

(C) If the amount of the initial deposit does not cover all costs, the applicant will be so advised and full reimbursement shall be made by the applicant whether the application is approved or denied.
(Ord. 90, passed 5-14-1998)

§ 150.019 INSPECTIONS.

(A) The city shall have the right to conduct reasonable periodic inspections of any antenna structure and accessory structures in order to determine compliance with this subchapter and the applicant, user, property owner, and structure owner shall cooperate with city in any such city inspections.

(B) In the event the city utilizes outside consultants for any necessary inspections, the applicant will reimburse the city for the reasonable costs of the outside consultants.

(Ord. 90, passed 5-14-1998)

§ 150.020 EFFECTIVE DATE.

This subchapter shall take effect and be in force after its passage and official publication.

(Ord. 90, passed 5-14-1998)

SETBACKS FROM PIPELINES

§ 150.035 DEFINITIONS.

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

BUILDING. A structure designed primarily for human use or occupancy, including businesses, offices, educational facilities, medical facilities, residences, and institutions. Decks, overhangs, porches, or similar attached structures are considered part of the building. ***BUILDING*** does not include appurtenances required to operate or maintain pipeline systems.

COMMISSIONER. The Commissioner of Public Safety.

OTHER DEVELOPMENT. Commercial, industrial, or agricultural development, when it results in the construction of a building or place of public assembly.

PIPELINE. Has the meaning given it in M.S. § 299J.02, Subd. 11, as it may be amended from time to time.

PIPELINE EASEMENT. The existing easement or a subsequent easement resulting from the negotiation of a change in the boundaries of the existing easement.

PLACE OF PUBLIC ASSEMBLY. A site that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period. The days and weeks need not be consecutive.
(Ord. 82, passed 8-27-1991)

§ 150.036 PURPOSE.

The purpose of this subchapter is to increase public safety by requiring that new development be set back from pipeline locations.
(Ord. 82, passed 8-27-1991)

§ 150.037 APPLICABILITY.

This subchapter applies to new residential and other development. It does not apply to development that has occurred or for which development permits have been issued before the effective date of this subchapter.
(Ord. 82, passed 8-27-1991)

§ 150.038 SETBACK.

Buildings and places of public assembly subject to this subchapter shall not be constructed closer to the pipeline than the boundary of the pipeline easement.
(Ord. 82, passed 8-27-1991) Penalty, see § 10.99

§ 150.039 VARIANCES.

Variance procedures adopted by the City of North Oaks under M.S. §§ 462.351 through 462.365, as they may be amended from time to time, shall apply.
(Ord. 82, passed 8-27-1991)

§ 150.040 EFFECTIVE DATE.

This subchapter shall take effect and be in force after its passage and official publication.
(Ord. 82, passed 8-27-1991)

SWIMMING POOLS AND SPAS

§ 150.055 DEFINITIONS.

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

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

SPAS. Are regulated by this subchapter and are defined as a unit primarily designed for therapeutic use which is not drained, cleaned, or refilled for each individual use. It may include, but not be limited to, hydrojet circulation, hot water, cold water mineral baths, air induction bubbles, or any combination thereof. Industry terminology for a **SPA** includes but is not limited to therapeutic pool, hydrotherapy pool, whirlpool, hot spa, hot tub, and the like.
(Ord. 76, passed 5-23-1989)

§ 150.056 PERMIT REQUIRED.

No swimming pool shall be constructed or established and no pool construction shall be commenced in the City of North Oaks without first obtaining a permit from the Building Official.
(Ord. 76, passed 5-23-1989) Penalty, see § 10.99

§ 150.057 APPLICATION FOR PERMIT.

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

(B) The application for the permit shall include, without limitation, the following information:

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

(4) Location and specifications of protective fencing.
(Ord. 76, passed 5-23-1989)

§ 150.058 CONSTRUCTION SETBACK REQUIREMENTS.

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

(B) *Minimum requirements.*

(1) Underground or overhead utilities shall be located in conformance with the National Electrical Code.

(2) No pool shall be located within any private easement, public or private utility easement, ingress or egress easement, drainage way, marsh, or other location in which it will represent a threat to the natural environment.

(3) (a) In areas zoned or used for single-family residential purposes, pools are prohibited in the front yard and shall not be located within 30 feet of any lot line, nor within 10 feet of any principal structure or accessory buildings except accessory buildings without frost footings.

(b) No mechanical equipment, fence, or accessory building shall be located closer than 30 feet to any lot line.

(4) (a) In areas zoned or used for multiple-family residential purposes, pools are prohibited in the front yard and shall not be located within 30 feet of any lot line, nor within 30 feet of any side lot line, nor within 30 feet of any principal structure or accessory buildings except accessory buildings without frost footings.

(b) No mechanical equipment shall be located closer than 30 feet to any lot line.

(5) No portion of any swimming pool or appurtenances thereto shall be located less than 10 feet to any portion of a sewage disposal line or sewage treatment system, nor shall any water supply line for a swimming pool be less than 15 feet to any portion of the sewage treatment system.
(Ord. 76, passed 5-23-1989) Penalty, see § 10.99

§ 150.059 SAFETY FENCE REQUIRED.

(A) (1) A safety fence of at least 5 feet in height shall completely enclose the pool.

(2) All openings or points of entry into the pool area shall be equipped with self-closing and self-latching gates or doors.

(3) All gates and doors shall have a latch which is no less than 4 feet above the ground level and which shall be so constructed and so placed as to be inaccessible to small children.

(4) All gates and doors shall be latched when the pool is not in use or is unattended by an adult with demonstrated swimming ability.

(5) Any opening between the bottom of the fence and the ground level shall not exceed 3 inches.

(B) (1) Safety fences shall be constructed of materials with minimum spaces between the materials and shall be constructed so as to inhibit the climbing thereof by any person.

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

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

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

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

(1) Be of snow fence like or similar design and be securely anchored in place;

(2) Be constructed with its base flush to the ground;

(3) Be at least 4 feet in height and have supportive posts placed no more than 8 feet apart; and

(4) Remain in place until a permanent fence completely enclosing the swimming pool is installed.

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

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

(Ord. 76, passed 5-23-1989) Penalty, see § 10.99

§ 150.060 MISCELLANEOUS REQUIREMENTS.

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

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

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

(D) Precautions during construction:

(1) Avoid damage, hazards, or inconvenience to adjacent or nearby property;

(2) Assure that proper care shall be taken in stockpiling excavating materials to avoid erosion, dust, or other infringements upon adjacent property; and

(3) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to streets and adjacent private or public property.

(Ord. 76, passed 5-23-1989) Penalty, see § 10.99

§ 150.061 NUISANCE.

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

(Ord. 76, passed 5-23-1989) Penalty, see § 10.99

§ 150.062 EFFECTIVE DATE.

This subchapter shall take effect and be in force after its passage and official publication.

(Ord. 76, passed 5-23-1989)

CHAPTER 151: ZONING CODE

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GENERAL PROVISIONS

§ 151.001 TITLE.

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

(Ord. 94, § 1, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.002 PURPOSE AND INTENT.

(A) The purpose of this chapter is to implement the Comprehensive Plan as adopted by the City Council (hereinafter the Comprehensive Plan) and to effect the purposes set forth in M.S. § 462.351, as it may be amended from time to time, through the establishment of minimum regulations governing land development and use.

(B) (1) This chapter shall divide the city into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration, and use of structures and land.

(2) The regulations are established to protect the use districts; to promote orderly development and redevelopment; to provide adequate light, air, and convenience of access to property; to prevent congestion in streets, roads, and on public rights-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, setbacks, and density of population; to provide for compatibility of land use; to provide for administration of this chapter; to provide for amendments; to prescribe penalties for violation of the regulations; and to define powers and duties of the city staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to this chapter.

(Ord. 94, § 2, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.003 APPLICATION AND INTERPRETATION.

(A) (1) This chapter shall apply to the use and development of all land within the city.

(2) It is not intended by the provisions hereof to repeal, abrogate, annul, or in any way impair or interfere with private restrictions placed upon property by deed, covenant, or other private agreements or with restrictive covenants running with the land, except that the most restrictive of this chapter and the private restrictions shall apply.

(B) The provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare.

(C) To the extent any conflict arises between this chapter and the Comprehensive Plan adopted by the city, then this chapter shall control.

(D) Where the conditions imposed by any provision of this chapter are either more or less restrictive than comparable conditions imposed by any law, ordinance, statute, resolution, or regulations of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(Ord. 94, § 3, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.004 RULES OF CONSTRUCTION.

(A) In the construction of this chapter, the rules contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

(B) Words used in the present tense shall include the past and the future; words used in the future tense shall include the present.

(C) Words used in the singular number shall include the plural number, and the plural the singular.

(D) The words “shall,” “should,” “must,” and “will” are mandatory and not discretionary and the word “may” is permissive.

(E) The masculine gender includes the feminine and neuter.

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

(Ord. 94, § 4, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.005 DEFINITIONS.

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

ACCESSORY BUILDING, STRUCTURE, OR USE. A subordinate building, structure, or use which is located on the same lot on which the main building or principal use is situated and which is reasonably necessary and incidental to the conduct of the primary use of the main building or principal use.

ALTERATIONS. As applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from 1 location or position to another.

APPLICANT. A subdivider, agent, or owner submitting an application for land development or subdivision, conditional use permit, amendment, or variance.

BASEMENT. A floor level of a building or structure that has less than an average of 50% of the perimeter walls exposed above the lowest grade.

BOAT. Any contrivance used or designated for navigation on water.

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

BUILDING, DETACHED. A building having no party wall in common with another building.

BUILDING ELEVATION. A side view of the building representing the structure as projected geometrically on a vertical plane parallel to its chief dimension.

BUILDING HEIGHT. The vertical distance from grade as defined herein to the top ridge of the highest roof surface.

BUILDING, MAIN. A building in which the principal use of the lot is conducted.

BUILDING SETBACK. The minimum horizontal distance between the building and lot lines, wetland edge(s), or nearest edge of road easement(s).

BUSINESS. Any occupation, employment, or enterprise wherein merchandise is exhibited, rented, or sold, or which occupies time, attention, labor, or materials or which offers services or goods for compensation.

CARPORT. An area serving the same purpose as a garage as defined herein, but not entirely enclosed with walls.

CLUB. A nonprofit organization of persons being associated as bona fide members paying dues and using a premises which is restricted to members and their guests.

COMMON PROPERTY. Parcel or parcels of land, together with the improvements thereon, which may include, but not limited to, recreational areas and facilities, green space, open space, and roads, all of which is for the use, responsibility, and benefit of the owners of specific land as shown on an officially recorded plat or registered land survey.

COMPREHENSIVE PLAN. The official City of North Oaks Comprehensive Plan made and recommended by the City Planning Commission and adopted by the City Council and all subsequent amendments and supplements thereto, indicating the general locations recommended for the principal streets, parks, and playgrounds, recreation areas, public buildings, zoning districts, character and extent of community development, and other physical aspects of urban planning on file in the office of the City Clerk.

CONDITIONAL USE. Those occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning use district, which for their respective conduct, exercise, or performance in the designated use districts may require reasonable but special, peculiar, unusual, or extraordinary limitations, facilities, plans, structures, thoroughfares, conditions, modifications, or regulations in the use district for the promotion or preservation of the general public welfare, health, convenience, or safety therein and in the city and therefore may be permitted in the use district only by a conditional use permit.

CONDITIONAL USE PERMIT. A permit to regulate conditional uses.

CONDOMINIUM. A multi-family dwelling in which portions of the building are designed and designated for separate ownership and the remainder of which is designed and designated for common property.

DEVELOPMENT. A planning or construction project on land which may include the subdivision of land, construction of buildings, structures, site improvements, or grading.

DEVELOPMENT CONTRACT. An agreement between the city and applicant in which the terms and conditions of development are set forth.

DISTRICT. Section or sections of the incorporated area of the city for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

DWELLING. A building or 1 or more portions thereof occupied or intended to be occupied exclusively for human habitation, but not including rooms in commercial enterprises such as, but not limited to, motels, hotels, nursing homes, boarding houses, nor trailers, tents, cabins, or trailer coaches. A **DWELLING** shall not be interpreted to include lodging rooms.

DWELLING, ATTACHED. A dwelling which is joined to another dwelling at 1 or more sides by a common wall or a party wall.

DWELLING, DETACHED. A dwelling which is entirely surrounded by open area on the same lot.

DWELLING, MULTI-FAMILY. A building used for occupancy by 3 or more families living independently of each other and containing 3 or more dwelling units per building. **MULTI-FAMILY DWELLINGS** shall be limited to rowhouses, condominiums, and senior housing.

DWELLING, SINGLE-FAMILY. A dwelling designed for or occupied by 1 family.

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

EASEMENT. A limited right to or for the use or restriction of use of land for a specifically stated purpose such as, but not limited to, arboreal, berm, canal, drainage, driveway, maintenance, natural state, green space, open space, planting, ponding, roads, trails, or recreation, trimming, utilities, vista, and water storage.

EGRESS LEVEL. The story of a building which has a portion of the perimeter walls exposed to less than 44 inches above the lowest grade, but which has less than an average of 50% of the total perimeter wall area exposed above the lowest grade.

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance by public utilities or municipal departments or other governmental bodies, of underground or overhead gas, electrical, water, transmission, or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, towers, electric substations, and other similar equipment and accessories in conjunction therewith, reasonably necessary for the furnishing of utility services by the private utilities or public departments or commissions for the public health or safety or general welfare.

FAMILY. One or more persons each related to the other by blood, marriage, or adoption, or a group of not more than 5 persons not so related maintaining a common household and using common cooking, kitchen, and sanitation facilities.

FENCE. An artificial barrier erected for the purpose(s) of enclosing or concealing something, whether wholly or partially, including parcels of land, and/or dividing or separating land into distinct portions or areas.

FLOOR AREA RATIO (FAR). The ratio of the TOTAL FLOOR AREA of all buildings to the GROSS LOT AREA, excluding 2/3 of any WETLAND.

FRONT ELEVATION. The side of a building facing the street. In the case of lots with more than 1 side bordering on a street, the front elevation is that street side of the building with the main entrance.

GARAGE, PRIVATE. An accessory building or accessory portion of the main building which shall not exceed 1,500 square feet.

GRADE. The lowest point of the finished surface of the ground, as measured on each building elevation.

GRADING. Changing the natural topography of the land.

GREEN SPACE. Pervious land area not encumbered by any buildings, structures, parking lots, drives, walks, storage, or above-ground utilities.

GROSS DENSITY. The total acres within a planned unit development or a phase of a planned unit development excluding DNR protected waters, DNR protected wetlands, and VLAWM designated wetlands divided by the total number of dwelling units.

GROSS LOT AREA. Total area of a platted lot excluding road easement(s).

HOME OCCUPATION. Any gainful occupation or profession engaged in by the occupant of a dwelling unit.

HOME OWNERS ASSOCIATION. An incorporated, nonprofit organization operating under recorded land agreements through which each lot owner in a planned unit or other described land area is automatically a member and each lot is automatically subject to a charge for a proportionate share of

the expenses for the organization's activities such as maintaining common property.

INDIVIDUAL SEWAGE TREATMENT SYSTEM (ISTS). A sewage treatment system, or part thereof, serving a dwelling, building, restaurant, or other structure, or group thereof, which uses subsurface soil treatment and disposal.

LAND. Real property whether improved or unimproved.

LAND OWNERS ASSOCIATION. An incorporated, nonprofit organization operating under recorded land agreements through which each lot owner in a planned unit or other described land area is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities such as maintaining common property.

LANDSCAPE PLAN. A plan or drawing signed by a registered landscape architect identifying the existing natural features and proposed landscaping.

LANDSCAPING. The alteration of the topography of land to make it more visually pleasing to look at by the arrangement of trees, shrubs, stones, retaining walls, groundcover, other vegetation or berms.

LOT. A parcel, piece, or portion of land designated by a legal description, registered land survey, plat, or other means, and separated from other parcels or portions of lots by the description for the purposes of sale, lease, or separation thereof.

LOT AREA. The area of a horizontal plane within the lot lines.

LOT COVERAGE. The ratio of the area of all buildings determined by external dimensions, to the gross lot area.

LOT LINE. A boundary line of any lot in single or separate ownership.

MASTER DEVELOPMENT PLAN. Plans as required in § 151.056(B)(1)(a).

NATURAL DRAINAGEWAY. A watercourse, such as ditch, creek, or canal, through which stormwater runoff will naturally flow as it reaches a pond, lake, stream, wetland, or other body of water or area.

NONCONFORMING BUILDING, STRUCTURE, OR USE. A building, structure, or use existing prior to the effective date of this chapter which does not conform to the regulations in this chapter for the district in which it is situated or used.

OPEN SPACE. Land maintained in its predominant natural and scenic condition, except as permitted in easements or other agreements to which the city is a party or has consented.

OWNER. Any person or group of persons having sufficient proprietary interest in land.

PARKING SPACE OR STALL. An area at least 10 feet by 20 feet in size suitable to park 1 automobile, provided that the area has adequate access which is independent of the access to or from any other parking space or stall.

PARKS AND PLAYGROUNDS. Land suitable for recreational use.

PARTY WALL. A wall common to more than 1 dwelling unit.

PERMITTED USE. A use which may be lawfully established in a particular district or districts, which conforms to all requirements, regulations, and performance standards of those districts.

PERSON. Any individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity.

PHASE. A defined portion of a plat, planned residential development, or planned unit development to be developed as an independent project.

PLANNED RESIDENTIAL DEVELOPMENT (PRD). A residential development of land that is planned as a whole and developed as a whole or in series of phases.

PLANNED UNIT DEVELOPMENT (PUD). A development of land that is planned as a whole and developed as a whole or in series of phases.

PLANTING STRIP. A row of plantings of sufficient height, width, and density so as to provide effective screening and buffering.

PLAT. A map, plan, or layout of a city, town, section, or subdivision indicating the location and boundaries, streets, roads, and easements of individual properties and includes registered land surveys. The plat shall be in a form of capable of being filed with the Registrar of Titles of Ramsey County as a registered land survey (RLS) showing the subdivided parcel's boundaries and lot or tract boundaries.

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

PRELIMINARY PLAN. A map or drawing that meets the requirements of § 151.056(B)(2) (b)1. at a scale of 100 feet to an inch delineating and showing correctly the boundaries of the subdivision; boundaries, layout, and size to the nearest tenth of an acre of the lots therein; streets, parks, playgrounds, and other land locations; north point and scale; existing topographical features, including contours and other physical aspects such as drainageways, wetlands and tree areas, and the proposed changes to those features. Also included shall be a separate map of the city showing the location of the proposed subdivision within the city.

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

RECREATIONAL VEHICLE. A vehicle used or designated for temporary residential occupancy including but not limited to campers, motor homes, mobile homes, pickup campers, camper vans, panel trucks, camping trailers, tent trailers and travel trailers; and vehicles such as snowmobiles and all-

terrain vehicles (ATV's).

RESTAURANT.

(1) An establishment providing sit-down food service where food is prepared on premises and served to a customer and consumed on-site and where the carry-out or delivery of prepared food is incidental to the business operation.

(2) The establishment shall not have drive-through facilities for dispensing food to persons in automobiles.

(3) Customer seating of the establishment is at least 15% of the gross square footage.

(4) The establishments may serve intoxicating beverages for on-site consumption incidental to the operation of serving food.

(5) The establishment shall not provide stand-up bar service or stand-up table service and must have a food to liquor ratio of 60 to 40 or dining to bar seat ratio of 4 to 1.

(6) Entertainment and liquor specials shall be strictly limited and controlled through the city liquor license.

ROAD OR STREET. A public or private thoroughfare or easement, constructed according to the specifications of the city, which affords the principal means of access for vehicular traffic to abutting land.

ROWHOUSE. A multi-family dwelling having no more than 6 dwelling units per building in which each dwelling unit is designed for separate ownership.

SCREENING. The installation of something that conceals, encloses, or buffers, which may include fences, planting strips, or landscaping.

SENIOR HOUSING. A multi-family dwelling intended for occupancy by adults age 55 or older and having no more than 24 dwelling units per building, not including nursing homes, convalescent homes, and assisted living facilities.

SETBACK. The minimum horizontal distance between a building or structure, individual sewage treatment system or well and lot lines, nearest edge of road easement(s), wetlands, or ordinary high water level of lakes, rivers, or ponds.

SEWAGE. Any water-carrying domestic waste, exclusive of footing and roof drainage, from any industrial, agricultural, or commercial establishment, or any dwelling or any other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the drains associated with these sources, and specifically excludes animal waste and commercial or industrial wastewater.

SHOPPING CENTER. An integrated grouping of commercial enterprises whose facilities are under single ownership or control

SITE PLAN. An accurately scaled development plan or map that illustrates the existing conditions of the land to be developed as well as the details of the proposed development or subdivision.

SIGN. A display, illustration, structure, or device containing or displaying graphic information visible from the exterior which directs attention to an object, product, place, activity, person, institution, organization, or business.

STAGING PLAN. Within a subdivision, a map or plat which identifies the timing and location of phased development.

STRUCTURE. Anything which is built, constructed, or erected, whether temporary or permanent, in, on, or above the land.

SUBDIVIDER. Any person commencing proceedings under the terms of this chapter to effect a subdivision of land hereunder.

SUBDIVISION. The division of a lot or parcel of land into 2 or more lots or parcels, any of which resultant lots or parcels is less than 10 acres in area or less than 200 feet in width or is a planned residential district or planned unit development district established pursuant to §§ 151.055 or 151.056, for the purpose of transfer of ownership or building or development, or if a new street or the extension of an existing street is involved, any division of a lot or parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

SUBDIVISION, MAJOR. All subdivisions not classified as a minor subdivision, or any size subdivision requiring any new street or extension of city utilities, or the creation of any public improvements.

SUBDIVISION, MINOR. Any subdivision necessary to adjust common boundary for lot lands between multi-family dwellings or townhomes after construction thereof.

SUITABLE FOR RECREATIONAL USE. Land that can be used for construction of baseball, soccer, and football fields, hockey arenas, swimming pools, tennis courts, and other such active sports and recreational activities without extraordinary or unreasonable costs due to the topography and nature of the land, and which is in a location compatible with other recreation land contained in the Comprehensive Plan.

SUITABLE SITE. A useable area site of at least 25,000 contiguous square feet for lots with individual sewage treatment systems, and 15,000 contiguous square feet for lots served by a central sewer system connected to the regional facilities.

TOTAL FLOOR AREA. The total area of all stories, as determined using exterior dimensions, including garages that are not part of the BASEMENT, clerestory area and covered porches and decks.

TOWNHOUSE. A **TOWNHOUSE**, **TOWNHOME**, or **TWINHOME** is 1 dwelling unit in a building containing no more than 2 dwelling units with 1 or more party walls. A **TOWNHOUSE** is designed for 2 families living independent of each other.

USABLE AREA. The area of a lot, excluding all required setbacks, easements, and wetlands, where the topographic and soil conditions and configuration are suitable for each of the following in some section of the area: construction of a dwelling unit, future additions, accessory structures, well site, 2 individual sewage treatment system areas (for an unsewered lot), yard, driveways, and required parking areas. During the subdivision process only, when calculating the usable area of a proposed lot, the subdivider may include any trail easement area of over 2,000 square feet per lot and may be given partial credit for other easements where there is area available for normal residential use as defined for usable area.

USE. The purpose or activity for which the land, structure, or building thereon is designated, arranged, intended, or for which it is occupied, utilized, or maintained.

VARIANCE. A waiver of compliance with the regulations of this chapter or the subdivision ordinance, to alleviate unnecessary hardship and allow a reasonable use of the building, structure, or land which, because of unusual or unique circumstances, is denied by terms of this chapter or the Subdivision Ordinance.

WALK-OUT LEVEL. The story of a building which has a portion of the perimeter walls exposed to the lowest grade but which has less than an average of 50% of the total perimeter wall area exposed above the lowest grade.

WETLAND.

(1) A surface feature of at least 2,000 contiguous square feet, and classified as a wetland in the Minnesota Wetland Conservation Acts, M.S. Ch. 103G, as it may be amended from time to time, which states “Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.”

(2) For purposes of this definition, **WETLANDS** must have the following 3 attributes:

(a) Have a predominance of hydric soils;

(b) Are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(c) Under normal circumstances support a prevalence of the vegetation.

ZONING DISTRICT. Section or sections of the incorporated area of the city for which regulations and provisions governing the use of structures and lands are uniform for each class of use permitted therein.

(Ord. 94, § 5, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003; Am. Ord. passed 8-14-2015; Am. Ord. passed 9-10-2015)

§ 151.006 EFFECTIVE DATE.

This chapter shall take effect and be in force after its passage and official publication.

(Ord. 94, § 11, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003; Am. Ord. passed 8-14-2015; Am. Ord. passed 9-10-2015; Am. Ord. passed 3-8-2018.)

GENERAL STANDARDS

§ 151.020 PURPOSE.

(A) The purpose of this subchapter is to establish general development performance standards.

(B) These standards are intended and designed to assure compatibility of uses; to prevent blight, deterioration, and decay; and to enhance the health, safety, and general welfare of the residents of the city.

(Ord. 94, § 6.1, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.021 CONFORMITY.

No structure shall be erected, converted, enlarged, reconstructed, or altered, nor shall any building, structure, or land be used for any purpose or in any manner which is not in conformance with the provisions of this chapter, except as hereinafter provided.

(Ord. 94, § 6.2, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.022 USE NOT PROVIDED FOR WITHIN ZONING DISTRICTS.

(A) In any zoning district whenever a use is neither specifically permitted nor denied, the use shall be considered prohibited.

(B) The Planning Commission may conduct a study to determine if the use is acceptable and, if so, what zoning district would be most appropriate, and determine the conditions and standards relating to development of the use.

(C) If appropriate, a proposed amendment to this chapter shall thereafter be initiated in accordance with § 151.077.
(Ord. 94, § 6.3, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.023 NONCONFORMING BUILDINGS, STRUCTURES, AND USES.

(A) (1) A further purpose of this subchapter is to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses shall be operated and maintained.

(2) This chapter establishes districts, each of which is an appropriate area for the location of uses which are permitted in that district.

(3) It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures, and uses not be permitted to continue without restriction.

(B) Any building, structure, or use lawfully existing upon the effective date of this or chapter may be continued at the size and in the manner of operation existing upon that date, except as hereinafter specified.

(C) Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) The nonconformity or occupancy is discontinued for a period of more than one year, or;

(2) (a) Any nonconforming use is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than fifty (50) percent of the required setback from the water is destroyed by fire or other peril to greater than fifty (50) percent of its estimated market value, as indicated in the records of the County assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created visual impacts on the adjacent property or water body.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities

reasonable regulations to prevent and abate nuisances and to protect the public health, welfare or safety. This subdivision does not prevent a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by the ordinance.

(c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

(D) (1) Except as provided in division (D)(2) below, no nonconforming building, structure, or use shall be expanded within the area of the nonconformity or be moved on its lot or to another lot or land parcel unless the movement shall bring the nonconformance into compliance with the requirements of this chapter.

(2) (a) The prohibition of the expansion of a nonconforming building or structure shall not apply to the expansion described herein of a nonconforming principal or main building, used as a single-family dwelling, in a Residential Single-Family Low Density District (RSL District) or a Residential Single-Family Medium Density District (RSM District), for which a building permit has been issued prior to the effective date of this division (D) (2).

(b) New construction relative to such a nonconforming building shall be allowed only in accordance with this division (D) (2) after issuance of the required building permit, as long as construction is started within sixty (60) days of the effective date of this ordinance, construction is not abandoned for more than one hundred twenty days (120) and construction continues to completion with three (3) years of its starting date.

(c) All construction shall comply with all of the provisions of this chapter, the Shoreland Ordinance, and all other applicable regulations, including, but not limited to, the requirements as to setback, height, and floor area ratio, in the RSL District or RSM District, in which the property is located.

(d) The new construction shall not increase the presently existing nonconformity of the nonconforming building.

(E) When any lawful, nonconforming use of any building, structure, or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

(F) Nothing in this chapter shall prevent the normal maintenance of a building or other structure containing or related to a lawful nonconforming use, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.

(Ord. 94, § 6.4, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003; Am. Ord. passed 2-11-2016) Penalty, see § 10.99.

§ 151.024 DWELLING UNIT RESTRICTION.

(A) No building shall be occupied for its intended use until the city has received an as-built certificate of survey prepared by a registered land surveyor and an occupancy permit issued by the City Building Inspector.

(B) The as-built certificate of survey must show all easements, final setback distances, ground elevations, building elevations, and driveway/parking placements.

(C) No basement, cellar, garage, tent, mobile home, trailer, or other recreational home or accessory building shall at any time be used as a dwelling unit, temporarily or permanently, except that a mobile home, trailer, or recreational home may be used for not more than 3 months if associated with a construction project, and its sanitary sewage system is in compliance with city, county, state, and federal laws and regulations.

(D) Basements or cellars may be used as living quarters and rooms as a portion of residential dwellings, provided that all applicable laws, regulations and city ordinances are complied with. (Ord. 94, § 6.5, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.025 NONCONFORMING PLATTED AND UNPLATTED PROPERTY.

(A) A lot or parcel of land for which a deed or other form of conveyance has been recorded in the office of the County Recorder upon or prior to the effective date of this chapter shall not be deemed a buildable lot unless, at a minimum, it meets the following conditions.

(1) It has frontage on a road, street, or public highway.

(2) The lot area requirements for the district in which it is located are within 80% of the minimum requirements of this chapter.

(3) It can be demonstrated that a proper adequate sewage treatment system can be installed according to city, county, state, and federal laws and regulations, including the requirement for a second septic treatment site.

(4) All buildings or structures, individual sewage treatment systems, or wells thereon located are no less than 60 feet from any main building, individual sewage treatment system, or well located on an adjacent lot.

(5) At no time after the lot or parcel became nonconforming was the lot or parcel under common ownership with contiguous lots or parcels, the combination of which could have been used to reduce or avoid the nonconformity of the lot or parcel.

(B) If, in a group of two (2) or more contiguous lots or parcels of land under the same ownership, any individual lot or parcel does not meet the minimum width and area requirements specified in this chapter, the lot or parcel shall not be considered as a separate lot or parcel of land for purposes of sale or development, but, instead, the separate lots or parcels must merge into one (1).

(Ord. 94, § 6.6, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003; Am. Ord. passed 2-11-2016)

§ 151.026 ACCESSORY BUILDINGS, STRUCTURES, USES, AND EQUIPMENT.

(A) An accessory building is not considered an integral part of the principal building if its only connection to the principal building is by an enclosed passageway.

(B) Detached accessory buildings or structures shall not exceed the height of the principal building nor occupy a ground area equal to more than 50% of the ground area of the principal building.

(Ord. 94, § 6.7, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003; Am. Ord. passed 2-11-2016) Penalty, see § 10.99

§ 151.027 LAND RECLAMATION.

(A) A further purpose of this subchapter is to provide for the moving, removal, and depositing of soil from its natural location to another location in such a manner that it will not be detrimental to the general health, safety, and welfare.

(B) (1) All building permit applications which involve the excavation or filling of more than 10 cubic yards of soil shall include a cut and fill analysis and site plan, prepared by an architect or engineer.

(2) The cut and fill analysis shall show the amount of soils to be excavated, imported and/or removed during the development of the site.

(3) The site plan shall show existing and proposed contours at 2-foot intervals; proposed elevations of the top of roof and garage, first floor, walkout level, and abutting land levels; and all other information pertinent to compliance with the provisions of this chapter.

(C) (1) As used in this subchapter, land reclamation shall be the grading of land or reclaiming of land by the moving or depositing of material so as to change the existing topography of the land, provided that excavations for buildings pursuant to building permits shall not be considered land reclamation unless the disposal of excavated materials is in areas outside of the driveway and parking pads, or at a distance greater than 25 feet from the side of the building.

(2) If excess excavated materials are exported or placed outside of the limits described, the provisions of division (D) below shall apply.

(3) The depositing of not more than 4 inches of top soil shall not be considered land reclamation.

(D) Land reclamation involving 100 cubic yards or more of soil shall require a conditional use permit as provided in § 151.076. The application for the conditional use permit shall include:

(1) A map showing:

(a) The natural topography of the land to be reclaimed and the land adjacent thereto;

(b) The proposed topography after the land reclamation; and

(c) The existing natural drainage of the land and the land adjacent thereto, and the drainage of the land after the proposed land reclamation.

(2) Written information:

(a) Stating the purpose for reclamation;

(b) Setting forth the date of beginning and the date of completing the land reclamation;

(c) Documenting the types of soil on the land and type and amount of soil to be graded or deposited;

(d) Proposing measures for erosion and wind control;

(e) Setting forth the number and type of vehicles to be used and vehicular ingress and egress routes;

(f) Specifying the general maintenance plans of the site; and

(g) Stating the effect on adjacent land, lakes, streams, and/or ground water.

(Ord. 94, § 6.8, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.028 OFF-STREET PARKING, LOADING AREAS, AND SERVICE ENTRANCES.

(A) A further purpose of this subchapter is to alleviate and prevent congestion on roads or streets and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking, loading areas, and service entrances in accordance with the utilization of various parcels of land or structures.

(B) The regulations and requirements set forth herein shall apply to all off-street parking, loading areas, and service entrances in all of the zoning districts of the city.

(C) All applications for a building or occupancy permit in all zoning districts shall be accompanied by a site plan drawn to a scale of 1 inch equals 40 feet and shall include the location of off-street parking, loading areas, and service entrances, surface, and drainage plans.

(D) Except in RMM, RMH, and RCM Districts, all off-street parking and loading requirements shall be met on the same lot as the building serviced and no off-street parking shall be within 10 feet from the nearest edge of any road, or within 30 feet of any other lot line.

(E) (1) All Lots upon which principal buildings are located shall be provided with permanent vehicular access to a road or street.

(2) No access driveway, unless a variance has been granted, shall be situated within 30 feet of any lot line or the intersection of roads or streets, except as provided in § 151.050(D)(6).

(3) Upon the approval of the City Council, these distances may be modified within a PUD or PRD, but only if safe and adequate vehicular access is otherwise provided for.

(4) All parking stalls shall be a minimum of 10 feet wide by 20 feet deep, except handicapped stalls, which shall be 12 feet wide by 18 feet deep.

(F) (1) All new construction intended to be utilized for parking, loading areas, and service entrances shall be surfaced with concrete, bituminous material, or an approved equivalent suitable to control dust and drainage and shall be properly constructed and maintained to be usable under all weather conditions.

(2) Areas shall be so graded and drained to dispose of all surface water using natural drainage patterns and without adverse effect on neighboring land.

(G) Off-street parking facilities and loading areas in RSL, RSM, RMM, and RMH Districts shall be utilized solely for the parking and loading of licensed and operable vehicles which do not exceed 9,000 pounds gross weight, except as provided in division (H) below.

(H) All recreational vehicles, disabled or stored motor vehicles, boats and trailers of all types, must be garaged or completely screened year round from all roads or adjacent dwellings, but may be

parked or exhibited in view for a temporary period not exceeding 30 days in a calendar year.

(I) No single-family detached dwelling shall have less than 4 off-street parking spaces exclusive of garage and carport areas. Parking spaces shall be 10 feet by 20 feet in size.

(J) Any structure designed to accommodate other than a single-family dwelling shall provide adequate off-street parking for the intended use.

(K) (1) Off-street loading, unloading, and service entrances shall be provided for every building or structure used or designed for use other than residential to an extent adequate for the proposed use.

(2) The facilities shall be separated from, and in addition to, off-street parking areas and shall not obstruct or hinder access to a building, road, street, public highway, pedestrians, or vehicular traffic.

(L) Consultants maybe employed, in accordance with § 151.083(B), to assist city personnel and officials in determining whether the proposed facilities for off-street parking, loading, unloading, and service entrances are adequate.

(Ord. 94, § 6.9, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003, Am. Ord passed 9-10-2015) Penalty, see § 10.99

§ 151.029 EXTERIOR STORAGE.

(A) Except clothesline poles and wires, woodpiles, construction equipment, and materials in current use and landscaping equipment or material in current use, all materials and equipment shall be stored within a building or wholly concealed by screening, as provided in § 151.034, so as not to be visible from any road, street, or dwelling.

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

CURRENT USE. A period of time not exceeding 90 days per 12-month period.

(Ord. 94, § 6.10, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.030 REFUSE.

(A) All exterior storage not included as a permitted use, permitted accessory use, or included as part of a conditional use, or otherwise permitted by the provisions of this chapter, except compost piles and woodpiles for use in the principal residential dwelling or for recreational purposes, shall be considered refuse.

(B) In residential districts, refuse and refuse containers not enclosed within a building shall be covered and shall be wholly concealed as provided in § 151.034.

(C) (1) Vehicles in an inoperative condition or unlicensed or unregistered shall be considered refuse and shall not be parked or stored unless wholly concealed from all roads, streets, and adjacent dwellings by screening, as provided in § 151.034.

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

INOPERATIVE. Incapable of movement under its own power or not equipped to meet all requirements for use on public highways.

(Ord. 94, § 6.11, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.031 EXTERIOR LIGHTING.

(A) In all residential districts, exterior lighting shall be arranged so that it does not interfere with the reasonable use and enjoyment of surrounding land or constitute a hazard to vehicular traffic on all roads, streets, and public highways.

(B) Exterior lighting shall be designed and directed so that there is no direct viewing angle of the illumination source from surrounding land.

(Ord. 94, § 6.12, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.032 SMOKE, DUST, ODORS, AND NOISE.

(A) The emission of smoke, dust, fly ash, or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control standards and regulations.

(B) The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control standards and regulations, but in no event shall the emission of odorous matter be in the quantity or level as to be readily detected beyond the boundaries of the land from which it originates.

(C) All noise shall be muffled so as not to be objectionable due to intensity, intermittence, beat frequency, or shrillness and shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minn. Rules Chapter 7030, as amended for Noise Area Classification 1, as it may be amended from time to time.

(D) (1) The City Council may require an owner, operator, or user to have made the investigations and tests as may be required to show adherence to divisions (A), (B), and (C) above.

(2) The investigation and tests as are required to be made shall be carried out by an independent testing organization approved by the City Council after 30-days' written notice to the owner, operator, or user.

(3) The costs incurred in having the investigations or tests conducted shall be shared equally by the owner, operator, or user and the city, unless the investigation and tests disclose noncompliance with this chapter, in which event the entire investigation and testing cost shall be paid by the owner, operator, or user.

(4) Nothing herein shall preclude the city from making any tests or investigations it finds appropriate to determine compliance with this subchapter.

(Ord. 94, § 6.13, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.033 HEIGHT LIMITATION NEAR ROAD.

(A) The area within 5 feet from the blacktopped or finished edge of any road shall be kept clear of temporary or permanent obstacles such as stakes, poles, posts, large rocks, and shrubbery, except temporary boundary stakes issued or approved by the North Oaks Homeowner's Association, Inc., for road maintenance purposes, a mailbox, newspaper receptacles, sod and sprinkler heads may be placed within the area at the risk of the land owner(s) and provided none of the foregoing creates a traffic hazard or interferes with road maintenance.

(B) The area between 5 feet and 10 feet from the blacktopped or other finished edge of any road shall be kept clear of anything with a height of more than 12 inches except a house identification post and 2 lamp posts placed within the area at the risk of the land owner(s), none of which may exceed 10 inches in diameter, and provided none of the foregoing creates a traffic hazard or interferes with road maintenance.

(C) ***Notice of Violation.*** If the City Administrator or an enforcement officer appointed by the Administrator finds that a person violated a prohibition or failed to meet a requirement of this section, the city may order compliance by written notice of violation to the responsible person. The notice may require without limitation: The abatement or remediation of hazards; and payment of a fine and remediation costs.

If abatement of a violation is required, the notice must set forth a deadline within which the remediation must be completed. The notice must further advise that, should the violator fail to remediate within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof charged to the violator.

(D) ***Appeal of Notice of Violation.*** Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agent. The notice of appeal must be received within 10 days from the date of the Notice of Violation. Hearing on the appeal before the City Council must take place within 30 days from the date of receipt of the notice of appeal. The decision of the City Council is final.

(E) ***Enforcement Measures after Appeal.*** If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the City Council upholding the decision, the authorized enforcement agent, or their representatives, may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the designated contractor to enter upon the premises for the purposes set forth above.

(F) ***Cost of Abatement of the Violation.*** Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the City Council or by the expiration of the time in which to file an appeal, the charges will become a special assessment against the property and will constitute a lien on the property for the amount of the assessment, and will be certified to the County Auditor for collection with the real estate taxes.

(G) ***Injunctive Relief.*** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(H) ***Administrative Fines.*** In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the City may impose Administrative Fines upon a property owner violator in an amount not to exceed \$100.00 per day for each and every day the violation continues. Fines unpaid by the 15th of August must be consolidated and Notice of the right to appeal mailed to the property owner at least 10 days before the regular September meeting of the City Council. The Council must offer the owner a Hearing and may waive all or part of the fine upon a showing of good cause. Fines not waived and unpaid 30 days thereafter will constitute a lien upon the property and will be certified for collection with the real estate taxes.

(I) ***Violations deemed a Public Nuisance.*** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of the nuisance may be taken.

(J) ***Criminal Prosecution.*** Any person that has violated or continues to violate this ordinance is liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of a misdemeanor. The City may recover all attorneys' fees court costs and other expenses associated with

enforcement of this ordinance.

(K) **Remedies Not Exclusive.** The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. (Ord. 94, § 6.14, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003, Am. Ord. passed 01-14-2016) Penalty, see § 10.99

§ 151.034 FENCES, SCREENING, PLANTING STRIPS, AND LANDSCAPING.

(A) Further purposes of this subchapter are to establish requirements, standards, and guidelines relative to the construction and use of fences, screening, planting strips, and landscaping within 30 feet of lot lines.

(B) Subject to the limitations in § 151.033, fences, screening, planting strips, and landscaping are permitted within 30 feet of a lot line, but subject to the following restrictions.

(1) Solid walls in excess of 48 inches above adjacent ground grades shall be prohibited.

(2) Fences in excess of 48 inches high above adjacent ground grades shall be at least 30% open through the structure to allow for passage of light, air, and wind.

(3) The side of the fence considered to be the finished side as opposed to structural supports shall face abutting property.

(4) Fences in side or rear yards, i.e., subject to division (B)(6) below, the area between the front building foundation line of the principal structure and rear lot line shall not exceed a height of 6 feet above finished grade.

(5) Fences in front yards, i.e., the area between the blacktopped or other finished edge of any road and the front building foundation line of the principal structure may, after being setback a minimum of 10 feet from the blacktopped or other finished edge of any road pursuant to § 151.033(B), be a maximum of 48 inches in height, except in the case of corner lots where, in addition to complying with the 10-foot setback in § 151.033(B), a maximum 30-inch height above road height shall be permitted within a triangular area defined as follows: beginning at the intersection of the blacktopped or other finished edge of any roads within the front yard; thence 40 feet along the road edge; thence diagonally to a point 40 feet from the point of beginning on the other road edge; thence to the point of beginning.

(6) In the case of a corner lot, both yards abutting the blacktopped or other finished edge of a road shall be considered a front yard.

(7) All fences, screening, planting strips, and landscaping shall be located entirely on the lot

of the person(s) installing or causing installing of the same.

(8) Nothing in this section is intended to supersede any stricter requirements set forth in any private covenant or agreement affecting any lot owners) nor any stricter requirements set forth in any statute, law, or regulation relating to setbacks from wetlands or public waters.

(9) Barbed wire or similar fences shall be prohibited.

(10) Fences surrounding swimming pools shall comply with §§ 150.055 *et seq.*, and to the extent not inconsistent herewith, the requirements in this chapter.

(11) No fence, screening, planting strip, or landscaping shall be permitted which creates a traffic hazard.

(C) The provisions of M.S. Ch. 344, as it may be amended from time to time, shall not apply within the city.

(D) Fences, screening, planting strips, and landscaping must be maintained so as to not endanger life or property and any fence, screening, planting strip, or landscaping which endangers life or property shall be deemed a nuisance.

(E) Any deviation from the provisions of this section shall require a variance.
(Ord. 94, § 6.15, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

DISTRICTS

§ 151.045 ESTABLISHMENT OF DISTRICTS.

The following zoning district classifications are hereby established within the City of North Oaks:

- (A) RSL - Residential Single-Family Low Density;
- (B) RSM - Residential Single-Family Medium Density;
- (C) RMM - Residential Multi-Family Medium Density;
- (D) RMH - Residential Multi-Family High Density;
- (E) RCM - Residential Commercial Mixed;

(F) PRD - Planned Residential Development;

(G) PUD - Planned Unit Development;

(H) C - Commercial;

(I) CS - Commercial/Service;

(J) LI - Limited Industrial;

(K) R - Recreation;

(L) OS - Open Space;

(M) HP - Historic Preservation; and

(N) Shoreland.

(Ord. 94, § 7.1, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.046 ZONING DISTRICT APPLICATION.

(A) The boundary lines of the zoning districts shown in § 151.045 are hereby established as follows.

(B) (1) The document referred to as the Zoning District Map of North Oaks, the map being dated 2-11-1999, and as may be amended from time to time (hereinafter referred to as the Zoning District Map), is hereby adopted as the official zoning map of the city and has been filed with the City Clerk.

(2) The Zoning District Map and all notations, references, and other information shown thereon shall have the same force and effect as if fully set forth herein and is hereby made part of this chapter by reference and incorporated herein as fully as if set forth herein length.

(C) The Zoning District Map may be amended from time to time by action of the City Council taken in accordance with § 151.077.

(Ord. 94, § 7.2, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.047 ANNEXED LAND.

All lands which may hereafter become part of the city through annexation shall be automatically classified as Residential Single-Family Low Density, until otherwise changed by amendment procedures as set forth in § 151.077.

(Ord. 94, § 7.3, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.048 LOT DIVIDED BY ZONING DISTRICT LINE.

Where a developed lot at the time of the effective date of this chapter is divided by a district boundary line as established in this section and as shown on the Zoning District Map, the uses authorized thereon and the other requirements applying to the most restricted portion of the lot under this chapter shall be considered as extending to the entire lot.

(Ord. 94, § 7.4, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.049 ZONING DISTRICT BOUNDARIES.

(A) Zoning district boundary lines as indicated on the Zoning District Map follow lot lines, center of watercourses, or the corporate limit lines, all as they exist upon the effective date of this chapter.

(B) If district boundary lines do not follow any of the above described lines, the district boundary lines are established as indicated on the Zoning District Map.

(Ord. 94, § 7.5, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.050 RSL - RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT.

(A) *Purpose.* This District is established to provide for low density single-family detached residential dwellings and directly related complimentary uses compatible with the environment and conforming to the level of services available and to provide the community facilities as will enhance the quality of the area.

(B) *Permitted uses.* The following uses shall be permitted:

- (1) Single-family detached dwellings;
- (2) Essential services;
- (3) Single-family detached dwelling planned unit development or phases of a planned unit development which meet all requirements of this section; and
- (4) A business conducted in the dwelling or a home occupation, provided that:
 - (a) The business or home occupation is conducted by a resident occupant of the dwelling;
 - (b) The business or home occupation is incidental and secondary to the residential use of the dwelling;

(c) There is no external activity or external alteration of the dwelling, including any observable business activity such as deliveries or visitation or use of the lot upon which the dwelling is located by customers, clients, agents, independent contractors, or employees;

(d) There is no business related exterior storage, display, or signage and no interior signage which may be viewed from the exterior of the dwelling;

(e) The business or home occupation conducted in the dwelling generates no external noise; and

(f) The business or home occupation generates no light glare, odor, vibration, smoke, electrical or other interference that in any way adversely affects adjacent or nearby uses.

(C) *Permitted accessory uses.* The following accessory uses shall be permitted:

(1) Attached or detached private garage and private carport facilities, provided the structures are constructed in the same architectural style as the principal building or structure and provided that the combined facilities shall not exceed 1,500 square feet;

(2) Private tennis courts and swimming pools, which are maintained for the enjoyment and convenience of the resident of the principal use and their guests;

(3) Buildings and uses accessory to the principal use, small tool houses, sheds for storage of domestic supplies, and noncommercial recreation equipment, provided the structures are constructed in the same architectural style as the principal building or structure, but accessory dwelling units shall not be permitted;

(4) Noncommercial greenhouses; and

(5) Signs showing residents' name and/or address identification not to exceed 2 square feet and 1 real estate sale sign not to exceed 8 square feet.

(D) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076:

(1) Municipal and public utility buildings and structures necessary for the health, safety, and general welfare of the community, provided that:

(a) The architectural appearance and functional plan of the buildings and site shall be compatible with the adjacent area;

(b) Screening is provided in compliance with § 151.034;

(c) Adequate off-street parking, loading, and service entrances are provided in compliance with § 151.028;

(d) All accessory equipment is completely enclosed in a permanent structure with no outside storage; and

(e) Section 151.083 is complied with.

(2) Neighborhood or community centers, provided that:

(a) The architectural appearance and functional plan of the buildings and site shall be compatible with the adjacent area;

(b) Screening is provided in compliance with § 151.034;

(c) Adequate off-street parking, loading, and service entrances are provided in compliance with § 151.028;

(d) All accessory equipment is completely enclosed in a permanent structure with no outside storage;

(e) The site of the principal use and related parking is served by a road or street of sufficient capacity to accommodate the traffic which will be generated; and

(f) Section 151.083 is complied with.

(3) Private nonprofit golf clubs, provided that:

(a) The architectural appearance and functional plan of the buildings and site shall be compatible with the adjacent area;

(b) Screening is provided in compliance with § 151.034;

(c) Adequate off-street parking, loading, and service entrances are provided in compliance with § 151.028;

(d) All accessory equipment is completely enclosed in a permanent structure with no outside storage;

(e) Use of the premises is restricted to members and their guests; and

(f) Section 151.083 is complied with.

(4) Non-neon signs and non-neon informational visual communication devices, except as prohibited in division (D)(1)(d) above, provided that:

(a) The height of the sign or device does not exceed the height of the principal structure or the structure to which it is affixed;

(b) The architectural style and design shall not be so dissimilar to the surrounding buildings or area so as to adversely impact other land;

(c) There are no moving or flashing parts and any illumination shall be in compliance with § 151.031;

(d) The sign or device is permanently fixed to the land or to a building or structure;

(e) The sign or device is not a billboard and is associated with the principal use of the land; and

(f) Section 151.083 is complied with.

(5) Access driveways with a setback of not less than 15 feet, provided that:

(a) Topographical conditions prevent reasonable access elsewhere on the lot or a large tree or major group of trees would be preserved; and

(b) Section 151.083 is complied with.

(6) Sales and management office for a planned unit development (PUD) or planned residential development (PRD) or a home owners association management office, provided that:

(a) The architectural appearance and functional plan of the buildings and site shall be compatible with the surrounding area;

(b) Screening is provided in compliance with § 151.034;

(c) Adequate off-street parking, loading, and service entrances are provided in compliance with § 151.028;

(d) All accessory equipment is completely enclosed in a permanent structure with no outside storage; and

(e) Section 151.083 is complied with.

(7) Buildings with a height greater than 35 feet, provided that:

(a) The front elevation of the building does not exceed 35 feet in height at any point;

(b) The building height at any other elevation does not exceed 45 feet;

(c) The environmental and topographical conditions of the lot prior to building development are naturally suited to the design of a building with an egress or walkout level;

(d) Buildings shall be limited to a basement and 2 full stories. Finished areas within the roof structure will be considered a full story;

(e) Any time the side or rear elevations of a building exceeds 35 feet in height within 50 feet of adjacent lot lines, the building line shall be setback an additional 2 feet from the adjacent setback line for each foot in height above 35 feet; and

(f) Section 151.083 is complied with.

(8) The Lots in Registered Land Survey 527 and 528, also known as Southpointe and South Wildflower Subdivisions, which were approved by the City Council for buildings with walkout levels, are hereby granted the right to seek conditional use permits for the construction of buildings with a height greater than 35 feet, but not exceeding 45 feet, subject to each lot meeting the conditions in Sections 7.6.4(h)(i) through 7.6.4 (h)(vi) and all other provisions of this chapter, except that the procedure as outlined in § 151.079 shall be revised as follows:

(a) The Zoning Administrator shall review and analyze the request, submit a report to the Planning Commission, and schedule a public hearing for the next regular Planning Commission meeting in accordance with § 151.079(D);

(b) At the next regular meeting, the Planning Commission will hold the public hearing, make findings of fact, and recommend denial or approval; and

(c) At the following City Council meeting, the City Council will act on the conditional use permit with the approval needing a 4/5 vote of the City Council when at least 4 members are present.

(9) Garage which exceeds 1,500 square feet, provided that:

(a) The garage shall not exceed 3,000 square feet;

(b) The garage shall be constructed in the same architectural style as the principal building or structure;

(c) The floor area ratio shall not exceed 0.12;

(d) No use of the garage shall be permitted other than for private residential noncommercial use; and

(e) The factors set forth in § 151.076(C) shall be considered.

(E) *Lot area requirements.* No lot, tract, or parcel of land wholly or partly within an RSL District shall hereafter be divided in any manner, unless:

(1) The average size of each and every lot, tract, or parcel of land created by the subdivision shall have a minimum area of 1.45 acres, and in no event shall any lot, tract, or parcel of land so created have a minimum area of less than 1.25 acres;

(2) In determining and calculating average sizes:

(a) Only those lots, tracts, or parcels of land on which a single-family detached residential dwelling can be constructed may be considered and used; and

(b) Those areas within the waters known as Black Lake, Charley Lake, Deep Lake, Gilfillan Lake, Pleasant Lake, and Wilkinson Lake, DNR protected wetlands and VLAWMO designated wetlands shall be excluded in calculating average sizes.

(3) The lot meets the definitions of a suitable site and a usable area as defined in this chapter.

(F) *Setbacks.*

(1) No building or structure (except fences, screening, planting strips, and landscaping in compliance with §§ 151.033 and 151.034), individual sewage treatment system, or well shall be located within 30 feet of the lot lines, the nearest edge of any road or street easements, or any wetland, except that additions which do not exceed 25% of the existing building footprint area, on buildings or structures lawfully existing upon the effective date of this chapter shall be excluded from wetland setback requirements.

(2) No grading or filling shall be allowed within 30 feet of adjacent lot lines without prior notification to the adjacent lot owners and approval of the Planning Commission, except that grading and filling will be allowed if it is within 10 feet of a building.

(G) *Building heights.* The height of any building shall not exceed 35 feet. Buildings shall be limited to a basement (a floor level that has less than 50% of the perimeter walls exposed above the lowest grade) and 2 full stories. Finished areas within the roof structure will be considered a full story.

(H) *Floor area ratios.* For lots where the combined square footage of all buildings thereon exceed 4,000 square feet, then the combined total floor area ratio (FAR) of all buildings on such lots shall not exceed 0.12.

(Ord. 94, § 7.6, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003; Am. Ord. 94-G, passed 12-8-2005) Penalty, see § 10.99

§ 151.051 RSM - RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT.

(A) *Purpose.* This District is established to provide for medium density single-family detached residential dwellings and directly related complimentary uses compatible with the natural environment and conforming to the level of services available and to provide the community facilities as will enhance the quality of the area.

(B) *Permitted uses.*

(1) All uses that are permitted uses in the Residential Single-Family Low Density District in § 151.050(B); and

(2) A single-family detached dwelling, planned unit development (PUD), or a phase of a PUD which has a maximum gross density of 1 unit per 1.1 acres and which is served by a central sanitary sewer collection system.

(C) *Permitted accessory uses.* All uses that are permitted accessory uses in the Residential Single-Family Low Density District in § 151.050(C).

(D) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076:

(1) All uses that are permitted conditional uses in the Residential Single-Family Low Density District in § 151.050(D); and

(2) Public and private educational institutions limited to preschool, nursery, elementary, junior and senior high schools; religious institutions such as churches, chapels, temples, and synagogues, provided that:

(a) The architectural appearance and functional plan of the buildings and site shall be compatible with the adjacent area;

(b) Screening is provided in compliance with § 151.034;

(c) Adequate off-street parking, loading, and service entrances are provided in compliance with § 151.028;

(d) All accessory equipment is completely enclosed in a permanent structure with no outside storage;

(e) The site of the principal use and related parking is served by a road or street of sufficient capacity to accommodate the traffic which will be generated; and

(f) Section 151.083 is complied with.

(E) *Lot area requirements.* No lot, tract, or parcel of land wholly or partly within a RSM District shall hereafter be divided in any manner, unless:

(1) The average size of each and every lot, tract, or parcel of land so created will have a minimum area of 1.10 acres, provided that in no event shall any lot, tract, or parcel of land so created have a minimum area of less than 1 acre;

(2) In determining and calculating average sizes:

(a) No more than 3 acres of any lot, tract, or parcel of land so created shall be considered and figured; and

(b) Those bodies of water known as Black Lake, Charley Lake, Deep Lake, Gilfillan Lake, Pleasant Lake, and Wilkinson Lake, DNR protected wetlands and VLAWMO designated wetlands shall be excluded.

(3) The lot meets the definitions of a suitable site and a usable area as defined in this chapter.

(F) *Setbacks.* The setback requirements of the Residential Single-Family Low Density District in § 151.050(F) shall apply and govern.

(G) *Building heights.* The building height requirements of the Residential Single-Family Low Density District in § 151.050(G) shall apply and govern.

(H) *Floor area ratio.* For lots where the combined square footage of all buildings thereon exceed 4,000 square feet, then the combined total floor area ratio (FAR) of all buildings on such lots shall not exceed 0.12.

(Ord. 94, § 7.7, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003; Am. Ord. 94-G, passed 12-8-2005) Penalty, see § 10.99

§ 151.052 RMM - RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT.

(A) *Purpose.* This District is established to provide for medium density attached residential dwellings and directly related complimentary uses compatible with the natural environment and conforming to the level of services available and to provide the community facilities as will enhance the quality of the area.

(B) *Permitted uses.* The following uses shall be permitted:

(1) All uses that are permitted uses in the Residential Single-Family Medium Density District in § 151.051(B);

(2) A planned residential development with townhouse dwellings; and

(3) A planned unit development (PUD) with single-family detached dwellings and townhouse dwellings.

(C) *Permitted accessory uses.* All uses that are permitted accessory uses in the Residential Single-Family Medium Density District in § 151.051(C).

(D) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076: all uses that are permitted conditional uses in the Residential Single-Family Medium Density District in § 151.051(D).

(E) *Lot area requirements.* No lot, tract, or parcel of land wholly or partly within a RMM District shall hereafter be divided in any manner, unless:

(1) The average size of each and every lot created as a single-family detached residential dwelling conforms with the requirements of § 151.051(E);

(2) If developed as a PRD or PUD, the lots shall conform to the requirements of §§ 151.055 or 151.056 and the current Comprehensive Plan; and

(3) In determining and calculating areas, those bodies of water know as Black Lake, Charley Lake, Deep Lake, Gilfillan Lake, Pleasant Lake, and Wilkinson Lake and DNR designated wetlands and VLAWMO designated wetlands shall be excluded.

(F) *Setbacks.* The setback requirement of the Residential Single-Family Medium Density District in § 151.051(F) or the Planned Residential District in § 151.055 or the Planned Unit Development District (PUD) in § 151.056 shall apply and govern.

(G) *Building heights.* The building height requirements of the Residential Single-Family Medium Density District in § 151.051(G) shall apply and govern.

(H) *Floor area ratio.* The floor area ratio (FAR) of any building on any single-family detached dwelling lot or the aggregate of all buildings in a PRD or PUD shall not exceed 0.12.

(I) *Sewage systems.* A central sanitary sewer system is required for all townhouse dwelling units in this District. Single-family detached dwellings which are not served by a central sanitary sewer shall meet minimum lot area requirements of § 151.051(E).

(Ord. 94, § 7.8, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.053 RMH - RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT.

(A) *Purpose.* This District is established to provide for medium and high density multi-family attached residential dwellings and directly related complimentary uses compatible with the natural environment and conforming to the level of services available and to provide the community facilities as will enhance the quality of the area.

(B) *Permitted uses.* The following uses shall be permitted:

(1) All uses that are permitted uses in the Residential Multi-Family Medium Density District in § 151.052(B);

(2) A planned residential development with townhouse dwellings; and

(3) A planned unit development (PUD) with single-family detached, townhome, and other multi-family dwellings pursuant to a planned development agreement (PDA).

(C) *Permitted accessory uses.* All uses that are permitted accessory uses in the Residential Multi-Family Medium Density District in § 151.052(C).

(D) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076: all uses that are permitted conditional uses in the Residential Multi-Family Medium Density District in § 151.052(D).

(E) *Lot area requirements.* No lot, tract, or parcel of land wholly or partly within a RMH District shall hereafter be divided in any manner, unless:

(1) The average size of each and every lot created as a single-family detached residential dwelling conforms with the requirements of § 151.051(E);

(2) If developed as a planned residential development (PRD) townhouse site, the lots shall conform to the requirements of § 151.055 and the current Comprehensive Plan;

(3) If developed as a planned unit development (PUD) site, the lots shall conform to requirements of § 151.056 or as defined in a planned development agreement (PDA); and

(4) In determining and calculating areas, those bodies of water known as Black Lake, Charley Lake, Deep Lake, Gilfillan Lake, Pleasant Lake, and Wilkinson Lake, DNR designated wetlands and VLAWMO designated wetlands shall be excluded.

(F) *Setbacks.* The setback requirement of the Residential Multi-Family Medium Density District in § 151.052(F) shall apply and govern, except as follows:

(1) If developed as a PRD, setbacks shall conform with the requirements of § 151.055; and

(2) If developed as a PUD, setbacks shall conform with the requirements set forth in the Master Development Plan and planned development agreement in § 151.056.

(G) *Building heights.* The building height requirements of the Residential Multi-Family Medium Density District in § 151.052(G) shall apply and govern.

(H) *Floor area ratio.*

(1) The floor area ratio (FAR) of any building on any single-family detached residential lot shall not exceed 0.12.

(2) If developed as a planned residential development, the aggregate floor area ratio of all buildings shall not exceed 0.375.

(3) If developed as a planned unit development, the aggregate floor area ratio of all buildings shall not exceed 0.375.

(I) *Sewage systems.*

(1) A central sanitary sewer system is required for all townhouse and multi-family dwelling units in this District.

(2) Single-family detached dwellings which are not served by central sanitary sewer shall meet the lot area requirements of § 151.051(E).

(Ord. 94, § 7.9, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.054 RCM - RESIDENTIAL COMMERCIAL MIXED DISTRICT.

(A) Purpose.

(1) (a) The purpose of the RCM District is to provide a mixture of medium and high density detached, attached, and multi-family dwellings and commercial uses on 1 site.

(b) The District is intended to create neighborhoods which provide housing, jobs, and daily goods and services to city residents and adjacent communities.

(2) (a) The District will not depend on any existing city roads or streets for access.

(b) The District will need to provide for extra screening from adjacent city residential land.

(c) The architectural design of development in the District is required to compliment the predominantly residential character of the city.

(B) Permitted uses.

(1) The following uses in division (B)(2) below shall be permitted.

(2) (a) All residential uses permitted in § 151.053(B); and

(b) A planned unit development (PUD) with the residential uses as permitted in § 151.053(B) and the following commercial and services uses:

1. Grocery store;
2. Liquor store;
3. Drugstore;
4. Beauty and barber shop;
5. General offices, including professional, real estate, financial, medical, and dental offices;
6. Art and school supply store;
7. Art galleries;
8. Antique or gift shop;
9. Bakery goods sales and baking of goods for retail;

10. Bank;
11. Barber shop;
12. Bookstore;
13. Camera and photo supplies;
14. Candy store;
15. Delicatessen;
16. Dry cleaning and laundry pick-up stations, including incidental pressing and repairs (no on-site cleaning operations);
17. Florist;
18. Furniture boutique;
19. Greeting cards and gifts;
20. Grocery store, fruit or vegetable store;
21. Hardware store;
22. Hobby store;
23. Home remodeling showroom;
24. Insurance agency;
25. Jewelry sales and jewelry repair store;
26. Locksmith;
27. Meat and fish market, but not including processing for a locker;
28. Medical and dental clinic or offices;
29. Music store;
30. Office supply and stationery store;
31. Paint, wallpaper, tile, and floor covering store;

32. Pet foods and supplies;
33. Photographic studio;
34. Postal service (not post office);
35. Shoe sales and repair;
36. Sporting goods;
37. Travel agency;
38. Toy store; and
39. Wearing apparel (new clothes shop).

(C) *Permitted accessory uses.* The following accessory uses shall be permitted:

(1) For residential uses, all uses that are permitted accessory uses in the RMH District in § 151.053(C); and

(2) For commercial and services uses, buildings and other structures for any incidental repair, processing, or storage necessary to conduct a principal use, provided that the buildings or structures are constructed in the same architectural style as the principle building or structure.

(D) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076:

(1) For residential uses, all uses that are permitted conditional uses in the RMH District in § 151.053(D);

(2) Within a shopping center, any single permitted use over 15,000 square feet;

(3) Non-neon signs and non-neon informational visual communication devices, provided that the requirements established in § 151.050(D)(5) shall apply and govern;

(4) Day-care and/or child-care center;

(5) Business conducted in the dwelling or a home occupation, provided requirements of § 151.050(D)(1) are met; and

(6) Senior residential attached dwellings.

(E) *Lot area, lot width, and setback requirements.*

(1) For residential uses, lot area requirements shall be in accordance with the RMH District in § 151.053(E), (F), and (H); and

(2) For commercial uses, lot area, lot width, and yard requirements shall be in accordance with § 151.058(G).

(F) *Building height and lot coverage.*

(1) No building shall exceed a basement and 2 full stories nor 35 feet in height at the front elevation.

(2) For commercial and services uses, no building or aggregate of buildings shall exceed more than a 30% lot coverage.

(G) *Parking.*

(1) For residential uses, the parking requirements of § 151.028 shall apply.

(2) For commercial and service uses, the parking requirements of § 151.058(H), (L)(5), and (L)(6) shall apply and govern.

(H) *Sewer system.* All lots within this District shall be served by a central sanitary sewer system which discharges into regional facilities.

(I) *Additional requirements.*

(1) For residential uses, the general standards in §§ 151.020 *et seq.* shall apply.

(2) For commercial uses, the general standards in §§ 151.020 *et seq.* and the Commercial/Service District special minimum requirements in § 151.058(L) shall apply.

(J) *Signage standards.* In addition to the conditional use permit requirements for signs in § 151.050(D)(5), additional sign standards shall be in conformance with § 151.058(M).

(K) *Land Owners Association.* A Land Owners Association and/or a Home Owners Association shall be formed to include all common use land within the RCM District for the purposes of managing the affairs of the individual lot owners, common land, and to fulfill the obligations of regulatory authorities and agencies.

(L) *Site and building plan review.*

(1) (a) For all development within the RCM District, excluding unsewered single-family detached developments, a site plan is required to be submitted to the city for review by the Planning Commission and approval by the City Council.

(b) The site plan shall be prepared, signed, and dated by licensed architects, engineers, surveyors, and/or landscape architects and address all the standards and requirements of this chapter and § 151.056(B)(2)(b)2.

(c) No building permit can be issued without site plan approval.

(2) (a) A landscape plan is required to be submitted to the City Engineer and City Forester who will prepare a written report assessing the plan.

(b) The plan shall be submitted for review by the Planning Commission and approval by the City Council.

(3) (a) For all commercial and multi-family development, a site and building plan is required to be submitted to the city for review by the Planning Commission and approval by the City Council.

(b) No building permit can be issued without building plan approval.

(Ord. 94, § 7.10, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.055 PRD - PLANNED RESIDENTIAL DEVELOPMENT DISTRICT.

(A) *Purpose.*

(1) This District, which is coextensive with only the Residential Multi-Family Medium Density District (RMM) and Residential Multi-Family High Density District (RMH), is established to provide for and encourage flexibility in layout and site planning, a more efficient use of land and green space, and the development of residential areas in keeping with ecological and environmental considerations, including wetlands, shorelands, ground and surface water quality, and drainage factors.

(2) It is acknowledged that in the planning and development of land within this District, variations may occur which are not in strict accord with other sections of this chapter and, in those cases, if it can be demonstrated by the applicant that the variations are not detrimental to public health, safety, morals, and general welfare, then the variations may be allowed provided the requirements stated elsewhere in this section are complied with.

(B) *Permitted uses.* All uses that are permitted uses in the Residential Multi-Family Medium and High Density Districts in §§ 151.052(B) and 151.053(B).

(C) *Permitted accessory uses.* All uses that are permitted accessory uses in the Residential Multi-Family Medium and High Density Districts in §§ 151.052(C) and 151.053(C).

(D) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076.

(1) All uses that are permitted conditional uses in the Residential Multi-Family Medium and High Density Districts in §§ 151.052(D) and 151.053(D); and

(2) Attached townhouse dwellings with setbacks from adjacent lot lines less than otherwise established by this chapter, provided that:

(a) The overall density established in division (E)(2) below is complied with;

(b) There shall be adequate visual privacy between each dwelling unit and between the dwelling units and the common areas;

(c) The acoustical privacy between each dwelling unit shall be maintained by airborne sound insulation materials in party walls to meet a Ground Transmission Class (GTC) of 50 as defined in the Uniform Building Code and by proper placing of the buildings;

(d) In the event that construction of any attached dwelling is not completed within 2 years after the issuance of the conditional use permit or upon the expiration of any extension thereof granted pursuant to § 151.080, all uses encompassed by the conditional use permit shall become null, void, and otherwise revoked insofar as the permit applies to the undeveloped land; and

(e) Section 151.083 is complied with.

(E) *Area requirements.* The following area requirements shall be the minimum permitted.

(1) The minimum area required for application for qualification as a PRD shall be 20 acres.

(2) Within the overall PRD, the combined area of individual lots, common recreation, green space, roads, and streets shall have a density not to exceed 1 dwelling unit per 0.83 acres in the Residential Multi-Family Medium Density District and 1 dwelling unit per 0.25 acres in the Residential Multi-Family High Density District.

(3) A PRD may be permitted in an area which is partly within a Commercial District, provided that all of the applicable provisions of this and all other city ordinances are complied with.

(F) *Setbacks.* No building or structure, individual sewage treatment system, or well shall be located within 30 feet of the perimeter lot line of the PRD or the edge of any road or street, nor within 30 feet of any wetland.

(G) *Building heights.* The building height requirements of the Residential Single-Family Low Density District in § 151.050(G) shall apply and govern.

(H) *Application and processing.* It is intended by this section that:

(1) The subdivision review as provided in §§ 152.020 *et seq.* be carried out simultaneously with the review of the PRD as provided in this chapter;

(2) (a) The development of any PRD shall be subject to, and comply with, §§ 152.050 *et seq.* and 152.065 *et seq.*, except § 52.052 shall not apply, however each PRD shall provide a sufficient amount of land which is suitable for recreational use to serve the needs of the residents of the PRD.

(b) Land suitable for recreational use may include, but is not limited to, play-fields, tennis courts, swimming pools, skating and/or hockey rinks;

(3) Section 152.021(F)(3) shall not apply to or govern any PRD. However, in order to protect the individual owner's rights and land values, and to insure the Home Owners Associations responsibility for maintenance and upkeep of common recreational areas, green space, and roads, the proposed geographical and chronological staging plans for the PRD shall be presented with the preliminary plan approval request as provided in the subdivision regulations, Chapter 152. Consideration shall be given to the following matters in evaluating staging plans:

(a) The total area devoted to common recreation, green space, and roads and streets in relationship to the dwelling units. At a minimum, in any stage of development, the relationship between the total of the common recreational area, green space, roads, and streets, and the total of the dwelling units must bear the same relationship as when the PRD is fully completed; and

(b) The timing and phasing of the PRD. In order to provide that, at any point in time, the developed portion of the PRD can function for the benefit of the residents and without undue economic hardship should some unforeseen circumstances prevent the completion of the total PRD, the PRD shall be timed and phased so that development will progress in stages from the nearest accessible road, street, or highway to the farthest.

(4) In order that the purpose of the PRD may be achieved, land shall be in single ownership or under the management or supervision of a central authority or otherwise subject to the supervisory lease or ownership control as maybe necessary to carry out the provision of the PRD requirements. (Ord. 94, § 7.11, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.056 PUD - PLANNED UNIT DEVELOPMENT DISTRICT.

(A) Purpose.

(1) (a) This District, which may be coextensive with the RSL, RSM, RMM, RMH, RCM, R, and OS Districts, is established to provide for and encourage flexibility in layout and site planning, a more efficient use of land and open space, and the development of residential and residential-commercial mixed use areas in keeping with ecological and environmental considerations, including wetlands, shorelands, ground and surface water quality, and drainage factors.

(b) All uses within a PUD District shall be in conformance with the underlying zoning district and consistent with the current Comprehensive Plan.

(c) It is acknowledged that in the planning and development of land within this District, modifications may occur which are not in strict accord with other sections of this chapter and, in those cases, if it can be demonstrated by the applicant that the modifications are not detrimental to public health, safety, morals, and general welfare, then the modifications may be allowed provided the requirements stated elsewhere in this section are complied with.

(2) (a) The use of more flexible regulations in development of land within the PUD District may be approved if all conditions of this section are found to exist and it is determined it is in the community interest to do so.

(b) It is intended that the approval of a PUD District will not change the existing underlying zoning unless the procedures for a rezoning are followed, either simultaneously or separately, and a rezoning is approved by the City Council.

(3) All applicants for PUD District rezoning approval must submit a master development plan and planned development agreement (PDA) for approval by the City Council.

(B) Application and processing.

(1) *PUD master development plan.* Approval of a master development plan shall be subject to the procedures outlined in § 151.077. The procedures and notification of a public hearing on the master development plan shall be pursuant to § 151.077.

(a) 1. The Master Development Plan shall contain, at a minimum, the following:

a. A generalized master site plan which illustrates the interrelationship of streets, residential uses, commercial uses, recreation and green spaces, open spaces, trails, and access to local and county roads, streets, and highways within the project area;

b. Location, type, and number of dwelling units;

- c. Location, type, and acreages of commercial uses;
- d. Staging plan for the phasing, timing, and location of the development; and
- e. A planned development agreement per division (B)(1)(b) below.

2. Approval of the PUD District master development plan shall occur in conjunction with rezoning of land to PUD District.

(b) 1. a. The terms and conditions, including duration of the planned unit development master development plan, shall be set forth in a planned development agreement (PDA) and plans approved by the City Council signed between the owner/applicant and the city, as authorized by the City Council and M.S. § 462.358, Subd. 3c, as it may be amended from time to time.

b. Variations, other than use, to the provisions of this chapter, the Subdivision Ordinance, the Shoreland Ordinance, and other city ordinances may be embodied in the planned development agreement or the plans submitted by the owner/applicant which are approved by the City Council.

2. a. The planned development agreement may address any and all matters which the city and the owner/applicant consider necessary or appropriate.

b. The rights and responsibilities set forth in the planned development agreement shall be binding on the city and the owner/applicant and their successors and assigns to the extent and for the duration provided in the planned development agreement.

c. The planned development agreement shall be approved as part of the rezoning of the land to PUD District.

(2) *Procedure for application; final development plans for phases.* Approval of the final development plans for phases shall be subject to procedures in the Subdivision Ordinance, and as agreed to in the PDA. Approval of a development contract for each phase by the city and applicant shall also be a condition to approval of final development plans for phases. An applicant shall demonstrate that the final development plans for each phase are consistent with the approved master development plan and the agreed upon PDA.

(a) *Concept plan for phases.*

1. In order to receive guidance on the design of a PUD phase prior to submission of an application for final development plan approval for a phase, an applicant may submit a concept plan for review and comment by the Planning Commission and City Council. Submission of a concept plan

is optional for a phase. In order for the concept plan review for a phase to be most helpful to the applicant, the following general information, in schematic form, should be included:

- projected traffic;
- a. General traffic circulation patterns, road locations, access points, and
 - b. Approximate building locations;
 - c. Height, bulk, and square footage of buildings;
 - d. Types and square footage of uses;
 - e. Types and numbers of dwelling units;
 - f. General grading plan;
 - g. Existing site conditions, topography, and character of the land;
 - h. Staging plan for development; and
 - i. Trail, parkland, green space, and open space size and locations.

2. Comments by the Planning Commission and City Council shall be for guidance only and, shall not be considered binding upon the Planning Commission, City Council, or applicant regarding the approval of the final development plans for a phase.

(b) *Preliminary plan review for phases of a PUD.* For all development within a PUD or phase of a PUD, a preliminary plan must be submitted to the city for review by the Planning Commission and approval by the City Council. For each phase, excluding unsewered single-family development, a site plan must also be submitted to the city for review by the Planning Commission and approval by the City Council. The preliminary plan and site plan shall be prepared, signed, and dated by licensed architects, engineers, surveyors, or landscape architects and address all of the standards and requirements of this chapter, the Subdivision Ordinance, and as described in the PDA. The applicant shall provide proof that the preliminary plan and site plan (if required) are consistent with the approved master development plan and agreed upon PDA. No Building permit shall be issued until after final preliminary plan and site plan approval.

1. The Preliminary Plan shall include:
 - a. A map at a scale of 100 feet to an inch delineating the overall boundaries and showing correctly the boundaries of the subdivision;
 - b. Subdivision lot boundaries;

- c. Layout and lot sizes to nearest tenth of an acre;
 - d. Streets, roads, easements, and access plans;
 - e. Park, recreation, green space, and open space;
 - f. Topographical map, at a scale of 100 feet to an inch, showing the following features before subdivision and a clear indication of what happens to each feature after subdivision: contours at minimum 2 feet intervals; water courses; ponds; wetlands; tree areas; and other physical features;
 - g. North point and scale;
 - h. Name of project/development; and
 - i. All easements: utilities; road; drainage; trail; park; recreation; open space; restricted use; and relationship of lots and easements to adjoining lands.
2. For all development, excluding unsewered single-family development, the preliminary plans shall also include the following site plan information:
- a. Location of buildings and structures;
 - b. Parking facilities, dimensions, and calculations;
 - c. Sidewalks, driveways, loading areas, and bikeways;
 - d. Fences and retaining walls;
 - e. Exterior sign elevations;
 - f. Exterior garbage collection areas;
 - g. Exterior lighting;
 - h. Landscaping and entry monuments;
 - i. Site access;
 - j. Site statistics including site and building size, percent lot coverage, floor area ratio, types and amounts of dwelling units, commercial and service uses, gross density, percentage of green space;

k. Construction staging plan for each phase of the PUD involving more than 1 construction season;

l. Elevations and exterior materials of all proposed structures and buildings with dimensions except for single-family detached structures; and

m. A landscaping plan is required to be submitted to the City Engineer and City Forester who will prepare a written report assessing the plan. The plan shall be submitted with the preliminary plan for review by the Planning Commission and approval by the City Council.

3. In considering the preliminary plan and site plan for approval, the Planning Commission and City Council shall consider the following:

a. Consistency with the approved master development plan and agreed upon PDA;

b. Impacts on existing and anticipated traffic;

c. Parking;

d. Pedestrian and vehicular movements;

e. Ingress and egress;

f. Building locations, height, and size;

g. Architectural and engineering features;

h. Landscaping;

i. Lighting;

j. Provisions for utilities;

k. Site grading and drainage;

l. Green space;

m. Loading and unloading areas;

n. Signage;

o. Monuments;

- p. Screening;
- q. Lot coverage; and
- r. Other related matters.

(c) *Preliminary plat and final plat for phases of a PUD.* A preliminary plat shall be submitted for review in conjunction with the preliminary plan and site plan. A preliminary plat and final plat review shall be subject to the procedures and requirements of the Subdivision Ordinance.

(d) *Amendments.* Procedures for amendments to the PUD master development plan or final development plans for phases shall be set forth in the PDA.

(C) *Permitted uses.* Within a PUD District, all permitted, accessory, and conditional uses shall be in conformance with the underlying zoning district, the Shoreland Ordinance, and the Comprehensive Plan.

(D) *General standards.* Within a PUD District, the following additional standards shall apply.

(1) The minimum area required for application for qualification as a PUD is 20 acres.

(2) Each master development plan and final development plans for phases shall have an overall density consistent with the Comprehensive Plan and the approved PDA, subject to approved density transfer provisions, if any, in the PDA.

(3) Performance standards which vary from the underlying zoning district requirements and §§ 151.020 *et seq.* shall be described in the PDA.

(E) *Area requirements.* Within each PUD District or PUD phase proposed for platting the area requirements shall be limited as follows:

<i>District</i>	<i>Gross Density</i>	<i>FAR</i>	<i>Lot Coverage</i>
RSL	1.45	0.12	-
RSM	1.1	0.12	-
RMM	0.50	0.12	-
RMH	0.25	0.375	-

<i>District</i>	<i>Gross Density</i>	<i>FAR</i>	<i>Lot Coverage</i>
RCM - Residential Use	0.25	0.375	-
RCM - Commercial Use	-	-	0.30

(F) *Setbacks.* Structures, individual sewage treatment systems and wells shall not be located within 30 feet of the perimeter lot line of the PUD District or phase of a PUD, nor within 30 feet of any wetland, except fences, screening, planting strips and landscaping which shall be installed pursuant to §§ 151.033 and 151.034.

(Ord. 94, § 7.12, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.057 C - COMMERCIAL DISTRICT.

(A) *Purpose.*

(1) This District is established to provide for certain retail or service outlets which deal directly with the customer for whom the goods or services are furnished.

(2) The uses allowed in this District are to provide goods and services to the local community and are to be located in areas which are served by public highway facilities.

(B) *Permitted uses.* The following uses shall be permitted:

- (1) Grocery stores;
- (2) Liquor stores;
- (3) Drugstores;
- (4) Beauty and barber shops; and
- (5) General, professional, real estate, medical, and dental offices.

(C) *Permitted accessory uses.* The following accessory uses shall be permitted: buildings and other structures accessory to the principal use, provided that the building or structures are constructed in the same architectural style as the principal building or structure.

(D) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076:

(1) Municipal and public utility buildings and structures necessary for the health, safety, and general welfare of the community, provided that the requirements established in § 151.050(D)(2) shall apply and govern;

(2) Non-neon signs and non-neon informational visual communication devices, provided that the requirements established in § 151.050(D)(5) shall apply and govern;

(3) Townhouse dwellings, as permitted and provided for in § 151.055(D)(2), provided further that any and all applicable provisions of this and other ordinances are complied with; and

(4) Day nursery and/or child-care center.

(E) *Lot area requirements.* The minimum size of the lot, tract, parcel or other division of land shall be of sufficient size to accommodate the use intended thereon so that all of the requirements imposed by this chapter shall be complied with.

(F) *Setbacks.* No well, building, or structure, except fences, screening, planting strips, and landscaping in compliance with §§ 151.033 and 151.034, shall be located within 30 feet of the lot lines, 100 feet of a residential district, 100 feet of a highway right-of-way, or 30 feet of any wetland.

(G) *Building heights and lot coverage.* The building height and lot coverage requirements of the Commercial/Service District in § 151.058(L)(2) shall apply and govern.

(H) *Parking.* The parking requirements of the Commercial/Service District in § 151.058(H), (L)(5), and (L)(6) shall apply and govern.

(I) *Special minimum requirements.* The following requirements of the Commercial/Service District shall apply and govern:

(1) Architectural design - § 151.058(L)(1);

(2) Landscaping and irrigation - § 151.058(L)(3);

(3) Preservation of wooded areas - § 151.058(L)(4);

(4) Utilities - § 151.058(L)(7);

(5) Outdoor storage - § 151.058(L)(8);

(6) Loading and service areas - 151.058(L)(9);

- (7) Screening from residential district - 151.058(L)(10);
- (8) Compatibility - § 151.058(L)(11);
- (9) Lighting - § 151.058(L)(12); and
- (10) Signing - § 151.058(M).

(J) *Special provisions.*

(1) The following special provisions shall apply.

(2) All buildings and structures must be served by a central sewer system.

(Ord. 94, § 7.13, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.058 CS - COMMERCIAL/SERVICE DISTRICT.

(A) *Purpose.*

(1) The purpose of the CS - Commercial/Service District is to provide community-based goods and services to the city and adjacent communities in a high-quality development where a unique opportunity exists.

(2) The District will be located at the intersection of State Highways 96 and 49, and will not depend on any city road system for access.

(3) The District will be screened from all adjacent city properties and will have a minimum area of twenty acres and a maximum of 30 acres to accomplish appropriate aesthetic treatments, circulation, utilities, and buffering.

(4) The architectural design of development in the District is intended to compliment the predominantly residential character of the city.

(B) *Permitted uses.* Within the CS - Commercial/Service District, no structure or land shall be used except for 1 or more of the following retail sales and service businesses supplying commodities or performing a service primarily for residents of the surrounding neighborhood:

- (1) Grocery store;
- (2) Off-sale liquor store;
- (3) Drugstore;

- (4) General, professional, real estate, financial, medical, and dental office; and
- (5) Shopping center.

(C) *List of permitted uses within a shopping center.*

- (1) Any single permitted use shall not exceed 15,000 square feet;
- (2) Any use permitted in the C - Commercial District;
- (3) Art and school supply store;
- (4) Art gallery;
- (5) Antique or gift shop;
- (6) Bakery goods sales and baking of goods for retail sales on the premises;
- (7) Bank;
- (8) Barber shop;
- (9) Beauty shop;
- (10) Bookstore;
- (11) Camera and photographic supply;
- (12) Candy store;
- (13) Delicatessen;
- (14) Drugstore;
- (15) Dry cleaning and laundry pickup stations, including incidental pressing and repair (no on-site cleaning operations);
- (16) Florist;
- (17) Furniture boutique;
- (18) Greeting cards and gifts;
- (19) Grocery store, fruit or vegetable store;

- (20) Hardware store;
- (21) Hobby store;
- (22) Home remodeling showroom;
- (23) Insurance agency;
- (24) Jewelry sales and jewelry repair store;
- (25) Locksmith;
- (26) Meat and fish market, but not including processing for a locker;
- (27) Medical and dental clinic or offices;
- (28) Music store;
- (29) Office supply and stationery store;
- (30) Paint, wallpaper, tile, and floor covering sales;
- (31) Pet foods and supplies;
- (32) Photographic studio;
- (33) Postal service (not post office);
- (34) Shoe sales and repair;
- (35) Sporting goods;
- (36) Travel agency;
- (37) Toy store; and
- (38) Wearing apparel (new) shop.

(D) *Conditional uses within a shopping center.*

- (1) Any single user over 15,000 square feet;
- (2) Day care (drop-in center only);

(3) Health club;

(4) Aerobics/dance studio;

(5) Ice cream, popcorn, frozen dessert, soft drink, and/or coffee shop;

(6) Outdoor live plant display incidental to a floral shop limited to the lesser of 2,000 square feet or 5% of the building;

(7) Restaurants with accumulated square footage limited to less than 15% of the shopping square footage; and

(8) Video stores.

(E) *Permitted accessory uses.*

(1) Within the CS - Commercial/Service District, the following uses shall be permitted accessory uses.

(2) Buildings and other structures for any incidental repair, processing, or storage necessary to conduct a principal use, provided that the building or structures are constructed in the same architectural style as the main building or structure.

(F) *Conditional uses.* Within the CS - Commercial/Service District, the following conditional uses maybe permitted, but only after securing a conditional use permit in accordance with § 151.076:

(1) Drive-through facilities for banks attached to principal structure, with or without an automatic teller machine;

(2) Restaurant with/without on-sale liquor, without drive-through, sit-down service for a minimum of 80 seats, a minimum of 6,000 square feet of total floor area, and with/without outdoor seating; and

(3) Assisted living facility serving persons over 70 years of age who have medically diagnosed dementia.

(G) *Lot area, lot width, and yard requirements.* The following minimum requirements shall be observed subject to additional requirements, exceptions, and modifications as set forth in this chapter.

(1) Lot area - 2 acres (or 1-acre minimum with a 2-acre average in a multi-lot subdivision).

(2) Lot width - 200 feet of road frontage.

(3) Setbacks:

<i>Location</i>	<i>Basic Setback</i>	<i>From Res. District</i>	<i>From Hwy. ROW</i>	<i>Private Road</i>
<i>Principal Structure:</i>				
Front Yard	30 feet	100 feet	100 feet	30 feet
Side Yard	30 feet	100 feet	100 feet	30 feet
Rear Yard	30 feet	100 feet	100 feet	30 feet
Attached Canopy	30 feet	100 feet	50 feet	30 feet
Interior Lot Line	Setback may be reduced in half when accompanied by a maintenance easement and maintained by a land owner's association.			
<i>Accessory Structure:</i>				
Front Yard	30 feet	100 feet	75 feet	30 feet
Side Yard	30 feet	100 feet	75 feet	30 feet
Rear Yard	10 feet	100 feet	75 feet	30 feet

(H) *Parking.*

(1) Table:

<i>Location</i>	<i>Basic Setback</i>	<i>From Res. District</i>	<i>From Hwy. ROW</i>	<i>Private Road</i>
Front	30 feet	50 feet	30 feet	30 feet
Side Interior	10 feet	40 feet	30 feet	30 feet
Street Side	30 feet	40 feet	30 feet	30 feet
Rear Yard	15 feet	40 feet	30 feet	30 feet
Shared parking with cross-easements and owner's association	0 feet (from adj. parking)	-	-	-
Utility Structures	5 feet	10 feet	30 feet	30 feet

(2) (a) Perimeter development setbacks may be adjusted by obtaining a permanent scenic easement on adjacent property.

(b) The deviation from the normal required setbacks must then be added to the setback requirements of the adjacent property and documented with a permanent scenic easement on both properties.

(I) *Sewer.* All lots in this District shall be served by a central sanitary sewer collection system which ultimately discharges into the regional sewer system.

(J) *Site and building plan review.*

(1) For all development within the Commercial/Service District, a site plan and building plan must be submitted to the city for review by the Planning Commission and approval by the City Council.

(2) (a) The site plan shall be prepared by licensed architects, engineers, surveyors, or landscape architects and address all of the standards and requirements of this chapter.

(b) No building permit can be given without site plan approval.

(3) (a) A landscape plan will be submitted on a timely basis to the City Forester who will prepare a written report assessing the plan.

(b) The plan shall be submitted for review by the Planning Commission and approval by the City Council.

(K) *Land owners association.* A land owners association shall be formed to include all property within the contiguous CS-zoned District for the purpose of managing the affairs of the individual lot owners, common land, and property, and to fulfill the obligations of the Metropolitan Council Environmental Service, the Minnesota Department of Transportation, and other governmental agencies.

(L) *Special minimum requirements in the CS - Commercial/Service District.*

(1) *Architectural design.*

(a) 1. Buildings shall be finished on all sides with permanent finished materials of a quality consistent with the standards in the District.

2. Exterior wall surfaces shall be face brick or stone.

3. The minimal use of wood trim, architecturally treated concrete, architectural steel trim and decorative features, or decorative block may also be used if incorporated in a building design which is compatible with other development throughout the District.

4. No building exterior shall be constructed of sheet aluminum, iron, steel, or corrugated aluminum.

(b) Garages, accessory structures, screen walls, and exposed areas of retaining walls shall be of a similar type, quality, and appearance as the principal structure.

(c) 1. All buildings shall have sloping roofs with a residential-type pitch and an eave overhang on all sides.

2. Based on architectural uniqueness, the City Council may grant a variance to architectural treatment and materials.

(d) All buildings within 300 feet of an existing residential neighborhood shall submit site and building plans to the Home Owners' Association Architectural Review Committee for review of compatible architectural design prior to review by the City of North Oaks Planning Commission.

(2) *Building height and lot coverage.*

(a) No building in the CS-Commercial/Service District may exceed 2 stories nor 35 feet in height.

(b) No building shall cover more than 30% of the lot.

(3) *Landscaping and irrigation.*

(a) At least 30% of the land area (the combined total of all lots in the subdivision) shall be landscaped with grass, approved groundcover, shrubbery, trees, and may include amenity ponds, landscape features, and public plazas.

(b) 1. At least 5% of the land area within a parking lot shall be landscaped.

2. All landscaped areas shall be irrigated, except low maintenance areas of native plantings which are not to exceed 25% of the total landscape area.

(c) The following minimum standards for landscaping shall be required at the time of planting:

<i>Type of Planting</i>	<i>Minimum Quantity per 1,000 Sq. Ft. of Building</i>	<i>Minimum Size</i>
Overstory Deciduous Trees	2 (6)*	3 inches diameter
Ornamental Trees	2 (6)	2 inches diameter
Coniferous Trees	2 (6)	10 feet tall
Major Shrub Plantings	10 (30)	5 gallons

NOTES TO TABLE:
* Figures in parentheses apply to freestanding restaurants.

(d) 1. Plantings adjacent to building and parking lots may combine tree quantity requirements into larger plants on a caliper inch basis.

2. Plantings may consist of mixed sizes equaling the same average caliper inch requirement with no more than 50% being under the required size.

3. The reduction in sizes must be approved by the City Forester.

(e) 1. A landscape credit to a maximum limit of 25% may be given when site amenities (fountains, gazebos, plazas, and the like) are added to the development for public enjoyment.

2. The credit shall be based on the dollar value of the amenity substituting for an equal value of landscape plantings.

3. The credit cannot reduce screening requirements or green space requirements.

(f) Perimeter berms are required separating commercial from residential uses. The berm must be designed and built to successfully screen commercial activity. The berm must be a minimum of 40 feet in width, 4 to 7 feet in height, 4 to 1 side slopes, and fully landscaped as follows:

1. Native grasses and flowers should be used where possible and established on the berm within 3 months of finishing grading. In addition to turf establishment, the following plants on average will be installed per 100 linear feet of berm.

<i>Quantity</i>	<i>Size</i>	<i>Type</i>
2	3½-inch Caliper	Shade Tree
2	2½-inch Caliper	Ornamental Tree
3	10-foot Height	Evergreen Tree
20	3-foot Height	Native Shrub

2. a. In bermed areas without irrigation, the size may be reduced in half if the quantity is doubled.
- b. Plant species and size may be approved by the City Forester.
- c. Plantings must be placed on both sides of the berm in a fashion to maximize their screening effect.

(4) *Preservation of wooded areas.*

- (a) Every effort shall be made to preserve existing wooded areas.
- (b) A minimum of 20% of the existing quality trees as defined by the City Forester shall be saved.
- (c) A landscape credit will be given of up to 8 caliper inches per deciduous tree and 30 feet of height per coniferous tree for those trees preserved above the required 20%.
- (d) Confirmation of a successful tree preservation program will be given by the City Forester.
- (e) Any existing preserved tree that dies within the first 5 years shall be replaced.
- (f) Any newly planted tree that dies at any time will be replaced.
- (g) Any preserved tree that dies and was used for landscape credit must be replaced with trees equal to the credit given.

(5) *Design of parking areas.* Design and maintenance of off-street parking areas shall be in accordance with the following minimum standards.

(a) 1. All parking stalls shall be a minimum of 9 feet wide by 18 feet deep, except handicapped stalls, which shall be 12 feet wide by 18 feet deep.

2. Parking stalls for uses that generate parking turnover of 4 times a day or more shall be 10 feet wide.

(b) All parking stalls shall be served adequately by access drives, shall not be located directly off of public or private streets, and shall be clearly marked on the pavement.

(c) 1. All 2-way driving lanes between parking stalls shall be a minimum of 24 feet wide.

2. All 1-way driving lanes a minimum of 15 feet wide.

(d) Parking bay dimensions shall conform to the following minimum standards:

<i>Aisle</i>	<i>90 Degree</i>	<i>60 Degree</i>	<i>45 Degree</i>
Double-loaded Aisle	60 feet	50 feet	45 feet
Single-loaded Aisle	42 feet	34 feet	30 feet

(e) 1. All area for parking and driveways shall be surfaced with concrete, bituminous material, or approved equivalent.

2. A non-surmountable concrete curb of approved design shall be provided around the perimeter of all parking areas and driveways.

(f) 1. All parking shall be on the same lot as the use it serves, except in the case of a joint parking agreement between two abutting lots, as provided for below.

2. The agreement shall be described in a properly drawn legal instrument approved by the City Attorney and filed with the City Clerk.

(6) *Number of parking spaces.*

(a) Parking stalls shall be provided according to the following minimum standards:

<i>Use</i>	<i>Required Parking</i>
General Commercial	6.7 spaces per 1,000 square feet of gross floor area of customer sales and service, for the first 10,000 square feet, plus 5.5 spaces/1,000 square feet thereafter
General Commercial	5 spaces per 1,000 square feet of storage or office net floor area; restaurant use must be calculated separately if it exceeds 15% of the building
Bank	5 spaces per 1,000 square feet, plus 5 stacking spaces per drive through lane
Beauty and Barber Shop	3 spaces per operator or 10 spaces per 1,000 square feet, whichever is greater, plus 1 space per employee on the largest work shift
Convenience Grocery	8 spaces per 1,000 square feet, for 6,000 square feet or less of gross floor area
Grocery Store	6 spaces per 1,000 square feet of net floor area of customer sales and service, plus 5 spaces per 1,000 square feet of storage or office net floor area
Restaurant (without liquor)	1 space per 2.5 seats, or 16.7 spaces per 1,000 square feet of net floor area, whichever is greater
Restaurant (with liquor)	1 space per 2 seats, or 1 space per 2.5 seats, plus 50 spaces per 1,000 square feet of the combined bar, lounge, and public space, excluding the first 250 square feet. plus 20 spaces per 1,000 square feet of banquet dining area. plus 1
General Office Building (less than 6,000 square feet)	6.7 spaces per 1,000 square feet

General Office Building (more than 6,000 square feet)	5 spaces per 1,000 square feet
Medical or Dental Office	6.7 spaces per 1,000 square feet
Video Store	6 spaces per 1,000 square feet, plus 1 space per employee on the largest work shift

(b) 1. Required parking facilities serving 2 or more uses may be located on the same lot, provided that the total number of parking spaces shall not be less than the sum of the separate requirements for each use during any peak parking period.

2. All joint parking provided in this manner shall be within 400 feet of the use it serves.

3. The applicant shall show that there is not a substantial conflict in the principal operating hours of the uses involved.

(c) A reduction in the required parking may be granted if the City Council finds that the unique characteristics of the proposed use are such that it will generate a need for less parking than the ordinance standard.

(7) *Utilities.* The ground level view of all mechanical utilities shall be screened from contiguous properties and adjacent roads and streets, or designed to be compatible with the architectural treatment of the principal structure.

(8) *Outdoor storage.* There shall be no outdoor storage of either materials or products.

(9) *Loading and service areas.*

(a) External loading and service areas must be screened from the ground level view from contiguous residential or commercial land and adjacent roads and streets, except at access points.

(b) Trash enclosures will be built to match the principal structure and provide full enclosure of all trash and recyclable items.

(c) All restaurants must have interior trash storage.

(10) *Screening from residential district.*

(a) Wherever a CS - Commercial/Service District abuts, or is across the street from a residential district, a landscaped berm not less than an average of 5 feet in height, shall be erected and maintained.

(b) Where traffic visibility must be provided, it shall be not less than 3 feet nor more than 4 feet in height.

(c) Buffer plantings and berm may be placed on adjacent land when combined with a scenic easement and maintenance agreement.

(11) *Compatibility.* The Planning Commission may review and require changes prior to Council approval of any aspect of development pertinent to community concerns as addressed in the Comprehensive Plan or city ordinances.

(12) *Lighting.*

(a) All exterior lighting shall be designed and arranged in a manner compatible with the architectural design of the buildings.

(b) 1. All exterior lighting shall be designed and arranged so as to not direct any illumination upon or into contiguous residential districts.

2. The light from automobile headlights shall be screened whenever it may be directed onto adjacent residential windows.

(c) Exterior lighting shall be arranged and designed so that there is no direct viewing angle of the illumination source by pedestrian or vehicular traffic in roads and streets.

(d) Reflected glare or spill light from exterior lighting sources may not exceed 0.3-foot candle as measured on the property line of an abutting residential district or 1-foot candle measured on the land line abutting any other district.

(M) *Commercial/Service District signage standards.* In addition to the conditional use permit requirements for signs in § 151.050(D)(4), within the Commercial/Service District these additional standards will be applied to all signage when reviewing each individual sign through the conditional use permit process.

(1) *Freestanding signs.* One freestanding ground sign is permitted for each street frontage on the lot with a maximum of 2 signs. The sign is restricted by these conditions and others as may be set forth by the city.

(a) The sign shall not be larger than 80 square feet. The second sign for the second street frontage shall not be larger than 40 square feet.

(b) No pylon signs are allowed. All freestanding signs must be ground monuments with a height no greater than 8 feet.

(c) The monument signs cannot be placed on an earthen mound or berm which would raise the bottom of the sign more than 4 feet above the normal ground level. The base for monument signs shall be built out of matching masonry work for the building it serves.

(d) Landscaping is required around the base of each sign consisting of shrubs, flowers, ornamental trees, and evergreens in an area no less than 6 times the area of each sign face.

(e) All freestanding signs must be set back 15 feet from the land line.

(f) No 2 signs shall be closer than 300 feet from one another.

(g) No sign or its illumination shall be visible from any residential land.

(2) *Building signs.*

(a) Signs attached to buildings shall be limited to 1 sign per face of the building which has a road or street frontage.

(b) The size of the sign will be limited to 5% of the wall surface where the sign is to be located, not including gables, mansard, or parapet extensions of the wall.

(c) Maximum sign size for any wall is 80 square feet.

(3) *Multiple-tenant retail building signage.*

(a) With the approval of the building and its site plan, a signage plan is also required depicting signage standards for the entire building.

(b) Signage will be limited to tenant marquees on the road and street side of the building, depicting only the name of the tenant. Building signs advertising products are prohibited.

(c) Lettering size will be limited to individual letters, 2 feet in height for all upper case and lower case letter combinations, with a 2.5 foot maximum for upper case text including ascenders and descenders.

(d) Tenant signage is limited to only the store front area occupied by the tenant.

(e) All tenant signs will correspond to the sign plan submitted by the builder/owner, which will contain consistent materials and illumination for all signage.

(4) *Window signs.*

(a) Any window sign containing letters, words, symbols, devices, posters, pictures, statuary, reading material, or representation in the nature of an advertisement, announcement, message, or visual communication, posted or attached in the window area, shall not need a conditional use permit if the signage does not exceed 50% of the total window area along any side of a tenant unit.

(b) The signage may be either temporary or permanent, but must be professionally designed and use nonprohibited materials.

(c) Public safety information, addresses, and hours of business information is excluded from window area computations.

(5) *Promotional signs.*

(a) A maximum of 2 temporary promotional signs not exceeding 24 square feet in area shall be permitted for special events, subject to notification of adjoining tenants, the building owner, and approval of the Planning Commission.

(b) 1. Plans for signs which may include sandwich style boards, banners, and streamers, and their placements shall be submitted to and approved by the Planning Commission.

2. The use of these signs shall be discontinued within 15 days after the first day and shall not be used in that location again until 30 days has lapsed between use. The use shall not be at any location more than 30 days per calendar year.

(6) *Prohibited signs.* The following types of signs or sign components shall be prohibited:

- (a) Roof-top signs;
- (b) Inflatable signs;
- (c) Moving or rotating signs;
- (d) Flashing lights, revolving beacons, or sequential flashers;
- (e) Exposed raceways, ballast boxes, or transformers;
- (f) Noise emitting signs;
- (g) Overhanging or sandwich signs in sidewalk, parking, or traffic areas;
- (h) Awning signs;
- (i) Portable or mobile signs such as trailer signs or semi-trucks; and
- (j) Neon signs.

(7) *Conditions to sign approval.*

(a) In addition to the review of sign location, size, content, material, and illumination, the city may require adherence to additional conditions to mitigate the impact of signs on the aesthetics of the city and its residents.

(b) These additional conditions may include requirements in architectural detail and materials used on the building and/or signs; additional landscaping to mitigate the impact of signage; additional setbacks for signs to provide a more aesthetic placement; and other requirements as may be deemed appropriate for sign approval by the city.

(Ord. 94, § 7.14, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.059 LI - LIMITED INDUSTRIAL DISTRICT.

(A) *Purpose.* This District is established to provide Home Owners Association and recreational maintenance center uses compatible with the natural environment and conforming to the level of service available and to provide the community facilities as will enhance the quality of the area.

(B) *Permitted uses.* The following uses shall be permitted:

(1) All uses that are permitted in the Residential Single-Family Medium Density District in § 151.051(B);

(2) Utility buildings and structures necessary for the housing of equipment, materials, and operations involved with the maintenance activities of a Home Owners Association within the city;

(3) Essential services; and

(4) Wireless telecommunications service antenna structure and accessory structures, pursuant to §§ 150.001 *et seq.*

(C) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076: private business involved in maintenance operations provided that, the entire scope of operations of the business is exclusively dealing with a Home Owners Association within the city.

(D) *Lot area requirements.* No lot, parcel, or tract of land wholly or partly within an LI District shall be hereafter divided in any manner, unless:

(1) The minimum area of any lot, tract, or parcel shall be 3.5 acres; and

(2) The lot area meets the definitions of a suitable site and usable area, as defined in this chapter.

(E) *Setbacks.* The setback requirements of the Residential Single-Family Low Density District in § 151.050(F) and, if applicable, §§ 150.001 *et seq.* shall apply and govern.

(F) *Building heights.* The building height requirements of the Residential Single-Family Low Density District in § 151.050(G) and, if applicable, the §§ 150.001 *et seq.* shall apply and govern.

(G) *Floor area ratio.* The floor area ratio (FAR) of all buildings on any lot shall not exceed 0.12.

(H) *Special provisions.* The following special provisions shall apply.

(1) Screening is provided in compliance with § 151.034.

(2) Adequate off-street parking, loading, and service entrances are provided in compliance with § 151.028.

(3) All accessory equipment is completely enclosed in a permanent structure with no outside storage.

(4) Section 151.083 is complied with.

(Ord. 94, § 7.15, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.060 R - RECREATION DISTRICT.

(A) *Purpose.* This District is established so that the area therein shall be preserved in its natural state for the benefit of the residents or developed for the recreational use of the residents.

(B) *Permitted Uses.* The following uses shall be permitted:

(1) Passive recreation which may include trails designated for walking, skiing, snowshoeing, provided that no motorized vehicles of any kind, except those used for the maintenance of the land and property, shall be permitted within the District;

(2) Botanical and other ornamental uses; and

(3) Historical sites.

(C) *Permitted accessory uses.* The following accessory uses shall be permitted:

(1) Small buildings or structures, not to exceed 500 square feet, directly related to a permitted use or its maintenance; and

(2) Nonilluminated signs or informational visual communication devices not to exceed 2 square feet.

(D) *Conditional uses.* The following conditional uses maybe permitted, but only after securing a conditional use permit in accordance with § 151.076:

(1) Active recreation areas, not including buildings or structures, but which may include playgrounds, beaches with or without nonmotorized boat launches, skiing, skating, team and individual sports areas, provided that:

(a) Conformity with the surrounding neighborhood is maintained;

(b) Screening is provided in compliance with § 151.034;

(c) Adequate off-street parking and loading are provided in compliance with § 151.028;

(d) Signs and informational visual communication devices comply with the provisions of § 151.050(D)(5); and

(e) Section 151.083 is complied with.

(2) Buildings or structures in excess of 500 square feet directly related to the performance or maintenance of active and passive recreation uses, provided that:

(a) Conformity with the surrounding neighborhood is maintained;

(b) Screening is provided in compliance with § 151.034;

(c) Adequate off-street parking, loading, and service entrances are provided in compliance with § 151.028;

(d) Signs and information visual communication devices comply with the provisions of § 151.050(D)(5); and

(e) Section 151.083 is complied with.

(E) *Lot area requirements.* The minimum size of the lot, tract, parcel, or other division of land shall be of sufficient size to accommodate the use intended thereon so that all of the requirements of this chapter can be complied with.

(F) *Setbacks.* The setback requirements of the Residential Single-Family Low Density District in § 151.050(F) shall apply and govern.

(G) *Building heights.* The height of any building shall not be in excess of 20 feet. (Ord. 94, § 7.16, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.061 OS - OPEN SPACE DISTRICT.

(A) *Purpose.* This District is established to provide for the preservation and maintenance of land in its predominate natural and scenic condition, except as permitted in easements or other agreements to which the city is a party or has consented.

(B) *Permitted uses.* The following uses should be permitted: those uses listed and regulated as permitted uses in a PDA, easement, and/or other agreements to which the city is a party or has consented.

(C) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076: those uses listed and regulated as conditional uses in a planned development agreement, easement, and/or other agreements to which the city is a party or has consented.

(Ord. 94, § 7.17, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.062 HP - HISTORIC PRESERVATION DISTRICT.

(A) *Purpose.* This District is established to provide for the preservation and restoration of sites of historical value.

(B) *Permitted uses.* The following uses shall be permitted:

(1) Preserved, rehabilitated, or reconstructed buildings and structures necessary for the development and preservation of the historical features of the site; and

(2) Essential services.

(C) *Conditional uses.* The following conditional uses may be permitted, but only after securing a conditional use permit in accordance with § 151.076:

(1) Accessory buildings or structures necessary for maintenance, security, or administration of the facility;

(2) Non-neon signs and non-neon informational visual communication devices, except as prohibited in § 151.050(D)(1)(d), provided that:

(a) The height of the sign or device does not exceed the height of the principal structure or the structure to which it is affixed;

(b) The architectural style and design shall not be so dissimilar to the surrounding buildings or area so as to adversely impact adjoining land;

(c) There are no moving or flashing parts and any illumination shall be in compliance with § 151.031;

(d) The sign or device is permanently fixed to the land or to a building or structure;

(e) The sign or device is not a billboard and is associated with the principal use of the land; and

(f) Section 151.083 is complied with.

(3) Access driveways with a setback of not less than 15 feet, provided that:

(a) Topographical conditions prevent reasonable access elsewhere on the lot or a large tree or major group of trees would be preserved; and

(b) Section 151.083 is complied with.

(D) *Lot area requirements.* The lot area requirements of the Residential Single-Family Low Density District in § 151.050(E) shall apply and govern.

(E) *Setbacks.* The setback requirements of the Residential Single-Family Low Density District in § 151.050(F) shall apply and govern.

(F) *Building height.* Building heights are limited to the height of the original building or structure being preserved. The building height requirements of the Residential Single-Family Low Density District in § 151.050(G) shall in other cases apply and govern.

(G) *Floor area ratio.* The floor area ratio (FAR) of all buildings on any lot shall not exceed 0.12.

(H) *Special provisions.* The following special provisions shall apply:

(1) Screening is provided in compliance with § 151.034;

(2) Adequate off-street parking, loading, and service entrances are provided in compliance with § 151.028; and

(3) Section 151.083 is complied with.

(Ord. 94, § 7.18, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

§ 151.063 SHORELAND DISTRICT.

The Shoreland Zoning Districts shall be administered in accordance with the Shoreland Ordinance, an Ordinance for the Management of Shoreland Areas within the city.

(Ord. 94, § 7.19, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT PROCEDURES

§ 151.075 ZONING ADMINISTRATOR.

(A) The Zoning Administrator shall enforce this chapter and accordingly is authorized, but not limited to:

(1) Maintain or cause to be maintained permanent and current records provided for and/or related to this chapter;

(2) Review, analyze, and develop written reports on all applications for appeals, variances, amendments, conditional use permits, or other developmental matters;

(3) Issue notice of noncompliance and cease and desist orders for projects not in full compliance with the conditions of any permit;

(4) Issue citations and notice of revocations or take other actions as necessary to revoke or terminate a permit; and

(5) Request the City Council to institute any appropriate actions or proceedings against any violator.

(B) Whenever any work, development, or other project shall have been stopped for any reason whatsoever, it shall not again be resumed until the reason for the stoppage has been completely removed and written approval to proceed has been received from the Zoning Administrator.

(Ord. 94, § 8.1, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.076 CONDITIONAL USE PERMITS.

(A) The purpose of this section is to provide the city with a reasonable degree of discretion in determining the effect of certain designated uses upon the general welfare, public health, and safety.

(B) A request for a conditional use permit shall follow the applicable procedures as set forth in § 151.079.

(C) The Planning Commission shall consider the effect of the proposed conditional use and whether additional requirements may be necessary to reduce any adverse effects. Consideration shall be given to, among other things, the following factors:

(1) Relationship of the proposed conditional use to the Comprehensive Plan;

- (2) The nature of the land and adjacent land or building where the use is to be located;
- (3) Whether the use will in any way depreciate the area in which it is proposed;
- (4) The effect upon traffic into and from the land and on adjoining roads, streets, and highways;
- (5) Whether the use would disrupt the reasonable use and enjoyment of other land in the neighborhood;
- (6) Whether adequate utilities, roads, streets, and other facilities exist or will be available in the near future;
- (7) Whether the proposed conditional use conforms to all of the provisions of this chapter;
- (8) The effect upon natural drainage patterns onto and from the site;
- (9) Whether the proposed use will be detrimental to or endanger the public health, safety, comfort, convenience, or general welfare of the neighborhood or the city;
- (10) Whether the proposed use would create additional requirements at public cost for public facilities and services and whether or not the use will be detrimental to the economic welfare of the neighborhood or city; and
- (11) Whether the proposed use is environmentally sound and will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, land, or the general welfare because of excessive production of traffic, noise, smoke, fumes, wastes, toxins, glare, or odors.

(D) Whenever an application for a conditional use permit has been considered and denied by the City Council, subsequent applications for a similar conditional use permit affecting substantially the same land or use shall not be considered again by the Planning Commission and City Council until 6-months' time has elapsed unless, by a majority vote of the full City Council, this time period is waived.

(E) If all of the work entailed by the conditional use permit is not completed within the time period specified in the permit, the permit shall become null and void and otherwise revoked unless an extension of time to complete the work has been granted by the City Council in accordance with the provisions of § 151.080.

(F) Upon approval of a conditional use permit, the city shall be provided with a performance bond in compliance with § 151.081.

(Ord. 94, § 8.2, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.077 AMENDMENTS.

(A) The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text and/or the district boundaries of this chapter. Any owner, or expressed agent thereof, of real estate within the city may initiate a request to amend the district boundaries and/or text of this chapter.

(B) A request for an amendment shall follow the applicable procedures as set forth in § 151.079.

(C) The Planning Commission, in determining the effects of the proposed amendment, shall consider, among other things, the following factors:

- (1) Consistency with the Comprehensive Plan;
- (2) The public need for additional land space for the requested use in the location requested;
- (3) The compatibility of adjacent land uses;
- (4) The possible presence and effects of noise, odors, or other nuisances; and
- (5) Availability in the present or near future of necessary utilities and public services.

(Ord. 94, § 8.3, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.078 VARIANCES AND APPEALS.

(A) The City Council shall act as the Board of Appeals and Adjustments and as such have all the powers set forth in M.S. § 462.357, Subd. 6, and M.S. § 462.359, Subd. 4, as they may be amended from time to time, subject to the right of judicial review.

(B) The City Council, serving as the Board of Appeals and Adjustments by majority vote of the entire Council, shall:

- (1) Hear and decide timely appeals where it is alleged by the appellant that error has occurred in any order, requirement, decision, or determination made by the Building Inspector in the enforcement of this chapter. To be timely, an appeal shall be filed, in accordance with § 151.079(A) not later than 30 days after the appellant has received a written notice from the Building Inspector; and
- (2) Hear and decide requests for variances from the literal provisions of this chapter in instances where the strict enforcement would cause undue hardship because of circumstances unique to the specific land under consideration.

(C) A request for a variance or an appeal shall follow the applicable procedures of § 151.079.

(D) If more than 1 variance is necessary for a particular project, the applicant shall apply for all the variances contemporaneously unless otherwise permitted by the City Clerk or Zoning Administrator.

(E) A variance from the literal provisions of this chapter may be granted by the City Council, serving as the Board of Appeals and Adjustments, only when it is demonstrated that:

(1) (a) Their strict enforcement would cause practical difficulties because of circumstances unique to the individual land under consideration, and the variances shall be granted only when it is demonstrated that the actions will be in keeping with the spirit and intent of this chapter.

(b) **PRACTICAL DIFFICULTIES** means the land in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the land owner is due to circumstances unique to the land in question which were not created by the land owner, and the variance, if granted, will not alter the essential character of the locality.

(c) Economic considerations alone shall not constitute an undue hardship if reasonable use for the land exists under the terms of this chapter.

(d) A variance may not be granted for any use that is not permitted under this chapter for land in the zone where the affected person's land is located.

(2) Subject to the above, a variance may be granted only in the event that all of the following circumstances exist:

(a) Unique circumstances apply to the which do not generally apply to other land in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of the land have no control;

(b) The proposed uses is reasonable;

(c) That the unique circumstances do not result from the actions of the applicant;

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

(e) That the Variance requested is the minimum variance which would alleviate the practical difficulties;

(f) The proposed variance will not impair an adequate supply of light and air to adjacent land, or substantially increase the congestion of the roads and streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood; and

(g) At no time after the land became nonconforming was the property under common ownership with contiguous land, the combination of which could have been used to reduce or avoid the nonconformity of the land.

(F) The City Council, serving as the Board of Appeals and Adjustments, shall also have the power to impose conditions related to the appeal or variance regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable to assure compliance with the intent and purpose of this chapter.

(G) If all of the work as permitted by the variance shall not have been completed within the time period specified when the variance is granted, then the variance shall become null and void and otherwise revoked unless an extension of time to complete the work has been granted by the City Council in accordance with the provisions of § 151.080.

(H) Upon approval of a variance or appeal, the city shall be provided with a performance bond in compliance with § 151.081.
(Ord. 94, § 8.4, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003; Am. Ord. passed 3-8-2018) Penalty, see §10.99

§ 151.079 PROCEDURES FOR REQUESTING CONDITIONAL USE PERMITS, AMENDMENTS, VARIANCES, AND APPEALS.

(A) (1) A request for a conditional use permit, and amendment, a variance or appeal as provided for in this chapter shall be filed with the City Clerk on an official application form.

(2) The application shall be accompanied by a nonrefundable fee as established in § 151.083.

(3) The application shall also be accompanied by as many copies as may be required by the city of detailed written and graphic materials fully explaining the proposed request.

(4) The City Clerk shall refer the application along with all related information to the Zoning Administrator, Building Inspector, and to the Planning Commission.

(B) (1) The Zoning Administrator shall review and analyze the request and submit a written report and recommendation to the Planning Commission within 14 days after receiving the application, which report shall be entered in and made part of the permanent record of the Planning Commission meeting.

(2) (a) Notwithstanding anything contained in this chapter or any other ordinance of the city to the contrary, the Zoning Administrator following the review and recommendation by a MPCA-certified inspector has the authority to grant a variance not to exceed 15 feet into the setback for the repair or replacement of an Individual sewage treatment system without referral of the application to the Planning Commission or approval by the City Council.

(b) This action shall only be taken when an MPCA-licensed inspector determines that a delay in processing the variance request through normal channels will endanger the health and safety of the city's residents.

(c) Prior to granting the variance, the Zoning Administrator shall secure the written approval of the Mayor or 1 member of the City Council.

(3) The Mayor and Council shall be informed of the granting of any variance at the next regular Council meeting.

(C) The Planning Commission shall consider the request at its next regular meeting unless the request is referred to it less than 15 days prior to the meeting, in which case the request shall be considered at the next subsequent regular meeting following thereafter.

(D) If the request is for a conditional use permit or an amendment, the Planning Commission shall hold a public hearing, which hearing shall be scheduled and conducted as follows.

(1) Notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city at least 10 days prior to the date of the hearing.

(2) Similar notice shall be mailed at least 10 days but not more than 30 days prior to the day of hearing, to each owner of other land situated wholly or partly within 350 feet of the land to which the request relates if the request is for a conditional use permit or an amendment which involves changes in district boundaries affecting an area of 5 acres or less.

(3) A copy of the notice, and, when applicable, a list of the names and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings.

(4) Failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply herewith has been made.

(5) The Planning Commission shall set reasonable rules for the conduct of the hearing and shall follow Robert's Rules of Order.

(E) When the application concerns conditional uses and/or amendments, the Planning Commission shall make findings of fact and recommend approval or denial 60 days after a complete application has been received, which findings and recommendation shall be presented in writing to the City Council.

(F) The City Council shall not consider a conditional use permit or an amendment until it has received the findings and recommendation from the Planning Commission unless more than 60 days have expired after the Planning Commission first considered the request, in which event the City Council may take action on the request upon its own initiative.

(G) (1) The City Council shall make findings of fact and render a decision within 60 days after it receives any recommendation from the Planning Commission or takes its own initiative.

(2) All reports, recommendations, and findings documenting the reasons for the decision shall be made part of the permanent record of the City Council meeting.

(H) Approval of a request for a conditional use or an amendment shall be by affirmative vote of 4/5 of the City Council, when at least 4 members are present.

(I) When the application concerns variance and/or appeals, the Planning Commission shall make findings of fact and recommend approval or denial within 60 days after the application was first considered, which findings and recommendation shall be presented in writing to the City Council.

(J) The City Clerk shall notify the applicant, in writing, of decisions of both the Board of Adjustments and Appeals and the City Council.

(Ord. 94, § 8.5, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.080 PETITION FOR EXTENSION OF TIME.

(A) An extension of time as provided for in this chapter shall be made in writing and filed, without charge, with the City Clerk at least 30 days before the expiration of the granted application or extension thereof.

(B) This petition shall state facts showing a good faith attempt to complete the work permitted in the original application.

(C) The petition shall be referred to the Planning Commission for its recommendation to the City Council who shall approve or deny the petition by majority vote of a quorum of the Council.

(Ord. 94, § 8.6, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.081 PERFORMANCE BOND AND SECURITY DEPOSITS.

(A) Upon approval of a request for a conditional use permit, a variance, or whenever the granting of an appeal involves conditions imposed therewith, the applicant, shall provide the city with a surety bond or performance bond or a cash deposit or other valuable and collectible security deposit which shall guarantee that the applicant shall comply with all of the imposed conditions as well as all of the city ordinances and which shall be subject to forfeiture as provided in division (D) below.

(B) The amount of the bond or deposit shall be determined by the Zoning Administrator's estimate of the cost of completing the use as proposed and shall be provided to the city prior to the issuance of a building permit or any initiation of work on the proposed use.

(C) The city shall hold the bond or deposit until a certificate of occupancy has been issued by the Building Inspector.

(D) Failure to comply with any condition imposed in granting the approval or with any other city ordinance provision within 6 months after written notice shall cause the bond or deposit to become forfeited to the city.

(Ord. 94, § 8.7, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.082 CERTIFICATE OF OCCUPANCY.

(A) (1) Except construction performed pursuant to the provisions of this chapter establishing and regulating building in the city, no building, structure or use hereafter erected, moved, altered, or improved, nor any portion of an existing structure or building that is erected, moved, or altered, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Building Inspector.

(2) The certificate shall state that the building, structure, or use complies with all of the provisions of this chapter and other city ordinances.

(B) The certificate shall be applied for and the fee specified in § 151.083(C) paid simultaneously with the application for a building permit, conditional use permit, variance, and, when applicable, an appeal, and shall be issued within 10 days after the Building Inspector makes his or her final inspection and finds the building, structure, or use satisfactorily completed in accordance with all the applicable provisions of this and all other city ordinances.

(C) (1) A certificate of occupancy shall be issued for, and a record maintained of, each existing nonconforming building, structure, or use, including nonconforming home occupations, but excluding non-income producing residential property upon the effective date of this chapter.

(2) The certificate shall indicate the type of nonconformance, square footage in use, number of employees, and other information as considered necessary to establish the size and scale of the use. (Ord. 94, § 8.8, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

§ 151.083 FEES.

(A) To defray the administrative costs of processing applications for conditional uses, amendments, variances, or appeals, a nonrefundable base fee, as established by the city from time-to-time, per application shall be paid by all applicants when the application is filed.

(B) (1) In order to defray any additional cost over and above the normal processing of an application for a conditional use, an amendment, a variance, an appeal, or in determining the adequacy of off-street parking, loading, unloading, and service entrances, or when an amended plan must be reviewed by the city, the applicant shall reimburse the city for the costs the city may incur in employing the services of engineers, attorneys, and/or other professional consultants in connection with the application.

(2) An initial deposit, as established by the city from time to time, may be requested by the Zoning Administrator for these services.

(3) If this amount does not cover all the costs, the applicant will be so advised and full reimbursement hereunder shall be made whether the application is approved or denied.

(C) A nonrefundable fee, as established by the city from time to time, for each certificate of occupancy shall be paid when the application is filed. (Ord. 94, § 8.9, passed 2-11-1999; Am. Ord. passed 11-24-1999; Am. Ord. passed 7-24-2001; Am. Ord. passed 10-22-2002; Am. Ord. passed 4-1-2003; Am. Ord. passed 12-23-2003)

CHAPTER 152: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

§ 152.001 TITLE.

This chapter shall hereafter be known, cited, and referred to as the Subdivision Ordinance of the city, and is adopted pursuant to the authorization of M.S. § 462.358, as it may be amended from time to time.

(Ord. 93, § 1, passed 2-11-1999)

§ 152.002 PURPOSE.

The purpose of this chapter is to implement the Comprehensive Plan as adopted by the City Council and to effect the purposes set forth in M.S. § 462.351, as it may be amended from time to time.

(Ord. 93, § 2, passed 2-11-1999)

§ 152.003 APPLICATION OF REGULATIONS AND SCOPE.

(A) The rules and regulations governing plats and subdivisions of land contained in this chapter shall apply within the City of North Oaks.

(B) It is not intended by these regulations to repeal, abrogate, annul, or in any way impair or interfere with private restrictions placed upon property by deed, covenant, or other private agreements or with restrictive covenants running with the land, except that the most restrictive shall apply.

(C) M.S. § 462.358, as it may be amended from time to time, is hereby incorporated by this reference and shall control any conflict between the provisions thereof and the this chapter.

(Ord. 93, § 3, passed 2-11-1999)

§ 152.004 RULES OF CONSTRUCTION.

(A) *Generally.* In the construction of this chapter, the rules contained in this section shall be observed and applied, except when the context clearly indicates otherwise.

(B) *Rules.*

(1) The present tense shall include the future, the words used in the singular number shall include the plural number, and the plural the singular.

(2) The word “shall” is mandatory and not discretionary.

(3) The word “may” is permissive.

(4) The masculine gender includes the feminine and neuter.

(5) County Recorder includes Registrar of Titles where appropriate.
(Ord. 93, § 4, passed 2-11-1999)

§ 152.005 DEFINITIONS.

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

APPLICANT. A subdivider or owner submitting an application for land development or subdivision, conditional use permit, amendment, and/or variance.

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

COMMON PROPERTY. A parcel or parcels of land, together with the improvements thereon, which may include, but is not limited to, recreational areas and facilities, green space, open space, and roads, all of which is for the use, responsibility, and benefit of the owners of specific land as shown on an officially recorded plat or Registered Land Survey.

COMPREHENSIVE PLAN. The official North Oaks Comprehensive Plan made and recommended by the City Planning Commission and adopted by the City Council and all subsequent amendments and supplements thereto, indicating the general locations recommended for the principal streets, parks, and playgrounds, recreation areas, public buildings, zoning districts, character and extent of community development, and other physical aspects of urban planning on file in the office of the City Clerk.

DEVELOPMENT. A planning or construction project on land, which may include the subdivision of land, buildings, structures, site improvements, or grading.

DEVELOPMENT CONTRACT. An agreement between the city and land owner or applicant in which the terms and conditions of development are set forth.

DWELLING. A building, or 1 or more portions thereof, occupied or intended to be occupied exclusively for human habitation, but not including rooms in commercial enterprises such as, but not limited to, motels, hotels, nursing homes, boarding houses, nor trailers, tents, cabins, or trailer coaches. A **DWELLING** shall not be interpreted to include lodging rooms.

DWELLING, MULTI-FAMILY. A building used for occupancy by 3 or more families living independent of each other and containing 3 or more dwelling units per building. **MULTI-FAMILY DWELLINGS** shall be limited to rowhouses, condominiums, and senior housing.

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

EASEMENT. A limited right to or for the use or restriction of use of land for a specifically stated purpose such as, but not limited to, arboreal, berm, canal, drainage, driveway, maintenance, natural state, green space, open space, planting, ponding, roads, trails or recreation, trimming, utilities, vista, and water storage.

GREEN SPACE. Pervious land not encumbered by any buildings, structures, parking lots, drives, walks, storage, or above-ground utilities.

HOME OWNERS ASSOCIATION. An incorporated, nonprofit organization operating under recorded land agreements through which each lot owner in a subdivision or other described land area is automatically a member, and each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities such as maintaining common property.

INDIVIDUAL SEWAGE TREATMENT SYSTEM (ISTS). A sewage treatment system, or part thereof, serving a dwelling, building, restaurant, or other structure, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal.

LAND. Real property, whether improved or unimproved.

LOT. A parcel, piece, or portion of land designated by a legal description, registered land survey, plat, or other means, and separated from other parcels or portions of lots by the description for the purposes of sale, lease, or separation thereof.

OPEN SPACE. Land maintained in its predominant natural and scenic condition, except as permitted in easements or other agreements to which the city is a party or has consented.

OWNER. Any person or group of persons having sufficient proprietary interest in land.

PARKS AND PLAYGROUNDS. Land suitable for recreational use.

PERSON. Any individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity.

PLAT. A document or map in form capable of being filed with the Ramsey County Recorder or a Registered Land Survey (RLS) capable of being filed with the Ramsey County Registrar of Titles showing the subdivided parcel's boundaries and lot or tract boundaries.

PRELIMINARY PLAN. A map or drawing at a scale of 100 feet to an inch delineating and showing correctly the boundaries of the subdivision; boundaries, layout, and size to the nearest to tenth of an acre of the lots therein; streets, parks, playgrounds, and other such land locations; north point and scale; existing topographical features, including contours and other physical aspects such as drainageways, wetlands, and tree areas, and the proposed changes to the features. Also included shall be a separate map of the city showing the location of the proposed subdivision within the city.

ROAD or STREET. A public or private thoroughfare, constructed according to the specifications of the city, which affords the principal means of access for vehicular traffic to abutting land.

SENIOR HOUSING. A multi-family dwelling intended for occupancy by adults age 55 or older and having no more than 24 dwelling units per building, not including nursing homes, convalescent homes, and assisted-living facilities.

SETBACK. A minimum horizontal distance between a building or structure, individual sewage treatment system or well and lot lines, nearest edge of road easement(s), wetlands, or ordinary high water marks of lakes, rivers, or ponds.

SHOPPING CENTER. An integrated grouping of commercial enterprises whose facilities are under single ownership or control.

SIGN. A display, illustration, structure, or device containing or displaying graphic information visible from the exterior which directs attention to an object, product, place, activity, person, institution, or organization or business.

STRUCTURE. Anything which is built, constructed, or erected, whether temporary or permanent, in, on, or above the land.

SUBDIVIDER. Any person commencing proceedings under the terms of this chapter to effect a subdivision of land hereunder for the person or for another.

SUBDIVISION. The division of a parcel of land into 2 or more lots or parcels, any of which resultant lots or parcels is less than 10 acres in area or less than 200 feet in width or is a planned residential district or planned unit development district established pursuant to §§ 151.055 or 151.056, for the purpose of transfer of ownership or building or development, or if a new street or the extension of an existing street is involved, any division of a parcel of land. The term includes **RESUBDIVISION** and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

SUBDIVISION, MAJOR. All subdivisions not classified as a minor subdivision.

SUBDIVISION, MINOR. Any subdivision necessary to adjust common boundary or lot lines between multi-family dwellings or townhomes after construction thereof.

SUITABLE FOR RECREATIONAL USE. Land that can be used for construction of baseball, soccer, and football fields, hockey arenas, swimming pools, tennis courts, and other active sports and recreational activities without extraordinary or unreasonable costs due to the topography and nature of the land, and which is in a location compatible with other recreation land contained in the Comprehensive Plan.

SUITABLE SITE. A useable area of at least 25,000 contiguous square feet for those lots with individual sewage treatment systems and 15,000 contiguous square feet for those lots served by a central sewer system connected to the regional facilities.

TOWNHOUSE. A townhouse, or townhome or townhomes, is 1 dwelling unit in a building obtaining no more than 2 dwelling units with 1 or more party walls. A **TOWNHOUSE** is designed for 2 families living independent of each other.

USABLE AREA. The area of a lot, excluding all required setbacks, easements, and wetlands, where the topographic and soil conditions and configuration are suitable for each of the following in some section of the area: construction of a dwelling, future additions, accessory structures, well site, 2 individual sewage treatment system areas (for an unsewered lot), yard, driveways, and required parking areas. During the subdivision process only, when calculating the **USABLE AREA** of a proposed lot, the subdivider may include any trail easement area of over 2,000 square feet per lot and may be given partial credit for other easements where there is area available for normal residential use as defined for **USABLE AREA**.

USE. The purpose or activity for which the land, structure, or building thereon is designated, arranged, intended, or for which it is occupied, utilized, or maintained.

VARIANCE. A waiver of compliance with the regulations of this chapter to alleviate unnecessary hardship and allow a reasonable use of the building, structure, or land which, because of unusual or unique circumstances, is denied by terms of the Zoning or Subdivision Ordinances.

WETLAND.

(1) A surface feature of at least 2,000 contiguous square feet, and classified as a wetland in the Minnesota Wetland Conservation Act, M.S. Ch. 103G, as it may be amended from time to time, which states “Wetlands means land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.”

(2) For purposes of this definition, **WETLANDS** must have the following 3 attributes:

(a) Have a predominance of hydric soils;

(b) Are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(c) Under normal circumstances, support a prevalence of the vegetation.

ZONING DISTRICT. Section or sections of the incorporated area of the city for which regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted herein.

(Ord. 93, § 5, passed 2-11-1999)

§ 152.006 EFFECTIVE DATE.

This chapter shall take effect and be in force after its passage and official publication.

(Ord. 93, § 14, passed 2-11-1999)

MAJOR SUBDIVISION PROCEDURE

§ 152.020 GENERALLY.

(A) There are 2 stages in obtaining approval of a plat of a major subdivision.

(B) The first is submission to the City Planning Commission of a preliminary plan.

(C) The preliminary plan shall be reviewed by the Planning Commission and sent to the City Council with a recommendation either for approval or disapproval.

(D) Action on the preliminary plan by the City Council must be preceded by a public hearing.

(E) Approval of the preliminary plan by the City Council may state and contain conditions, changes, additional terms and other modifications that the City Council would require before granting approval of the plat.

(F) The subdivider shall have 12 months following approval of the preliminary plan to file the plat with the City Clerk and the City Council shall make a final determination thereon.

(G) The approval procedure is set out in detail in this subchapter, the provisions of which prevail over anything contained in this introductory summary.

(Ord. 93, § 6, passed 2-11-1999) Penalty, see § 10.99

§ 152.021 PRELIMINARY PLAN.

(A) Filing of preliminary plan.

(1) (a) Before dividing any tract of land into 2 or more lots or parcels, a subdivider shall file with the City Clerk a preliminary plan for a proposed major subdivision.

(b) With the preliminary plan shall be a written application by the owner, or his or her agent, for approval, on forms approved by the Planning Commission.

(c) The preliminary plan shall consist of a map or drawing at a scale of 100 feet to an inch delineating and showing correctly the boundaries of the major subdivision; boundaries, layout, and size to the nearest tenth of an acre of the lots therein; streets, parks, playgrounds, and other land locations; and shall have the north point and scale indicated; and a topographic map to the same scale showing contours, physical features such as water courses, ponds, wetlands, and tree areas before the major subdivision has taken place, together with a clear indication of what happens to the features after the major subdivision.

(d) The preliminary plan shall also include the other documents and information as required by the Planning Commission for the purpose of ensuring that the provisions, purposes, and objectives of this chapter and of the Comprehensive Plan are met and that the public interest is well served.

(e) The requirements for additional information and documents shall be contained in the application form which will be prescribed by the Planning Commission and supplied to each subdivider or applicant by the City Clerk.

(2) (a) The preliminary plan is not intended to be a plat and must be marked in such a manner that it will not be confused with a plat.

(b) Its purpose is to show graphically all facts needed to enable the Planning Commission and the City Council to determine whether the proposed layout of the land is satisfactory from the standpoint of this chapter, the Comprehensive Plan, other applicable city ordinances, and the public interest.

(c) The preliminary plan shall be prepared by a qualified professional, trained and experienced in the layout of subdivisions and registered in the State of Minnesota.

(3) (a) Included on the submitted preliminary plan shall be the calculation of usable area for each lot that has been determined to be a suitable site.

(b) For each unsewered lot, the preliminary plan shall also include the location of two 5,000-square-foot individual sewage treatment system sites with general soils documentation prepared by a registered soils engineer indicating the suitability for on-site individual sewage treatment systems.

(4) Accompanying the preliminary plan shall be preliminary plat with easements and other special provisions showing, as an overlay to the proposed lots, all proposed special provisions, such as areas restricted for certain uses, and all proposed easements, including road easements, and also including, where applicable, the relationship of proposed easements to existing easements in adjoining subdivisions.

(B) Fees.

(1) At the time of the filing of the preliminary plan, the subdivider shall pay to the city the fees as may be established by the city from time to time.

(2) The foregoing fees shall be used to defray the administration expense of the city in connection with the review of the plan.

(3) In addition, expenses incurred by the city to employ the services of the City Engineer, City Attorney, and other professional consultants in connection with the review of the preliminary plan and plat and, if required, in the preparation of an Environmental Assessment Worksheet (EAW) and an Environmental Impact Statement (EIS) shall be reimbursed to the city by the subdivider.

(C) Review of preliminary plan by Planning Commission.

(1) After filing, the Clerk shall deliver the preliminary plan to the Planning Commission at or prior to its next scheduled meeting.

(2) At that meeting, the Planning Commission shall determine whether the information required by division (A) above is complete and whether additional information or investigation and study by professional consultants such as engineers, soil testing laboratories or the like should be obtained.

(3) If it is determined that additional information or consultant investigation should be obtained, the Commission shall set a reasonable time period for the information to be submitted to the Commission.

(4) Once the information has been submitted to the Commission, it shall review the preliminary plan, conduct a public hearing, and to submit it to the City Council with its recommendations for approval or disapproval.

(5) The Planning Commission may recommend conditions or changes of the preliminary plan that are precedent to its recommendation for approval.

(D) *Public hearing.*

(1) After the Planning Commission has determined that the preliminary plan and all information and investigation it may require under division (C) above are complete, it shall set a date and place for a public hearing on the preliminary plan and shall publish notice of the time and place thereof in the official newspaper at least 10 days before the date of the hearing.

(2) The Planning Commission shall conduct the public hearing.

(3) At the hearing, all persons interested in the preliminary plan shall be heard, and afterward the Planning Commission shall submit the preliminary plan to the City Council with its findings and recommendations.

(E) *Approval by City Council.*

(1) The City Council shall approve or disapprove the preliminary plan at its next scheduled meeting following the submission of the preliminary plan to it by the Planning Commission, provided, however, that the City Council may, by the vote of a majority of those Council persons present, carry over decision on the preliminary plan until the next meeting of the Council.

(2) Provided further, however, that final action of the Council must take place within 60 days of the public hearing.

(3) The Council may condition approval of the preliminary plan on specific changes or conditions, including compliance with § 152.022(B)(6), being made or met by the subdivider.

(4) If the preliminary plan is disapproved, the grounds therefore shall be stated in writing and given to the subdivider.

(F) *Effect of approval of the preliminary plan.* Approval of the preliminary plan by the City Council shall give the subdivider, or his or her agents, the following rights for a 12-month period from the date of approval or the longer period as may be permitted pursuant to the authority granted in M.S. § 462.358, Subd. 3c, as it may be amended from time to time.

(1) The general terms and conditions under which the approval was granted will not be changed by the city.

(2) The subdivider may grade, alter, or change the terrain of the parcel, including the construction of streets and easements, so as to effect the subdivision as contained in the preliminary plan.

(3) The subdivider may submit on or before the expiration date, the whole, or any appropriate part of the approved preliminary plan for final approval.

(4) Approval of the preliminary plan does not constitute automatic approval of a plat. (Ord. 93, § 6.1, passed 2-11-1999) Penalty, see § 10.99

§ 152.022 APPROVAL OF PLAT.

(A) *Generally.*

(1) After approval of the preliminary plan, the subdivider may, within 12 months, file with the City Clerk the plat of the major subdivision.

(2) The plat may constitute the entire land area covered by the preliminary plan or only that portion which the subdivider proposes to record and develop within the succeeding year, provided that the public improvements to be constructed in the area covered by the plat are sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety, and convenience of the proposed residents therein and for adequate access to contiguous areas.

(B) *Filing of plat.* An original and 20 copies of the final drawing shall accompany the plat approval application. The plat shall not be accepted for filing or approved without being accompanied by the following:

(1) *Certificate of surveyor.* A certificate from a registered Minnesota land surveyor, attesting to the fact that the plat represents a survey made by the surveyor and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct, and that the surveyor has complied with all the rules contained herein governing plats, and noting exceptions, if any;

(2) *Legal description.* A correct description of the land or parcel of land to be subdivided;

(3) *Owner's statement.* If the subdivider is other than the owner of the parcel proposed to be subdivided, a notarized statement to the effect that the major subdivision as it appears on the plat is with the free consent and in accordance with the desire of the owner, signed and acknowledged by the owner and the owner's spouse, if any;

(4) *Mortgage.* A notarized certificate by all mortgage holders, if any, acknowledging the adoption of the plat;

(5) *Proof of ownership.* A complete abstract of title accompanied by an opinion from an attorney at law showing that the fee title is in the owner. As to registered land, this provision shall be deemed met if the subdivider makes available to the City Clerk a registered property certificate certified as required by the city and showing the fee title is in the owner;

(6) *Performance bond.* Unless the City Council determines that the subdivider has, by past performances within the city, demonstrated that the subdivider is responsible and financially sound, the City Council may require a performance bond, cash escrow agreement, or a letter of credit, in an amount equal to 1½ times the City Engineer's estimated cost of the required improvements which shall guarantee the performance of the duties and obligations imposed on the subdivider and owner by this chapter. The performance bond, cash escrow, or letter of credit, among other things, will guarantee and assure the following:

(a) The subdivider shall pay for the cost of all improvements required in the major subdivision and the major subdivision's share of costs of trunk facilities to be extended to the major subdivision;

(b) Guaranteed completion of the required improvements within a 2-year period or the longer period as may be authorized by the City Council;

(c) Payment by the subdivider to the city for administrative costs, including preparation or review of plans and specifications and for inspection by the City Engineer relating to the major subdivision;

(d) If the required improvements are not completed within the 2-year period or the longer period as may be authorized by the City Council, all amounts held under the escrow agreement, performance bond, or letter of credit shall be turned over and delivered to the city and applied to the cost of required improvements. If the funds available are not sufficient to complete the required improvements, the necessary additional costs shall be assessed against the major subdivision. Any balance remaining after the improvements have been made shall be returned to the owner or subdivider; and

(e) Payment by the subdivider to the city for city attorney fees relating to the major subdivision.

(7) *Final plat with easements and other special provisions.*

(a) Two copies of the final plat showing the location, width, and type of each easement and any other special provisions.

(b) Attached to this final plat shall be detailed descriptions, similar to those contained in the individual warranty deeds, of each easement and special provision, including legal description of location, restrictions as to use of land where easement is located or provision applies, and right of use of and access to easement.

(c) If easements are moved slightly during road construction process, a final record or as-built plat is to be submitted showing final easement locations.

(C) *Presentation.*

(1) After the City Clerk has determined division (B) above has been complied with, the Clerk shall present the plat and the accompanying information to the City Council at its next following meeting.

(2) At that meeting the Council may, in its discretion, decide to submit the plat information to the Planning Commission for review.

(3) If so, the Planning Commission shall have 30 days from that Council meeting to submit to the Council its recommendation for approval or disapproval of the plat.

(D) *Disposition of the final plat.*

(1) If the plat was submitted to the Planning Commission, the City Council shall approve or disapprove the plat after receipt of the Planning Commission's report.

(2) If not submitted to the Planning Commission, the Council shall proceed to approve or disapprove the plat.

(3) No plat shall be approved by the City Council which does not conform to the approved preliminary plan, including modifications required by the City Council in its preliminary plan approval or which does not meet the requirements of this chapter.

(4) If the City Council does not approve the plat, it shall notify the applicant in writing of the action, and reasons therefor.

(5) After the plat has been approved by the Council, the City Clerk shall cause a certified copy of the resolution approving the plat to be attached to the plat and returned to the subdivider, who shall submit for recording within 90 days of approval 2 copies of the plat with the County Recorder for Ramsey County and shall return a fully recorded city reproducible copy to the City Clerk.

(6) To entitle a plat to be entered in the proper record books in the office of the County Recorder of Ramsey County, the certificates required in division (B) above, together with the certificate of approval of the City Council and the seal of the city shall accompany it. (Ord. 93, § 6.2, passed 2-11-1999)

MINOR SUBDIVISION PROCEDURE

§ 152.035 QUALIFICATION.

This subchapter shall apply to the following application: subdivision necessary to adjust common boundary or lot lines between multi-family dwellings or townhomes after construction thereof. (Ord. 93, § 7.1, passed 2-11-1999)

§ 152.036 CONTENT AND DATA REQUIREMENTS.

The following information shall be submitted along with the application for minor subdivision:

(A) Survey prepared by a registered land surveyor, which includes:

- (1) Original and proposed lot boundaries;
- (2) Location of existing structures on the site;
- (3) Existing easement locations;
- (4) Easements to be vacated;
- (5) New easements; and
- (6) Environmental constraints of the site.

(B) The city may require additional information as outlined in §§ 152.020 *et seq.* if deemed necessary. (Ord. 93, § 7.2, passed 2-11-1999)

§ 152.037 DESIGN STANDARDS.

(A) The minor subdivision shall conform to all design standards as specified in this chapter, §§ 152.050 *et seq.* and 152.065 *et seq.*

(B) Any proposed deviation from the standards shall require the processing of a variance request. (Ord. 93, § 7.3, passed 2-11-1999) Penalty, see § 10.99

§ 152.038 PROCESSING.

Upon receipt of the completed application and required informational submissions, and after review thereof as deemed necessary by the city, the City Clerk shall either approve or deny the application for minor subdivision.

(Ord. 93, § 7.4, passed 2-11-1999)

GENERAL STANDARDS AND REQUIREMENTS

§ 152.050 CITY PLANNING COMMISSION AND CITY COUNCIL.

(A) The City Planning Commission, in forming recommendations to the City Council concerning preliminary plans and plats, and the City Council, in determining whether to grant approval thereof, shall take into consideration the requirements of the community and the use of the land being subdivided.

(B) The Planning Commission and the City Council shall especially require that all subdivisions conform to the provisions and conditions of the Comprehensive Plan for future development of the City of North Oaks. Preliminary plan or plat approval may be withheld if a subdivision does not conform with the provisions of the Comprehensive Plan.

(C) In all subdivisions, due regard shall be given to the preservation of natural features such as large trees, water courses, historical and similar features.

(Ord. 93, § 8.1, passed 2-11-1999)

§ 152.051 UNSUITABLE LAND.

(A) No land shall be subdivided for residential use which is found by the City Council to be unsuitable for that use by reason of flooding or bad drainage, adverse earth or rock formation or topography, or earth conditions adverse to the operation of septic systems and water supply, unless public utilities are available, or any other feature likely to be harmful to the health, safety, or welfare of the future residents in the proposed subdivision or of the community.

(B) In a residential zoning district, each lot in each subdivision shall have a suitable site for construction of a residence or dwelling and shall be of sufficient size to provide for compliance with the 30-foot access driveway requirement of the Zoning Ordinance unless a variance for access driveway location is granted pursuant to § 152.080(A).

(Ord. 93, § 8.2, passed 2-11-1999) Penalty, see § 10.99

§ 152.052 RECREATIONAL FACILITIES IN RESIDENTIAL SUBDIVISIONS.

(A) (1) Each subdivision to be developed for residential uses shall have a reasonable amount of land dedicated, set aside, conveyed, or preserved to or for the benefit of present or future residents of the City of North Oaks or present or future residents of the areas to be subdivided for open space purposes, parks and playgrounds, trails, or conservation purposes.

(2) In determining what is a reasonable amount of land to be dedicated, set aside, conveyed, or preserved, consideration may be given to the open space, parks and playgrounds, trails and conservation land which the subdivider has provided in other plats in addition to the land which the subdivider is providing in the areas to be subdivided and other such land available to the residents of the areas to be subdivided that is within a reasonably accessible distance.

(3) The maximum area required to be dedicated, set aside, conveyed, or preserved for the purposes specified above shall be 10% of the area being subdivided.

(4) Whenever the City Council finds that land for the purposes specified above is not required or is not suitable for such purposes, or where the Council finds that the area to be subdivided is too small to warrant the dedication set aside, conveyance or preservation of land, the City Council may reject all the dedications, set asides, conveyances, or preservation of land and require cash payments based on undeveloped land value as defined herein in lieu thereof.

(5) The cash shall be placed in a special fund by the city to be used only for purposes for which the money was obtained.

(B) (1) In determining undeveloped land value, the word **UNDEVELOPED** shall mean land having no structures, such as houses or buildings, streets, utilities, or other improvements shall not be deemed as creating developed land.

(2) In determining undeveloped land value, the Council may rely upon sales within the preceding 12 months of subdivided lots within the city, provided the other sales are of residential lands similar to the land in the subdivision being considered.

(3) If the subdivider making application for approval of a preliminary plan has made the sales of other land in the city within 1 year of the filing date, the subdivider shall provide the Council with information on the gross and net sales proceeds received from each sale.

(C) (1) Where a proposed park, playground, community center, or other recreational site or facility included in the Comprehensive Plan of the city is located in whole or in part in the area being subdivided, the subdivider shall set aside the land for the use of the city residents as part of the final subdivision plat, provided, however, that in no case shall the amount of land required to be set aside for the recreational purposes exceed 10% of the total gross acreage developable for residential uses.

(2) The additional land needed for parks, playgrounds, community centers, or other recreational facilities, may be acquired by the city at the cost of undeveloped land, as defined herein.

(3) This land in excess of 10% of the total gross land area developable for residential uses shall be saved for a period not to exceed 2 years from the date of approval of the final subdivision plat and shall not be used for any purpose other than recreational purposes during this 2-year period.
(Ord. 93, § 8.3, passed 2-11-1999) Penalty, see § 10.99

§ 152.053 COMMON USES IN SUBDIVISIONS.

(A) Whenever a tract of land to be subdivided includes a proposed street, highway, or parkway, or proposed site for police, fire station, city hall, or other use as indicated in the Comprehensive Plan of the city, that space shall be suitably incorporated by the subdivider into the plat.

(B) The land may be acquired by the city at the cost of undeveloped land as defined herein for a period not to exceed 2 years from the date of approval of the plat.
(Ord. 93, § 8.4, passed 2-11-1999) Penalty, see § 10.99

§ 152.054 HOME OWNERS ASSOCIATION.

(A) *Generally.* To assure the continued operation and maintenance of private recreational open space, green space, and roads within reasonable standards for the use and benefit of land owners, the following special provisions shall apply.

(B) *Special provisions.*

(1) Prior to the use, occupancy, sale, or the execution of contracts for sale of 1 or more individual parcels, tracts, or common areas of land, a declaration of covenants, conditions, and restrictions, or an equivalent document, shall be filed with the city, which filing with the city shall be made prior to the filing or recording of the declaration or document with the proper recording officers of Ramsey County, Minnesota.

(2) The declaration of covenants, conditions, and restrictions or equivalent document shall:

(a) Specify that deeds, leases, or documents, or conveyances affecting parcels or tracts, shall subject the properties to the terms of the declaration and shall run with and bind the land and inure to the benefit of and be enforceable by a home owners association, or the owner of any land subject to the declaration;

(b) State the number of years the declaration shall be in effect;

(c) Provide for a method of renewal or continuance of the declaration;

(d) Provide procedures for other properties to be added to the area covered by the declaration;

(e) Provide procedures to merge or consolidate home owners associations;

(f) Provide for the voting rights of members and of the developer in a home owners association; and

(g) Provide procedures for dissolution of the home owners association, including provisions for the continued use and the maintenance and financing therefor of all recreational areas and facilities, open space, green space, and roads which are hereinafter called the common property for purposes as nearly as practicable the same as those to which they were devoted by the home owners association.

(3) The declaration of covenants, conditions, and restrictions or equivalent document shall provide that a home owners association shall be formed or otherwise provided for by the developer with membership mandatory for each and every purchaser whether the purchaser be the initial or subsequent purchaser of land within a defined area, and it shall be the responsibility of the home owners association to:

(a) Assume ownership of and maintain all common property;

(b) Provide liability insurance for and to pay all taxes and assessments against the common property; and

(c) Assess each land owner an equitable share of all common costs by means of not less than an annual assessment with the assessment levied in such a way as to become a charge on the land and a continuing lien upon the land of which each assessment is made, and, in addition, that each assessment shall also be the personal obligation of the person who was owner of the land at the time the assessment fell due. A provision shall also be included for an adjustment in assessment to meet changed needs and economic conditions.

(4) (a) The declaration of covenants, conditions, and restrictions or equivalent document shall also provide that in the event any home owners association fails to maintain the common properties in good repair or fails to pay taxes or assessments on the lands as they become due, the city may issue a notice to the association setting forth the nature of the association's deficiencies and shall set a hearing to discuss the deficiencies.

(b) This hearing shall be conducted by the City Council no sooner than 10 days nor later than 30 days after a notice, setting forth the date, time, and place of the hearing, is published in the official newspaper of the city.

(c) Within 10 days after the hearing, the City Council shall, by majority vote, define the procedures to be undertaken by the association to correct the deficiencies.

(d) In the event the association does not correct the deficiencies as defined, within 30 days, the City Council shall arrange to have the deficiencies corrected and shall bill the association for all expenses including the city's administrative expenses.

(e) If the association does not reimburse the city within 30 days of receipt of the bill, the city shall have the right to assess each land owner of the association for each land owner's pro rata share of the expenses.

(f) The assessments, together with interest thereon and costs of collection, shall be a lien on the land against which the assessment is made and, in addition, each assessment shall also be the personal obligation of the person who was the owner of the land at the time the assessment fell due.

(5) The common property shall be granted, conveyed, and assigned to the respective home owners association and also shall be placed on the official Zoning District Map of the city.

(6) (a) All covenants, conditions, and restrictions or equivalent documents to be recorded and the articles of incorporation and bylaws of each home owners association shall be approved by the Planning Commission prior to the preliminary plan approval as provided for in this chapter.

(b) None of the covenants, conditions, restrictions, or equivalent documents or articles of incorporation or bylaws as approved by the Planning Commission may be changed in any manner without first submitting the proposed change to the Planning Commission for approval.

(7) Consideration by the Planning Commission for approval of the proposed documents covering covenants, conditions, restrictions, articles of incorporation, and bylaws shall be based on, but not limited to, the following:

(a) Coordination with and lack of conflict with the Comprehensive Plan;

(b) The nature of the area and effect on the adjacent land use;

(c) That a workable home owners association is created to be responsible for the common property with the rights of responsibility of both the land owners and developer clearly defined; and

(d) The requirements as set forth in this section are fulfilled.

(8) All covenants, conditions, restrictions, or equivalent documents, and the articles of incorporation and bylaws shall be recorded with the proper authorities of Ramsey County and the State of Minnesota before any individual lot, parcel, tract, or other land interest is sold or otherwise transferred, and, in addition, a reference shall be made on the face of each and every subdivision plat noting the granting, conveyance, and assigning of the common property, as provided in the declaration, to the respective home owners association.

(Ord. 93, § 8.5, passed 2-11-1999) Penalty, see § 10.99

DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

§ 152.065 GENERAL PROVISIONS.

(A) *Generally.* In addition to the design standards established herein, all subdivisions shall comply with the following laws, ordinances, rules, and regulations.

(B) *Laws, ordinances, rules, and regulations.*

(1) The Comprehensive Plan of the City of North Oaks;

(2) The City of North Oaks ordinances;

(3) All private restrictions placed upon the land by deed, covenant, or other private agreements or with restrictive covenants running with the land;

(4) Minnesota laws;

(5) Minnesota Department of Health regulations relating to individual sewage treatment systems and wells, unless the subdivision is served by public facilities; and

(6) Minnesota Department of Natural Resources State-wide Standards and Criteria for Shoreland Management.

(Ord. 93, § 9.1, passed 2-11-1999) Penalty, see § 10.99

§ 152.066 SPECIFIC REQUIRED IMPROVEMENTS.

(A) *Water facilities.*

(1) Where a public water main is readily accessible, the subdivider shall install adequate water facilities, including fire hydrants subject to the specifications and inspections of the City Engineer.

(2) If a public water system is not readily accessible, individual wells may be constructed in accordance with applicable city ordinances and state and county laws and regulations.

(B) *Sewer facilities.*

(1) Where a public sanitary sewer is accessible, the subdivider shall install adequate sanitary sewer facilities, including the installation of laterals to the right-of-way, subject to the specifications and inspection of the City Engineer.

(2) If public sewer is not accessible, individual sewage treatment systems may be installed in accordance with the Minnesota Department of Health (or other applicable agency or regulator) and recommendations for individual sewage treatment systems.

(3) For unsewered subdivisions, the subdivider shall identify 2 sites, each 5,000 square feet in size, for the location of individual sewage treatment system, with general soils documentation prepared by a registered soils engineer indicating the suitability for individual sewage treatment systems.

(4) (a) 1. For Subdivisions with a central sewer system, the subdivider shall submit plans and specifications that have been prepared by a registered professional civil engineer to the city for approval by the City Engineer.

2. The subdivider, with consent of the city, shall obtain all necessary permits from the Metropolitan Council Environmental Services, Minnesota Pollution Control Agency, and all applicable agencies before proceeding with construction.

3. The subdivider's civil engineer shall provide adequate field inspection personnel to ensure an acceptable level of quality control to the extent that the subdivider's engineer will be able to certify that the construction work meets the approved city standards as a condition of city acceptance.

4. In addition, the city may, at its discretion and at the subdivider's expense, have 1 or more city inspectors and soil engineers inspect the work on a full- or part-time basis.

5. The subdivider, and the subdivider's contractors and subcontractors, shall follow all instructions received from the City Inspector.

6. The subdivider shall enter into a development contract if so required by the city.

(b) Within 30 days after the completion of the improvements and before the security is released, the subdivider shall supply the city with a complete set of reproducible record or as-built plans, and 2 complete sets of blue-line record or as-built plans.

(5) (a) The subdivider shall provide 30-foot graded access easements to all pumping facilities.

(b) All utility easements shall be dedicated to the city and any parties identified at the time the subdivision is approved as being responsible for maintenance and operation of the system.

(C) *Storm water.*

(1) The subdivider shall demonstrate that any changes in topography shall not be adverse to water flowage or water control and shall be responsible for any change in topography that causes the adverse consequences.

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

ADVERSE. Impairment or interruption of natural drainage paths or pools, or the causing of unnatural drainage paths or pools.

(3) The subdivider shall install storm sewer facilities subject to the specifications and inspection of the City Engineer if adequate provision is not made or does not naturally exist for disposal of storm waters.

(D) *Roads or streets and alleys.*

(1) (a) Roads or streets shall be designed and located in relation to existing and planned roads or streets, to topographical conditions and natural terrain features, to public convenience and safety and in appropriate relation to the proposed uses of land to be served by the streets.

(b) Standards and specification for the construction of roads or streets, as well as paving and grading, shall be those on public file in the city office.

(2) Alleys shall not be permitted in residential subdivisions.

(E) *Road or street names and signs.*

(1) Road or street name signs are to be placed at all intersections within or abutting the subdivision by the subdivider at the subdivider's expense.

(2) Road or street names shall coincide with the names of the existing road or street pattern.

(3) Names shall be subject to the approval of the City Council.

(F) *Pedestrianways/trails.*

(1) Pedestrianways/trails may be required by the City Council where deemed essential to provide safe circulation or access to schools, playgrounds and other recreation areas, shopping centers, transportation or other community facilities and where deemed appropriate to meet the needs of the community and/or the members of a given home owners association as part of an integrated trailway system.

(2) The subdivider shall be responsible for grading and preparing, subject to the approval of the City Engineer, all approved pedestrianways/trails prior to approval of the plat.

(G) *Utility easement.*

- (1) Easements at least 12 feet wide adjacent to each lot shall be provided for utilities.
- (2) All electric and telephone distribution service lines shall be installed underground.

(H) *Monuments.* The subdivider shall place permanent reference monuments in the subdivision at all land corners as approved by the City Engineer.

(Ord. 93, § 9.2, passed 2-11-1999) Penalty, see § 10.99

VARIANCES

§ 152.080 GENERALLY.

(A) (1) The Council may grant a variance, including approval of residential lots having insufficient frontage for access driveway location conforming to the 30-foot setback requirement of Chapter 151, provided that the lots have sufficient frontage to provide for access driveway locations having at least a 15-foot setback, upon receiving a report from the Planning Commission in any particular case where the subdivider can show that, by reason of exceptional topography or other physical conditions, the strict compliance with these regulations could cause an exceptional and undue hardship on the enjoyment of a substantial property right, provided the relief may be granted without detriment to the public welfare and without impairing the intent and purpose of this chapter.

(2) Any variance pertaining to driveway location shall be limited to that portion of the lot where the lot configuration and its topography prevent adherence to the 30-foot setback requirement of the Zoning Ordinance.

(B) (1) Application for any variance shall be made in writing by the subdivider when the preliminary plan or the final plat is filed with the City Clerk, stating fully all facts relied upon by the petitioner and supplemented with maps, plans, or other additional data which may aid the Planning Commission and Council in the analysis of the proposed project.

(2) The Council may take action on an application filed with the plat for final approval without referring the application to the Planning Commission for its analysis and recommendation.

(3) The plans for the development shall include the covenants, restrictions, or other legal provisions necessary to guarantee the full achievement of the plan.

(4) Any variance or modification thus granted shall be recorded in resolution form and entered in the minutes of the Council, setting forth the reasons which justified the action taken.

(Ord. 93, § 10, passed 2-11-1999) Penalty, see § 10.99

VIOLATIONS

§ 152.095 GENERALLY.

(A) No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall:

(1) Transfer or sell the parcel before a plat of the subdivision has been approved by the City Council and filed with the County Recorder of Ramsey County, in accordance with the provisions of this chapter; and/or

(2) Grade, clear, alter, or change the terrain of the parcel prior to obtaining the approval of the preliminary plan by the City Council as set forth in §§ 152.020 *et seq.*

(B) (1) No owner, or agent of the owner, of any parcel of land shall divide any lot or parcel of land by the use of metes and bounds or other description for the purpose of sale, transfer, or lease with the intent of evading this chapter.

(2) All the described divisions shall be subject to all the requirements and regulations contained in this chapter.

(C) No building permit shall be issued for the construction or repair of any building or structure located on a lot or parcel subdivided or sold in violation of the regulations of this chapter.

(D) No preliminary plan or plat shall be approved which does not comply with all the provisions of this chapter, and no plat shall be filed with the County Recorder which does not bear the signatures of the Mayor and City Clerk of the city as authorized by City Council resolution.

(E) Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this chapter shall forfeit and pay to the city a penalty of not less than \$300 for each lot or parcel so conveyed. The city may enjoin the conveyance and may recover the penalty by a civil action in any court of competent jurisdiction.

(F) The platting, re-platting, subdividing, or conveyance of land not in accordance with the requirements of this chapter may be enforced by mandamus, injunction, and/or by seeking any other appropriate remedy in any court of competent jurisdiction.

(Ord. 93, § 11, passed 2-11-1999) Penalty, see § 10.99

CHAPTER 153: SHORELAND MANAGEMENT AREA

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GENERAL PROVISIONS

§ 153.001 PURPOSE.

This Shoreland Management Area is established to guide development and utilization of shorelands of surface waters for the preservation of water quality, natural characteristics, economic values, and general health, safety, and welfare.

(Ord. 84, § 1.1, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.002 STATUTORY AUTHORIZATION.

This chapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 103G, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Laws of Minnesota 1973, Chapter 379, and in furtherance of the policies declared in M.S. Ch. 105, 115, 116, and 462, as they may all be amended from time to time.

(Ord. 84, § 1.2, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.003 JURISDICTION.

(A) The provisions of this chapter shall apply to the shorelands of the public water bodies in the City of North Oaks, Minnesota.

(B) To the extent that the terms and conditions of this chapter are inconsistent with the provisions of this code, the provisions of this chapter shall govern, provided, however, that in all other respects the provisions of this code shall remain in full force and effect.

(Ord. 84, § 2.1, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.004 COMPLIANCE.

The use of any shoreland of public waters; the size and shape of lots; the use, size, and type and location of structures on lots; the installation and maintenance of water supply, wells, and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations.

(Ord. 84, § 2.2, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.005 ENFORCEMENT.

(A) The City Council of North Oaks is responsible for the administration and enforcement of this chapter.

(B) Any violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(C) Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to § 153.020.

(Ord. 84, § 2.3, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.006 INTERPRETATION.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Ord. 84, § 2.4, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.007 ABROGATION AND GREATER RESTRICTIONS.

(A) It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.

(B) However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

(Ord. 84, § 2.6, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.008 DEFINITIONS.

(A) For the purpose of this chapter, the words “must” and “shall” are mandatory and not permissive.

(B) All distances, unless otherwise specified, shall be measured horizontally.

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

ACCESSORY FACILITY, STRUCTURE, OR USE. A subordinate building, structure, or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of the building or main use.

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

- (a) Part or all of the feature is located in a Shoreland Area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (c) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
- (d) The slope must drain toward the water body.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BOARDWALK. A horizontal, unattached walkway made of board materials and functionally related to a principal use or site.

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

BUILDING, DETACHED. A building having no party wall in common with another building.

BUILDING HEIGHT. The vertical distance from grade as defined herein to the highest point on the roof surface.

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.

BUILDING, MAIN. A building in which the principal use of the lot is conducted.

BUILDING SETBACK. The minimum horizontal distance between the building and lot lines or nearest edge of road easement(s).

COMMERCIAL USE. The principal use or land or buildings for the sale, lease, rental, or trade of products, goods, and services.

COMMISSIONER. The Commissioner of the Department of Natural Resources.

CONDITIONAL USE. Those occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning use district, which for their respective conduct, exercise, or performance in such designated use districts may require reasonable but special, peculiar, unusual, or extraordinary limitations, facilities, plans, structures, thoroughfares, conditions, modifications, or regulations in the use district for the promotion or preservation of the general public welfare, health, convenience, or safety therein and in the city and therefore may be permitted in the use district only by a conditional use permit.

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 3 feet above ground.

DOCK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, located in whole or in part, on or within the boundaries of a public water.

DWELLING. A building or 1 or more portions thereof occupied or intended to be occupied exclusively for human habitation, but not including rooms in commercial enterprises such as, but not limited to, motels, hotels, nursing homes, boarding houses, nor trailers, tents, cabins or trailer coaches. A **DWELLING** shall not be interpreted to include lodging rooms.

DWELLING, ATTACHED. A dwelling which is joined to another dwelling at 1 or more sides by a common wall or party wall.

DWELLING, DETACHED. A dwelling which is entirely surrounded by open area on the same lot.

DWELLING, SINGLE-FAMILY. A dwelling designed for or occupied by 1 family.

DWELLING SITE. A designated location for residential use by 1 or more persons.

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

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

GRADE. The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and a line 5 feet from the building.

HARDSHIP. The same as that term is defined in M.S. Ch. 462, as it may be amended from time to time, (for municipalities) which as of 1994 provides that **HARDSHIP** means the property in question cannot be put to a reasonable use under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his or her property, not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a **HARDSHIP** if a reasonable use for the property exists under terms of the official controls.

IMPERVIOUS SURFACE. A surface of sufficient materials and density to be resistant to penetration by fluids or roots.

INDUSTRIAL USE. The use of land or buildings for the purpose of providing maintenance services to home owners associations within the City of North Oaks.

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

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

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

NONCONFORMING BUILDING, STRUCTURE, or USE. Any building, structure, or use which does not conform to the district regulations in which it is situated.

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

PERMITTED USE. A use which may be lawfully established in a particular district or districts, which conforms to all requirements, regulations, and performance standards of the districts.

PLANNED RESIDENTIAL DEVELOPMENT. As defined in the North Oaks Land Use Ordinance.

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

(a) **NATURAL ENVIRONMENT WATERS.** Set lakes and streams where heavy development would result in overuse of the water's resource potential and post construction or sewage treatment problems. Generally, small lakes (under 150 acres) or shallow lakes with low swampy shorelines.

(b) **RECREATIONAL DEVELOPMENT WATERS.** Usually moderately developed at present and have physical characteristics more suited to development than natural environment lakes and streams.

RIPARIAN. Abutting the bank of a natural watercourse or public water.

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.

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

SETBACK. The minimum horizontal distance between a building or structure, individual sewage treatment system, or well and an ordinary high water level, top of a bluff, edge of road easement(s) or lot lines.

SEWAGE TREATMENT SYSTEM, INDIVIDUAL. A sewage treatment system, or part thereof, serving a dwelling, or other establishment or group thereof, which uses subsurface soil treatment and disposal.

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

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

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

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 has made a major contribution to the history of the City of North Oaks, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

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

STRUCTURE. Anything which is built, constructed, or erected, whether temporary or permanent, in or on or above the ground.

SUBDIVISION. The division of a parcel of land into 2 or more lots or parcels, any of which resultant parcels is less than 10 acres in area or less than 200 feet in width or is a Planned Residential District established pursuant to § 151.055, for the purpose of transfer of ownership or building or development, or if a new street or the extension of an existing street is involved, any division of a parcel of land. The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

SURFACE WATER. A body of water such as a lake, pond, river, canal, stream, or wetland which is capable of substantial beneficial use. For the purposes of this chapter, a beneficial use shall be interpreted to include, but not limited to, any body of water which has the potential to support any type of recreational pursuit, water supply purpose, wildlife habitat, or which because of its natural drainage or overflow in times of regional floods can endanger the property, health, or safety of the citizens of North Oaks.

TOE OF THE BLUFF. The lower point of a 50-foot segment with an average slope exceeding 18%.

TOP OF THE BLUFF. The higher point of a 50-foot segment with an average slope exceeding 18%.

VARIANCE. The same as that term is defined described in M.S. Ch. 462, as it may be amended from time to time, (for municipalities) which presently provides that **VARIANCE** means any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.

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 the structures and facilities include gazebos, screen houses, fish houses, pump houses, and detached decks.

WETLAND. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition) which states **WETLANDS** means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, **WETLANDS** must have the following 3 attributes:

(a) Have a predominance of hydric soils;

(b) Are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(c) Under normal circumstances support a prevalence of the vegetation.

(Ord. 84, § 2.7, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.009 EFFECTIVE DATE.

This chapter shall take effect and be in force after its passage and official publication.
(Ord. 84, § 10, passed 3-9-1995; Am. Ord. passed 7-21-1999)

ADMINISTRATION

§ 153.020 PERMITS REQUIRED.

(A) A permit is required for the construction of buildings or building additions (and including the related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by § 153.052.

(B) Application for a permit shall be in conformance with all requirements of this code.
(Ord. 84, § 3.1, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.021 CERTIFICATE OF ZONING COMPLIANCE.

(A) The City Clerk shall issue a certificate of zoning compliance for each activity requiring a permit as specified in § 153.020.

(B) This certificate will specify that the use of land conforms to the requirements of this chapter.

(C) Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this chapter.
(Ord. 84, § 3.2, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.022 VARIANCES.

(A) (1) Variances may only be granted in accordance with M.S. Ch. 462, as it may be amended from time to time, as applicable.

(2) A variance may not circumvent the general purposes and intent of this chapter.

(3) No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.

(4) Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest.

(5) In considering a variance request, the City Council must also consider whether the property owner has reasonable use of the land without the variance, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

(B) (1) The City Council shall hear and decide requests for variances in accordance with the provisions of § 153.(B)(5).

(2) When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in § 153.023(B) shall also include the Council's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(C) (1) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property.

(2) The variance, if issued, must require reconstruction of a nonconforming sewage treatment system or follow the provisions of § 153.073.
(Ord. 84, § 3.3, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.023 NOTIFICATIONS TO THE DEPARTMENT OF NATURAL RESOURCES.

(A) (1) 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 10 days before the hearings.

(2) 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 10 days of final action.
(Ord. 84, § 3.4, passed 3-9-1995; Am. Ord. passed 7-21-1999)

SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

§ 153.035 SHORELAND CLASSIFICATION SYSTEM.

(A) *Generally.* The public waters of North Oaks have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.30300, as it may be amended from time to time, and

the Protected Waters Inventory Map for Ramsey County, Minnesota.

(B) *Definitions.* The Shoreland Area for the waterbodies listed in divisions (C) and (D) below shall be as defined in § 153.008.

(C) *Lakes.*

(1) *Natural environment lakes.*

<i>Natural Environment Lakes</i>	<i>Protected Waters Inventory I.D. #</i>	<i>Acres</i>
Black Lake	62-19	84
Wilkinson Lake	62-43	250

(2) *Recreational development lakes.*

<i>Recreational Development Lakes</i>	<i>Protected Waters Inventory I.D. #</i>	<i>Acres</i>
Deep Lake	62-18	101
North and South Mallard Pond	62-20	29
Teal Pond	62-26	15
Gilfillan Lake	62-27	112
Pleasant Lake	62-46	701
Charley Lake	62-62	46

(D) *Rivers and streams; tributary streams.* All protected watercourses in North Oaks shown on the Protected Waters Inventory Map for Ramsey County, a copy of which is hereby adopted by reference, not given a classification, shall be considered Tributary. (Ord. 84, § 4.1, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.036 LAND USE DISTRICT DESCRIPTIONS.

(A) *Criteria for designation.* The land use districts 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 and the following criteria, considerations, and objectives.

(1) *General considerations and criteria for all land uses.*

(a) Preservation of natural areas;

- (b) Present ownership and development of Shoreland Areas;
- (c) Shoreland soil types and their engineering capabilities;
- (d) Topographic characteristics;
- (e) Vegetative cover;
- (f) In-water physical characteristics, values, and constraints;
- (g) Recreational use of the surface water;
- (h) Road and service center accessibility;
- (i) Socioeconomic development needs and plans as they involve water and related land resources; and
- (j) The necessity to preserve and restore certain areas having significant historical or ecological value.

(2) *Factors and criteria for planned residential developments.*

- (a) Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
- (b) Physical and aesthetic impacts of increased density;
- (c) Suitability of lands for the planned residential development approach;
- (d) Level of current development in the area; and
- (e) Amounts and types of ownership of undeveloped lands.

(B) *Land use district descriptions.* The land use districts provided below, and the allowable land uses therein for the given classifications of waterbodies, shall be properly 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 Regulation, Part 6120.3200, Subp. 3, as it may be amended from time to time.

(1) *Land use districts for lakes.*

(a) *Historic Preservation, Recreation, or Scenic District uses.*

<i>Uses</i>	<i>Recreational Development Lakes</i>	<i>Natural Environment Lakes</i>
Forest management	C	C
Sensitive resource management	C	C
Agricultural; crop land and pasture	P	P

<i>Uses</i>	<i>Recreational Development Lakes</i>	<i>Natural Environment Lakes</i>
Passive parks and historic sites	P	P
Active parks	P	P

NOTES TO TABLE:
P=Permitted
C=Conditional
N=Not Permitted

(b) *RSM and RSL Residential District uses.*

<i>Uses</i>	<i>Recreational Development Lakes</i>	<i>Natural Environment Lakes</i>
Single residential	P	P
Parks and historic sites	C	C
Forest management	C	C

NOTES TO TABLE:
P=Permitted
C=Conditional
N=Not Permitted

(c) *PRD Residential District uses.*

<i>Uses</i>	<i>Recreational Development Lakes</i>	<i>Natural Environment Lakes</i>
Planned residential developments	C	C
Single residential	P	P
Parks and historic sites	C	C

<i>Uses</i>	<i>Recreational Development Lakes</i>	<i>Natural Environment Lakes</i>
Attached Dwellings	C	C
Forest management	C	C
NOTES TO TABLE: P=Permitted C=Conditional N=Not Permitted		

(d) *Commercial, Commercial Service, and Industrial District uses.*

<i>Uses</i>	<i>Recreational Development Lakes</i>	<i>Natural Environment Lakes</i>
Commercial	P	P
Commercial planned development	C	C
Industrial	P	N
Public, semipublic	P	C
Parks and historic sites	C	C
Forest management	C	C
Residential	C	C

<i>Uses</i>	<i>Recreational Development Lakes</i>	<i>Natural Environment Lakes</i>
NOTES TO TABLE: P=Permitted C=Conditional N=Not Permitted		

(2) *Land use districts for rivers and streams.*

(a) *Historic Preservation, Recreation, or Scenic District uses.*

<i>Uses</i>	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agricultural</i>	<i>Urban</i>	<i>Tributary</i>
Forest management	C	C	C	C	C	C
Sensitive resource management	C	C	C	C	C	C
Agricultural; crop land and pasture	P	P	P	P	P	P
Passive parks and historic sites	P	P	P	P	P	P
Active parks	C	C	C	C	C	C
NOTES TO TABLE: P=Permitted C=Conditional N=Not Permitted						

(b) *RSM or RSL Residential District uses.*

<i>Uses</i>	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agricultural</i>	<i>Urban</i>	<i>Tributary</i>
Single residential	P	P	P	P	P	P
Parks and historic sites	C	C	C	C	C	P
Forest management	C	C	C	C	C	C

NOTES TO TABLE:
P=Permitted
C=Conditional
N=Not Permitted

(c) *PRD High Density Residential uses.*

<i>Uses</i>	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agricultural</i>	<i>Urban</i>	<i>Tributary</i>
Planned residential developments	C	C	C	C	C	C
Single residential	P	P	P	P	P	P
Parks and historic sites	C	C	C	C	C	C
Attached dwelling	C	C	C	C	C	C
Forest management	C	C	C	C	C	C

NOTES TO TABLE:
P=Permitted
C=Conditional
N=Not Permitted

(d) *Industrial, Commercial, and Commercial Service District uses.*

<i>Uses</i>	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agricultural</i>	<i>Urban</i>	<i>Tributary</i>
Commercial	C	C	C	C	P	C
Commercial planned development	C	C	C	C	C	C
Industrial	N	C	N	N	C	C

<i>Uses</i>	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agricultural</i>	<i>Urban</i>	<i>Tributary</i>
Public, semipublic	C	C	C	C	P	C
Parks and historic sites	C	C	C	C	C	C

<i>Uses</i>	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agricultural</i>	<i>Urban</i>	<i>Tributary</i>
Forest management	C	C	C	C	C	C
Residential	C	C	C	C	C	C

NOTES TO TABLE:
P=Permitted
C=Conditional
N=Not Permitted

(C) Use and upgrading of inconsistent land use districts.

(1) (a) The land use districts adopted in this code, as they apply to Shoreland Areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified in division (B) above.

(b) These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Official Zoning Map or to modify the boundary of an existing land use district shown on the Official Zoning Map.

(2) When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply.

(a) *For lakes.* When a revision to a land use district designation on a lake is considered, the land use district boundaries, and use provisions therein for all the Shoreland Areas within the jurisdiction of this chapter on the lake must be revised to make them substantially compatible with the framework in divisions (A) and (B) above.

(b) *For rivers and streams.*

1. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this chapter must be revised to make them substantially compatible with the framework in divisions (A) and (B) above.

2. If the same river classification is contiguous for more than a 5-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.

(3) (a) When an interpretation question arises about whether a specific land use fits within a given use category, the interpretation shall be made by the City Council.

(b) When a question arises as to whether a land use district's boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the City Council.

(4) (a) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question.

(b) The City Council will direct the City Clerk to provide the additional information for this water body as is necessary to satisfy divisions (C)(1) and (C)(2) above.

(5) The City Council must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on the water body, are consistent with the enumerated criteria and use provisions of division (B) above. (Ord. 84, § 4.2, passed 3-9-1995; Am. Ord. passed 7-21-1999)

ZONING AND WATER SUPPLY/SANITARY PROVISIONS

§ 153.050 LOT AREA AND WIDTH STANDARDS.

(A) *Generally.* The lot area (in square feet) and lot width standards at the water frontage and the building line (in feet) for single-family detached dwelling lots and Planned Residential Development (PRD) single-family detached and attached dwelling lots created after the date of enactment of this chapter for the lake and river/stream classifications are the following.

(B) *Unsewered lakes.*

(1) *Natural environment.*

<i>Use</i>	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	80,000	200	80,000	200
PRD Duplex	120,000	300	160,000	400
PRD Single	80,000	200	80,000	200

(2) *Recreational development.*

<i>Use</i>	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	43,560	150	43,560	150
PRD Duplex	80,000	225	80,000	265
PRD Single	40,000	150	40,000	150

(C) *Sewered lakes.*

(1) *Natural environment.*

<i>Use</i>	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	43,560	150	43,560	150
PRD Duplex	70,000	225	35,000	220
PRD Single	40,000	150	20,000	150

(2) *Recreational development.*

<i>Use</i>	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	43,560	150	43,560	150
PRD Duplex	35,000	135	26,000	135
PRD Single	20,000	150	15,000	150

(D) *River/stream lot width standards.* The lot width standards for single, detached single-family dwelling lots and attached PRD developments for the 6 river/stream classifications are:

<i>Use</i>	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agricultural</i>	<i>Urban</i>	<i>Tributary</i>
Single	300	200	250	150	150	150
PRD Duplex	450	300	375	225	150	150
PRD Single	300	200	250	150	150	150

(E) *Additional special provisions.*

(1) (a) Residential subdivisions with dwelling unit densities exceeding those in the tables in divisions (C) and (D) above can only be allowed if designed and approved as planned residential developments under §§ 153.105 *et seq.*

(b) Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

(c) The sewer lot area dimensions in division (C) above can only be used if publicly-owned sewer system service is available to the property.

(2) PRDs of duplexes or single-family lots on natural environment lakes must also meet the following standards.

(a) Each building must be set back at least 200 feet from the ordinary high water level;

(b) Each building must have common sewage treatment and water systems in 1 location and serve all dwelling units in the building;

(c) Watercraft docking facilities for each lot must be centralized in 1 location and serve all dwelling units in the building; and

(d) No more than 25% of a lake's shoreline can be in attached dwelling developments.

(3) PRDs of duplexes or single-family lots on recreational development lakes must also meet the following standards:

(a) Each building must be set back at least 125 feet from the ordinary high water level;

(b) Each building must have common sewage treatment and water systems in 1 location and serve all dwelling units in the building;

(c) Watercraft docking facilities for each lot must be centralized in 1 location and serve all dwelling units in the building; and

(d) No more than 25% of a lake’s shoreline can be in attached dwelling developments.

(4) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards.

(a) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.

(b) If docking, mooring, or over-water storage of more than 6 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond 6, consistent with the following table:

<i>Controlled Access Lot Frontage Requirements</i>		
<i>Ratio of Lake Size to Shore Length (Acres/Mile)</i>	<i>Required Increase in Frontage (Percent)</i>	
	<i>Natural Environment</i>	<i>Recreational Development</i>
Less than 100	25	15
100-200	20	10
201-300	15	5
301-400	10	5
Greater than 400	5	5

(c) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.

(d) 1. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed.

2. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking.

3. They must also include other outdoor recreational activities that do not significantly conflict with the enjoyment of normal property rights by adjacent property owners.

(e) 1. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking.

2. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations.

3. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(Ord. 84, § 5.1, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.051 PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES.

(A) *Placement of structures on lots.* When more than 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 (in feet) from ordinary high water level.*

<i>Classes of Public Waters</i>	<i>Structures</i>		<i>Setbacks Sewage Treatment System</i>
	<i>Unsewered</i>	<i>Sewered</i>	
Natural Environment Lakes	150	150	150
Recreational Development Lakes	75	75	75
Tributary Rivers	75	75	75

(2) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the water body:

<i>Setback From:</i>	<i>Setback (In Feet)</i>
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, street, or other roads or streets not classified	30

(3) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(4) *Impervious surface; roads and parking areas.*

(a) No impervious surface shall be placed within 50 feet of the ordinary high water mark.

(b) The placement of roads and parking areas shall be controlled in order to retard runoff of surface waters and excess nutrients.

(c) The placement of all roads, driveways, and parking areas shall conform to § 153.053.

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

(B) *Design criteria for structures.*

(1) *High water elevations.* Structures must be placed in accordance with any flood plain 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 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is higher; and

(b) For rivers and streams, by placing the lowest floor at least 3 feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least 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 3 approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with regulations governing the management of flood plain areas. If more than 1 approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

(2) *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 4 feet in width on residential lots. Wider stairways may be used for commercial properties, open-space recreational properties, and planned unit developments.

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

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

(d) Stairways, lifts, and landings may be either constructed 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 water assuming summer, leaf-on conditions, whenever practical.

(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 divisions (B)(2)(a) to (B)(2)(e) above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340, as it may be amended from time to time.

(3) *Steep slopes.*

(a) The City Engineer 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.

(b) 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 waters, assuming summer, leaf-on vegetation.

(C) *Height of structures.* All structures in city residential districts, except churches and nonresidential agricultural structures, must not exceed the height restriction of the City Zoning Ordinance.

(Ord. 84, § 5.2, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.052 SHORELAND ALTERATIONS.

(A) *Generally.* Alterations of vegetation and topography will be regulated to prevent erosion into waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

(B) *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 § 153.053 are exempt from the vegetation alteration standards that follow.

(2) Removal or alteration of vegetation, except for agricultural uses as regulated in § 153.055(B) is allowed subject to the following standards.

(a) No vegetation may be altered, trimmed, or removed within 20 feet of the Ordinary High Water Level of any public water, except pursuant to the provisions of division (B)(3) below.

(b) No vegetation may be altered, trimmed, or removed between 20 feet and 100 feet from the Ordinary High Water Level of any public water, without first obtaining the approval of the City Forester. Application for Forester approval shall contain the information required in the City's application form and shall require payment of the administration fee. Forester approval shall be subject to satisfaction of the following criteria:

1. Intensive vegetation clearing or clearcutting is prohibited except as necessary for placing public roads, utilities, structures, parking areas, and trails;

2. Large openings in the overhead forest canopy are not created; the area of post-cutting canopy coverage must be 80% or more of the pre-cutting canopy coverage;

3. Topping of trees is prohibited;

4. The screening of structures, vehicles, or other facilities, as viewed from the water, assuming summer leaf-on conditions, is not substantially reduced; and

5. Clearing is limited to providing a view to the water from certain portions of the principal dwelling site and to accommodate the placement of stairways, landings, and access paths.

(c) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(d) 1. The above provisions shall not prohibit or limit maintenance of trails.

2. The above provisions shall not prohibit or limit maintenance of existing yards, provided that no additional vegetation is removed or altered, except that fertilizers containing phosphorous shall not be used.

(3) Vegetation may not be altered, trimmed, or removed within 20 feet of the Ordinary High Water Level of any public water without first obtaining the approval of the City Forester. Application for Forester's approval must contain the information required in the City's Application Form. The administrative fee must be submitted with the Application. The following additional evaluation criteria and conditions shall apply:

(a) Only the removal of non-native plant materials is permitted, except for when the removal of native plants is absolutely essential for under-story and forest regeneration, subject to maintaining adequate screening of structures and other facilities from the water assuming a summer leaf-on condition.

(b) Planting of native plant materials is permitted, especially to prevent soil erosion and to trap sediments before they reach surface water.

(c) Trimming of branches is permitted to allow sufficient sunlight for growth of understory vegetation and reforestation.

(C) *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 division (C) and those standards given in Chapter 154 must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(2) Roads and parking areas are regulated by § 153.053.

(3) Notwithstanding divisions (C)(1) and (C)(2) above, a grading and filling permit will be required for:

(a) The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and

(b) The movement of more than 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 in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland (This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The permit is subject to the acquisition of approvals from these agencies.):

1. Sediment and pollutant trapping and retention;
2. Storage of surface runoff to prevent or reduce flood damage;
3. Fish and wildlife habitat;
4. Recreational use;
5. Shoreline or bank stabilization; and

6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

(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 soil erosion and to trap sediments before they reach any surface water feature must be used;

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

(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 material 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 M.S. § 103G.245, as it may be amended from time to time;

(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 3 feet horizontal to 1 foot vertical, the landward extent of the riprap is within 10 feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed 3 feet.

(5) Excavations where the intended purpose is connection to a water, such as 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 waters.

(6) Permits for topographic alterations/grading and filling will expire 1 year from date of issuance.

(Ord. 84, § 5.3, passed 3-9-1995; Am. Ord. passed 7-21-1999; Am. Ord. passed 8-11-2011) Penalty, see § 10.99

§ 153.053 PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS, AND PARKING AREAS.

(A) (1) 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.

(2) Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(B) (1) 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.

(2) If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(C) (1) 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 section are met.

(2) For private facilities, the grading and filling provisions of § 153.052(C) must be met. (Ord. 84, § 5.4, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.055 SPECIAL PROVISIONS FOR COMMERCIAL, INDUSTRIAL, AGRICULTURAL, AND FORESTRY USES.

(A) *Standards for commercial and industrial uses.*

(1) (a) Surface water-oriented commercial uses and industrial uses with similar needs to have access to and use of waters may be located on parcels or lots with frontage on waters.

(b) Those uses with water-oriented needs must meet the following standards: in addition to meeting impervious coverage limits, setbacks, and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

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

(B) *Agriculture use standards.*

(1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are

maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency.

(2) The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(Ord. 84, § 5.6, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.056 CONDITIONAL USES.

(A) Conditional uses allowable within Shoreland Areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in division (B)(8) below.

(B) The following additional evaluation criteria and conditions apply within Shoreland Areas.

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

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

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

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

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

(2) *Conditional use permits; conditions attached to conditional use permits.*

(a) 1. The City Council, upon consideration of the purposes of this chapter, shall attach the conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter.

2. A request for a conditional use permit shall follow the applicable procedures as set forth in this chapter.

(b) The Planning Commission shall consider the effect of the proposed conditional use and whether additional requirements may be necessary to reduce any adverse effects. Consideration shall be given to, among other things, the following factors:

1. Relationship of the proposed conditional use to the Comprehensive Plan;

2. The nature of the land and adjacent land or building where the use is to be located;
3. Whether the use will in any way depreciate the area in which it is proposed;
4. The effect upon traffic into and from the premises and on adjoining roads or highways;
5. Whether the use would disrupt the reasonable use and enjoyment of other property in the neighborhood;
6. Whether adequate utilities, roads, and other facilities exist or will be available in the near future;
7. Whether the proposed conditional use conforms to all of the provisions of this chapter;
8. Increased setbacks from the ordinary high water level;
9. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
10. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(c) Whenever an application for a conditional use permit has been considered and denied by the City Council, subsequent applications for a similar conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission and City Council until 6-months' time has elapsed unless, by a majority vote of the full City Council, this time period is waived.

(d) If all of the work entailed by the conditional use permit is not completed within the time period specified in the permit, the permit shall become null and void and otherwise revoked unless an extension of time to complete the work has been granted by the City Council in accordance with the provisions of this chapter.

(e) Upon approval of a conditional use permit, the city shall be provided with a performance bond in compliance with this chapter.

(3) *Amendments.*

(a) The City Council or Planning Commission may, upon their own motion, initiate a request to amend this text and/or the district boundaries of this chapter.

(b) Any owner, or expressed agent thereof, of real estate within the city may initiate a request to amend the district boundaries and/or text of this chapter.

(c) A request for an amendment shall follow the applicable procedures as set forth in division (B)(8).

(4) *Factors to be considered.* The Planning Commission, in determining the effects of the proposed amendment, shall consider, among other things, the following factors:

- (a) Consistency with the Comprehensive Plan;
- (b) The public need for additional land space for the requested use in the location requested;
- (c) The compatibility of adjacent land uses;
- (d) The possible presence and effects of noise, odors, or other nuisances; and
- (e) Availability in the present or near future of necessary utilities and public services.

(5) *Variances and appeals.*

(a) The City Council shall act as the Board of Appeals and Adjustments as such have all the powers set forth in M.S. § 462.357, Subd. 6, and M.S. § 462.359, Subd. 4, as they may be amended from time to time, subject to the right of judicial review.

(b) The City Council, serving as the Board of Appeals and Adjustments by majority vote of the entire Council, shall:

1. Hear and decide timely appeals where it is alleged by the appellant that error has occurred in any order, requirement, decision, or determination made by the Building Inspector in the enforcement of this chapter. To be timely, an appeal shall be filed, in accordance with this chapter, no later than 30 days after the appellant has received a written notice from the Building Inspector; and

2. Hear and decide requests for variances from the literal provisions of this chapter in instances where the strict enforcement would cause undue hardship because of circumstances unique to the specific property under consideration.

(6) *Request for variance.*

(a) A request for a variance or an appeal shall follow the applicable procedures of division (B)(8).

(b) A variance may be granted only when it is demonstrated that:

1. Development and utilization of the specific property under consideration in accordance with this chapter would create undue hardship upon the applicant that an owner of other property within the same district would not have if he or she were to develop and utilize his or her property in the manner proposed by the applicant and/or which would result in exceptional difficulties

because of the narrowness or shallowness or shape or topographical conditions or water conditions of the specific property;

2. The proposed action will not:

- a. Impair an adequate supply of light and air to adjacent property;
- b. Increase the danger of fire or endanger public safety;
- c. Unreasonably increase the congestion in the street, road, or highway;
- d. Unreasonably alter the character of, or impair established property values within, the neighborhood; and
- e. Affect the natural drainage patterns of adjacent property.

3. The action shall be in keeping with the spirit and intent of this chapter.

(c) A variance may not be granted for any use that is not permitted under this chapter for property in the district where the affected person's land is located.

(7) Conditions; revocation.

(a) The City Council, serving as the Board of Appeals and Adjustments, shall also have the power to impose conditions related to the appeal or variance regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable to assure compliance with the intent and purpose of this chapter.

(b) If all of the work as permitted by the variance shall not have been completed within the time period specified when the variance is granted, then the variance shall become null and void and otherwise revoked unless an extension of time to complete the work has been granted by the City Council in accordance with the provisions of this chapter.

(c) Upon approval of a variance or appeal, the city shall be provided with a performance bond in compliance with division (B)(13) below.

(8) Filing request.

(a) 1. A request for a conditional use permit, and amendment, a variance or appeal as provided for in this chapter shall be filed with the City Clerk on an official application form.

2. The application shall be accompanied by a nonrefundable fee as established by the City Council.

3. The application shall also be accompanied by at least 20 copies of detailed written and graphic materials fully explaining the proposed request.

4. The City Clerk shall refer the application along with all related information to the Building Inspector and to the Planning Commission.

(b) The Building Inspector shall review and analyze the request and submit a written report and recommendation to the Planning Commission within 14 days after receiving the application, which report shall be entered in and made part of the permanent record of the Planning Commission meeting.

(c) The Planning Commission shall consider the request at its next regular meeting unless the request is referred to it less than 15 days prior to the meeting, in which case the request shall be considered at the next subsequent regular meeting following thereafter.

(9) *Public hearing.*

(a) If the request is for a conditional use permit or an amendment, the Planning Commission shall hold a public hearing which hearing shall be scheduled and conducted as follows:

1. Notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city at least 10 days prior to the date of the hearing;

2. Similar notice shall be mailed at least 10 days but not more than 30 days prior to the day of hearing, to each owner of other property situated wholly or partly within 350 feet of the property to which the request relates if the request is for a conditional use permit or an amendment which involves changes in district boundaries affecting an area of 5 acres or less;

3. A copy of the notice, and, when applicable, a list of the names and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings;

4. Failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply herewith has been made; and

5. The Planning Commission shall set reasonable rules for the conduct of the hearing and shall follow *Robert's Rules of Order*.

(b) When the application concerns conditional uses and/or amendments, the Planning Commission shall make findings of fact and recommend approval or denial within 60 days after the application was first considered, which findings and recommendation shall be presented in writing to the City Council.

(10) *Findings of fact.*

(a) The City Council shall not consider a conditional use permit or an amendment until it

has received the findings and recommendation from the Planning Commission unless more than 60 days have expired after the Planning Commission first considered the request, in which event the City Council may take action on the request upon its own initiative.

(b) The City Council shall make findings of fact and render a decision within 60 days after it receives any recommendation from the Planning Commission or takes its own initiative. All reports, recommendations, and findings documenting the reasons for the decision shall be made part of the permanent record of the City Council meeting.

(c) Approval of a request for a conditional use or an amendment to this chapter shall be by affirmative vote of 4/5 of the full City Council.

(11) *Applications; approval.* When the application concerns variance and/or appeals, the Planning Commission shall make findings of fact and recommend approval or denial within 60 days after the application was first considered, which findings and recommendation shall be presented in writing to the City Council. The City Clerk shall notify the applicant, in writing, of decisions of both the Board of Appeals and Adjustments and the City Council.

(12) *Petition for extension of time.*

(a) An extension of time as provided for in this chapter shall be made in writing and filed, without charge, with the City Clerk at least 30 days before the expiration of the granted application or extension thereof.

(b) This petition shall state facts showing a good faith attempt to complete the work permitted in the original application.

(c) The petition shall be referred to the Planning Commission for its recommendation to the City Council who shall approve or deny the petition by majority vote of a quorum of the Council.

(13) *Performance bond and security deposits.*

(a) Upon approval of a request for a conditional use permit, a variance, or whenever the granting of an appeal involves conditions imposed therewith, the applicant shall provide the city with a surety bond or performance bond or a cash deposit or other valuable and collectible security deposit which shall guarantee that the applicant shall comply with all of the imposed conditions as well as all of the city ordinances and which shall be subject to forfeiture as provided in this chapter.

(b) The amount of the bond or deposit shall be determined by the City Clerk's estimate of the cost of completing the use as proposed and shall be provided to the city prior to the issuance of a building permit or any initiation of work on the proposed use.

(c) The city shall hold the bond or deposit until a certificate of occupancy has been issued by the Building Inspector.

(d) Failure to comply with any condition imposed in granting the approval or with any

other city ordinance provision within 6 months after written notice shall cause the bond or deposit to become forfeited to the city.

(Ord. 84, § 5.7, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.057 WATER SUPPLY AND SEWAGE TREATMENT.

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

(B) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment as follows.

(1) Publicly-owned sewer systems must be used where available.

(2) All new and existing private sewage treatment systems shall meet the requirements in the city's Individual Sewage Treatment System Ordinance, as the same may be amended from time to time.

(Ord. 84, § 5.8, passed 3-9-1995; Am. Ord. passed 7-21-1999)

NONCONFORMITIES

§ 153.070 GENERALLY.

All legally established nonconformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and other regulations of the City of North Oaks for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in Shoreland Areas:

(Ord. 84, § 6, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.071 CONSTRUCTION ON NONCONFORMING LOTS OF RECORD.

(A) Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of § 153.050 may be allowed as building sites without variances from lot size requirements of § 153.050, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.

(B) (1) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot.

(2) In evaluating the variance, the City Council shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(C) (1) If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 153.050, the lot must not be considered as a separate parcel of land for the purposes of sale or development.

(2) The lot must be combined with the 1 or more contiguous lots that equal 1 or more parcels of land, each meeting the requirements of § 153.050 as much as possible.
(Ord. 84, § 6.1, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.072 ADDITIONS/EXPANSIONS TO NONCONFORMING STRUCTURES.

(A) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of §§ 153.050 *et seq.*

(B) Any deviation from these requirements must be authorized by a variance pursuant to § 153.022.
(Ord. 84, § 6.2, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.073 NONCONFORMING SEWAGE TREATMENT SYSTEMS.

Existing Individual Sewage Treatment Systems not meeting the requirements of § 153.057 for new systems shall be governed by the city's Individual Sewage Treatment System Ordinance, as the same may be amended from time to time.
(Ord. 84, § 6.3, passed 3-9-1995; Am. Ord. passed 7-21-1999)

SUBDIVISION/PLATTING PROVISIONS

§ 153.085 LAND SUITABILITY.

(A) Each lot created through subdivision, including planned residential developments authorized under §§ 153.105 *et seq.*, must be suitable in its natural state for the proposed use with minimal alteration.

(B) Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence

of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
(Ord. 84, § 7.11, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.086 CONSISTENCY WITH OTHER CONTROLS.

(A) Subdivisions must conform to all official controls of this community.

(B) A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose.

(C) In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with §§ 153.051 and 153.057 can be provided for every lot.

(D) Each lot shall meet the minimum lot size and dimensional requirements of § 153.050, including at least a minimum contiguous yard area, that is free of limiting factors sufficient for the construction of 2 standard soil treatment systems.

(E) Lots that would require use of holding tanks must not be approved.
(Ord. 84, § 7.12, passed 3-9-1995; Am. Ord. passed 7-21-1999) Penalty, see § 10.99

§ 153.087 INFORMATION REQUIREMENTS.

(A) Sufficient information must be submitted by the applicant for the community to make a determination of land suitability.

(B) The information shall include at least the following:

(1) Topographic contours at 2-foot intervals or less which show limiting site characteristics;

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

(3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods all in accordance with city Ordinances 59 and 83;

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

(5) Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

(6) A line or contour representing the ordinary high water level, the toe and the top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
(Ord. 84, § 7.13, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.088 DEDICATION.

When a land or easement dedication is a condition subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
(Ord. 84, § 7.14, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.089 PLATTING.

(A) All subdivisions that create 5 or more lots or parcels that are 2½ acres or less in size shall be processed as a plat in accordance with M.S. Ch. 505, as it may be amended from time to time.

(B) No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.
(Ord. 84, § 7.15, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.090 CONTROLLED ACCESS OR RECREATIONAL LOTS.

Lots intended as controlled accesses to waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in this chapter.
(Ord. 84, § 7.16, passed 3-9-1995; Am. Ord. passed 7-21-1999)

PLANNED RESIDENTIAL DEVELOPMENTS (PRDs)

§ 153.105 TYPES OF PRDS PERMISSIBLE.

(A) Planned Residential Developments (PRD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land.

(B) The land use districts in which they are an allowable use are identified in the land use district

descriptions in § 153.036 and the Official Zoning Map.
(Ord. 84, § 8.1, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.106 PROCESSING OF PRDS.

(A) Planned residential developments must be processed conditional use.

(B) Approval cannot occur until environmental review process (EAW/EIS) is complete.
(Ord. 84, § 8.2, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.107 APPLICATION FOR A PRD.

The applicant for a PRD must submit the following documents prior to final action being taken on the application request:

(A) 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 two-foot intervals or less. When a PRD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two;

(B) A property owners association agreement (for residential PRD's) with mandatory membership, and all in accordance with the requirements of § 153.110;

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

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

(2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in § 153.110.

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

(E) Those additional documents as requested by the City Council or Planning Commission that are necessary to explain how the PRD will be designed and will function.
(Ord. 84, § 8.3, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.108 SITE SUITABLE AREA EVALUATION.

(A) Proposed new or expansions to existing planned residential developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in § 153.109.

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

<i>Shoreland Tier Dimensions</i>		
	<i>Unsewered (Feet)</i>	<i>Sewered (Feet)</i>
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

(C) (1) 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.

(2) 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.

(Ord. 84, § 8.4, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.109 RESIDENTIAL PRD DENSITY EVALUATION.

(A) *Generally.* The procedures for determining the base density of a PRD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.

(B) *Residential PRD base density evaluation.* The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth. 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 § 153.110.

(C) *Density increase multipliers.*

(1) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in §§ 153.050 *et seq.* are met or exceeded and the design criteria in § 153.110 are satisfied. The allowable density increases in division (C)(2) below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through

vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.

(2) Allowable dwelling unit or dwelling site density increases for residential:

<i>Density Evaluation Tiers</i>	<i>Maximum Density Increase Within Each Tier (Percent)</i>
First	50
Second	100
Third	130
Fourth	130
Fifth	130

(Ord. 84, § 8.5, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.110 MAINTENANCE AND DESIGN CRITERIA.

(A) *Maintenance and administration requirements.*

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

(2) *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:

- (a) Commercial uses prohibited (for residential PRDs);
- (b) Vegetation and topographic alterations other than routine maintenance prohibited;
- (c) Construction of additional buildings or storage of vehicles and other materials prohibited; and
- (d) Uncontrolled beaching of watercraft prohibited.

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

- (a) Membership must be mandatory for each dwelling unit or site purchaser and any

successive purchasers;

(b) Each member must pay a pro rate share of the association's expenses, and unpaid assessments can become liens on units or sites;

(c) Assessments must be adjustable to accommodate changing conditions; and

(d) The association must be responsible for insurance, taxes, and maintenance of all commonly-owned property and facilities.

(B) *Open space requirements.* PRDs must contain open space meeting all of the following criteria:

(1) At least 50% of the total project area must be preserved as open space;

(2) 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;

(3) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;

(4) 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;

(5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;

(6) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;

(7) 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

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

(C) *Erosion control and stormwater management.* Erosion control and stormwater management plans must be developed and the PRD must:

(1) Be in full conformance with Chapter 154;

(2) 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

(3) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25% of the tier area.

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

(1) PRDs 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 §§ 153.051 and 153.057. 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;

(2) Dwelling units or sites must be clustered into 1 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 division (C) above for developments with density increases;

(3) (a) 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 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;

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

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

(6) Water-oriented accessory structures and facilities may be allowed if they meet or exceed

design standards contained in § 153.051 and are centralized.
(Ord. 84, § 8.6, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.111 CONVERSIONS.

(A) *Generally.* The city may allow other land uses and facilities to be converted to PRDs if all of the following standards are met:

(B) *Standards.*

(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, paved 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) (a) Existing dwelling unit or dwelling site densities that exceed standards in § 153.109 may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future.

(b) 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. 84, § 8.7, passed 3-9-1995; Am. Ord. passed 7-21-1999)

FEES

§ 153.125 BASIC FEES.

To defray the normal administrative costs of processing applications for permits, conditional use permits, variances, amendments, or appeals associated with this chapter, a nonrefundable base fee will be established by the City Council and paid by all applicants when the application is filed.

(Ord. 84, § 9.1, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.126 ADDITIONAL COSTS.

In order to defray any additional cost over and above the normal processing of an application for an amendment, a variance, conditional use permit, an appeal, or permit, the applicant shall reimburse the city for the costs the city may incur in employing the services of engineers, foresters, attorneys and/or other professional consultants in connection with the application. Reimbursement hereunder shall be made whether the application is approved or denied.

(Ord. 84, § 9.2, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.127 LATE FEES.

Applications for permits, conditional use permits, or variances received after work has started will be subject to a nonrefundable late fee in an amount to be established by the City Council.

(Ord. 84, § 9.3, passed 3-9-1995; Am. Ord. passed 7-21-1999)

§ 153.128 VIOLATIONS.

Any person violating or otherwise refusing to comply with any of the provisions of this chapter shall remediate any violation or noncompliance at the direction of the City Council.

(Ord. 84, § 9.4, passed 3-9-1995; Am. Ord. passed 7-21-1999)

CHAPTER 154: EROSION AND SEDIMENT CONTROL

Section

- 154.01 Purpose
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§ 154.01 PURPOSE.

In response to the Metropolitan Surface Water Management Act and the Vadnais Lake Area Watershed Management Plan, the purpose of this chapter is to control and, where practical, eliminate erosion and sediment damage within the City of North Oaks. It is designed to safeguard the health, safety, and welfare of the citizens; to preserve the value of land throughout the city; to establish a reasonable design standard and procedure for development which prevents potential sediment damage; to prevent the pollution of streams, lakes, wetlands, and other watercourses by sediment; to minimize the danger of flood loss; and to preserve the natural beauty and aesthetics of the community.
(Ord. 75, passed 5-12-1988)

§ 154.02 SCOPE OF AUTHORITY.

(A) Except as exempted by § 154.04, any person, firm, corporation, or business proposing to develop land within the City of North Oaks shall apply to the city for approval of grading plans as specified in this chapter.

(B) No land shall be developed until the plans are approved by the city and conform to both Chapter 152 and to the standards set forth herein.

(Ord. 75, passed 5-12-1988) Penalty, see § 10.99

§ 154.03 DEFINITIONS.

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

AGRICULTURE. All farm enterprises, such as crop land forage production, animal husbandry, dairy and poultry, silviculture, floriculture, turf farming, and truck farming.

CITY OF NORTH OAKS. The City Council or its Planning Commission and, where delegated, its City Clerk, City Building Inspector, or City Engineer that may be charged with the administration of this chapter.

DEVELOPER. A person, partnership, or corporation engaged in land development and not excluded by the exemption section of this chapter.

LAND DEVELOPMENT. The process of grading, clearing, filling, excavating, construction, or similar activities when not excluded by § 154.04.

DISTRICT. Ramsey Soil and Water Conservation District.

EROSION. The wearing away of land by action of wind, water, or gravity.

EROSION AND SEDIMENT CONTROL PLAN. The plan that shall be included as part of a preliminary site plan required under any other city ordinance or a separate plan following the requirements set out in this chapter (see Appendix B, USDA - Soil Conservation Service, Fact Sheet Practices and Related Techniques for Urban Areas).

MULCHING. The application of plant or other suitable materials on the soil surface to conserve moisture, reduce erosion, and aid in establishing temporary or permanent vegetation.

OTHER MUNICIPAL ORDINANCES. City of North Oaks ordinances, such as, but not limited to zoning and subdivision.

POST-DISTURBANCE CONDITION. The state of a site following crop or development

establishment in which source and/or structural control measures have been implemented resulting in erosion and sedimentation control achieving soil loss limits.

SEDIMENT. Rock, sand, gravel, silt, or other material deposited by action of wind, water, or gravity.

SEDIMENTATION. The erosion of soil and other pollutants by storm runoff, the lack of source and/or structural control, and the resulting introduction of the pollutants into the hydrologic system (wetlands and streams) either directly or conveyed by storm sewers and ditches.

SEDIMENT BASIN. A barrier or dam built across a waterway or at other suitable locations to retain rock, sand, gravel, silt, or other material deposited by action of wind, water, or gravity.

SITE PLAN. The plan submitted by the developer which incorporates information required by § 7.1 of Ordinance No. 59. A preliminary site plan shall be followed by a final site plan.

SOURCE CONTROL. The application of erosion techniques including but not limited to: mulching, seeding, sodding, and greenbelts (see Appendix A of Ordinance 75).

STRUCTURAL CONTROL. The application of construction erosion techniques, including but not limited to: sediment basins, silt fences, debris dams, dikes, terracing, rip-rap, and diversions (see Appendix A of Ordinance 75).

VADNAIS LAKE AREA WATER MANAGEMENT ORGANIZATION. The joint powers board organized under M.S. §§ 103B.201 to 103B.251, as they may be amended from time to time, to manage the surface waters of the Vadnais Lake drainage area and hereinafter called the VLAWMO.

WORST CASE SOIL LOSS CONDITION. The state of a site which is denuded and the existing or interim rough grade contours are unstabilized and could create the greatest potential soil loss. (Ord. 75, passed 5-12-1988)

§ 154.04 EXEMPTIONS.

This chapter shall not apply to:

(A) Land under agricultural use unless soil loss as determined by the district is excessive;

(B) Any development involving 1 single-family residence in identified VLAWMO critical erosion areas unless the VLAWMO through the city has made a determination of existing or potential significant impact on the receiving water or wetland. If such a determination is made, the city may require temporary erosion or sediment control practices; and

(C) Any development involving less than 2.5 acres and located in VLAWMO noncritical erosion areas.

(Ord. 75, passed 5-12-1988)

§ 154.05 CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS.

In any such situation, where any other law, ordinance, or regulation of the City of North Oaks exists, the most restrictive of the regulations shall apply.
(Ord. 75, passed 5-12-1988)

§ 154.06 STANDARDS.

(A) All non-exempt development, as established by § 154.04, shall comply with standards and specifications established by the City of North Oaks with the assistance of the district.

(B) In determining compliance of the sediment control element of the plan with acceptable practice or agriculture land use, the city shall determine compliance and approval on the following basis.

(1) An average of 2 tons of soil loss per acre per year shall be deemed the maximum allowable soil loss rate in any given year following development.

(2) For agricultural land use, an average of 5 tons of soil loss per acre per year shall be deemed the maximum allowable rate of spill loss in any given year.
(Ord. 75, passed 5-12-1988) Penalty, see § 10.99

§ 154.07 APPROVAL AND FEES.

A separate application shall be required for each land development. Each plan submission shall contain the information required by § 154.08 and shall be submitted to the city office. A fee may be required for each application which shall be made payable to the City of North Oaks.
(Ord. 75, passed 5-12-1988)

§ 154.08 REQUIRED LAND DEVELOPMENT PLANS.

(A) (1) A developer must submit a preliminary site plan pursuant to § 7.1 of Ordinance No. 59, which shall include a narrative description and plans for erosion and sediment control.

(2) In addition, city expenses incurred in employing the services of the City Engineer, City Attorney, and other professional consultants in connection with the review of plans shall be reimbursed to the city.

(B) Upon receipt of the preliminary site plan, including erosion and sediment control, the city shall refer the plan to the VLAWMO for review in conformance with §§ 154.09 and 154.15.
(Ord. 75, passed 5-12-1988)

§ 154.09 PLAN PREPARATION PROCESS.

(A) The developer shall plan for necessary erosion and sediment control practices to ensure effective control of soil losses within the standards prescribed in § 154.06. It shall be the developer's option to select a specific practice or combination of practices from Appendix B of Ordinance 75 that will provide effective erosion and sediment control within the limits of generally accepted soil and water conservation technology and in concert with the particular development stage.

(B) The developer should be guided by the principles of erosion and sediment control prescribed in divisions (B)(1) and (B)(2) below or by any other acceptable principles and practices devised in cooperation with the city and by recommendation of the VLAWMO.

(1) Control shall be tailored to the topography and soils so as to create the least potential for soil loss, and maximum usage of vegetation should be utilized to minimize the inevitable soil loss through land disturbing activity.

(a) Natural vegetation should be retained wherever possible.

(b) Where inadequate natural vegetation exists, or where it becomes necessary to remove existing natural vegetation, the developer may leave the site in an exposed condition for a period of up to 30 calendar days as long as appropriate structural control measures have been implemented.

(c) Where inadequate natural vegetation exists, or where it becomes necessary to remove existing natural vegetation and the site remains in a rough grade condition for a period of 30 to 90 days, then the developer shall mulch as a source control measure to complement appropriate structural control measures.

(d) Where inadequate natural vegetation exists, or where it becomes necessary to remove natural vegetation and the site remains in a rough grade condition for a period of 90 to 360 calendar days, the developer shall mulch and install temporary (annual) seeding as an erosion source control measure to complement appropriate structural control measures.

(e) Where inadequate natural vegetation exists, or where it becomes necessary to remove existing natural vegetation and the site remains in a rough grade condition for a period longer than 1 calendar year, the developer shall install perennial seed and mulch as an erosion source control measure to complement appropriate structural control measures.

(f) During any of the development stages in which final landscaping and turf establishment is to be implemented, the soil shall not remain in an exposed condition for more than 15 calendar days.

(g) Erosion and sediment control elements should be implemented as soon as practical in the development stage.

(2) Appropriate provision should be made to accommodate increased storm water runoff and consequent soil loss occasioned by changed soil and surface conditions during and after development. The provisions may include, but are not limited to:

(a) The installation by the developer of permanent improvements such as: streets, storm sewers, curb and gutters, detention basins and other features for control of storm runoff, before removing vegetative cover from the areal; and

(b) The developer shall install and maintain sediment basins, debris basins, or silt traps to substantially reduce sediment from runoff water.
(Ord. 75, passed 5-12-1988) Penalty, see § 10.99

§ 154.10 PLAN APPROVAL PROCESS.

(A) *Comments of the VLAWMO.* When a site plan is submitted by the city to the VLAWMO, the VLAWMO shall make comments and recommendations. All the comments and recommendations shall be made in writing within 15 working days of receipt by the VLAWMO. The comments may pertain but not be limited to:

- (1) Erosion and sediment control;
- (2) Soil use limitations;
- (3) Environmental considerations; and
- (4) Water management.

(B) *Preliminary site plan approval.* After allowing for review and comment by the VLAWMO, the city shall approve, disapprove, or recommend modification of the site plan.

(C) *Final site plan approval.* Upon approval of the erosion and sediment control elements of the preliminary site plan or approval of a preliminary erosion and sediment control plan, the developer shall submit final plans which shall incorporate all recommendations and alterations agreed upon by the city and developer.

(D) *Erosion and sediment control approval.*

(1) Upon approval of a final site plan the city shall grant conditional approval.

(2) The approval may be revoked by either the city or VLAWMO or its representative if, upon periodic inspection, a determination is made that the work is not progressing in accordance with specifications of the approved plan.

(Ord. 75, passed 5-12-1988)

§ 154.11 INSPECTION AND COMPLIANCE.

(A) The VLAWMO shall be responsible for monitoring whether the erosion and sediment control elements of the site plan are in conformance with requirements specified in §§ 154.06 and 154.10 and whether development is proceeding according to the approved plan.

(B) Periodic inspection of the development site shall be performed by the city and the VLAWMO. In applying for an approval, the developer shall be deemed to have consented to the inspections.

(C) The city through the periodic inspections shall ensure that erosion and sediment control elements are implemented within time limits specified for a land development stage. In the event weather conditions or other factors beyond the control of the developer dictate that the above conditions cannot be met, the developer shall be allowed sufficient time for compliance.

(D) Any erosion or sediment control structure or vegetative practice rendered ineffective by an Act of God shall not be considered noncompliance with the provisions of this chapter if the structure or practice is restored to effectiveness within a reasonable length of time as determined by the VLAWMO.

(Ord. 75, passed 5-12-1988)

§ 154.12 MODIFICATION OF PLAN.

(A) An approved site plan may be modified upon submission of an application for modification to the city and subsequent approval by the city.

(B) In reviewing the application, the city may require additional reports and data.

(Ord. 75, passed 5-12-1988)

§ 154.13 BOND REQUIREMENT.

Upon approval of a site plan, the city may require the developer to post a performance bond, cash, or certified check to ensure completion of the erosion and sediment control elements.

(Ord. 75, passed 5-12-1988)

§ 154.14 SPECIFICATIONS FOR DOCUMENTS.

The requirements of erosion and sediment control elements of the site plan may be a separate document itself or superimposed on a preliminary plat if such be required under Chapter 152 for the particular development.

(Ord. 75, passed 5-12-1988)

§ 154.15 VIOLATIONS.

The city shall bring to the attention of the VLAWMO any violations or lack of compliance with this chapter.

(Ord. 75, passed 5-12-1988) Penalty, see § 10.99

§ 154.16 CIVIL ENFORCEMENT.

Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages and restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure, or premises, and these remedies shall be in addition to the penalties described above.

(Ord. 75, passed 5-12-1988) Penalty, see § 10.99

§ 154.17 EFFECTIVE DATE.

This chapter shall take effect and be in force after its passage and official publication.

(Ord. 75, passed 5-12-1988)

CHAPTER 155: BUILDING CODE

Section

- 155.01 Title
- 155.02 Application, administration, and enforcement
- 155.03 Permits and fees
- 155.04 Minnesota State Building Code adopted
- 155.05 Electrical Inspector
- 155.06 Effective date
 - Appendix A: Building permits
 - Appendix B: Electrical permits
 - Appendix C: Mechanical permits
 - Appendix D: Plumbing permits

§ 155.01 TITLE.

This chapter shall hereafter be known, cited, and referred to as the North Oaks Building Code, except as sometimes referred to herein as the Code or this chapter.
(Ord. 95, passed 5-13-1999)

§ 155.02 APPLICATION, ADMINISTRATION, AND ENFORCEMENT.

The application, administration, and enforcement of the Code shall be in accordance with Minn. Rules, part 1300.0100 to 1300.0250, as it may be amended from time to time, and as modified by Minn. Rules, Chapter 1305, as they may be amended from time to time. The Code shall apply and be enforced within the city. The city shall appoint a Certified Building Official (as defined in Minn. Rules, Chapter 1301, as it may be amended from time to time) to administer the Code.
(Ord. 95, passed 5-13-1999)

§ 155.03 PERMITS AND FEES.

As authorized by M.S. § 16B.62, Subd. 1, as it may be amended from time to time, the issuance of permits and the setting and collection of fees for work governed by the Code shall be set by the city from time to time by resolution.

(Ord. 95, passed 5-13-1999)

§ 155.04 MINNESOTA STATE BUILDING CODE ADOPTED.

The Minnesota State Building Code, as adopted pursuant to M.S. §§ 16B.59 *et seq.*, as they may be amended from time to time, and as established pursuant to Minn. Rules, Chapter 1300, as they may be amended from time to time, is hereby adopted as the North Oaks Building Code. The Minnesota State Building Code is hereby incorporated by this chapter as if fully set forth herein.

(Ord. 95, passed 5-13-1999)

§ 155.05 ELECTRICAL INSPECTOR.

As authorized by M.S. § 326.244, Subd. 4, as it may be amended from time to time, the city shall appoint an Electrical Inspector who shall inspect electrical installations within the city.

(Ord. 95, passed 5-13-1999)

§ 155.06 EFFECTIVE DATE.

This chapter shall take effect and be in force after its passage and official publication.

(Ord. 95, passed 5-13-1999)

APPENDIX A: BUILDING PERMITS

<i>Total Valuation</i>	<i>Fee</i>
\$1 to \$500	\$23.50
\$501 to \$2,000	\$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	\$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	\$391.25 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	\$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	\$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 and up	\$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof
<i>Other Inspections and Fees:</i>	
1. Inspections outside of normal business hours (minimum charge: 2 hours) - \$47 per hour (1)	
2. Reinspection fees assessed under provisions of § 305.8 - \$47 per hour (1)	
NOTES TO TABLE:	
(1) Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.	
(2) Actual costs include administrative and overhead costs.	

(Res. 1031, passed 5-13-1999)

APPENDIX B: ELECTRICAL PERMITS

(A) *Minimum fee.* For each separate inspection of an installation, replacement, alteration, or repair limited to 1 inspection only - \$22.

(B) *Services, changes of service, temporary services, additions, alterations, or repairs.* Primary or secondary services shall be computed separately:

- (1) Zero to 101-ampere capacity - \$25;
- (2) One hundred and one to and including 200-ampere capacity - \$30; and
- (3) For each additional 100-ampere capacity or fraction thereof - \$14.

(C) *Circuits.* Installations of, additions, alterations, or repairs of each circuit or sub-feeder shall be computed separately, including circuits fed from sub-feeders and including the equipment served, except as provided for in divisions (D) through (K) below:

- (1) Zero to and including 30-ampere capacity - \$7;
- (2) Thirty-one to and including 100-ampere capacity - \$10; and
- (3) For each additional 100-ampere capacity or fraction thereof - \$5.

(D) *Maximum fee on a single-family dwelling.* The maximum fee shall not exceed \$110 if not over 200-ampere capacity. This includes service, feeders, circuits, fixtures, and equipment. The maximum fee provides for not more than 2 rough-in inspections and the final inspection per dwelling. Additional inspections are at the reinspection rate.

(E) *Maximum fee on an apartment building.* The maximum fee shall not exceed \$50 per dwelling unit for the first 20 units and \$45 per dwelling unit for the balance of the units. A 2-unit dwelling, (duplex) maximum fee per unit as per single-family dwelling.

(F) *Athletic field lighting.* The maximum number of 0- to 30-ampere circuits to be paid on any 1 athletic field lighting standard is 10.

(G) *Street lighting; traffic signals.* In addition to the above fees, a charge of \$3 will be made for each street lighting standard. A charge of \$4 will be made for each traffic signal standard. Circuits originating within the standard will not be used when computing fees.

(H) *Transformers and generators for light, heat, and power.* The fee shall be computed separately at \$8 plus 400 per KVA up to and including 100 KVA and 101 KVA and over at 300 per KVA, in addition to the above fees. The maximum fee for any transformer or generator in this category is \$80.

(I) *Transformers for signs and outline lighting.* The fee shall be computed at \$7 for the first 500 VA or fraction thereof per unit, plus 700 for each additional 100 VA or fraction thereof, in addition to the above fees.

(J) *Remote control, signal circuits, and circuits less than 50 volts.* Unless included in the maximum fee filed by the initial installer, remote control, signal circuits, and circuits of less than 50 volts shall be computed at \$5 per each 10 openings or devices of each system, plus \$3 for each additional ten or fraction thereof.

(K) *Swimming pools.* The inspection fee for each separate inspection of a swimming pool shall be computed at \$25, in addition to the above fees. Reinforcing steel for swimming pools requires a rough-in inspection.

(L) *Plan review; proposed installations.* There shall be a minimum fee of \$150 up to and including \$30,000 of electrical estimate, plus 1/10 of 1% on any amount in excess of \$30,000 for the review of plans and specifications of proposed installations, to be paid by persons or firms requesting the review.

(M) *Reinspection.* When reinspection is necessary to determine whether unsafe conditions have been corrected and the conditions are not subject of an appeal pending before any court, a reinspection fee of \$22 may be assessed in writing by the Inspector.

(N) *Other or special inspections.* For inspections not covered herein, or for requested special inspections or services, the fee shall be \$30 per man hour, including travel time, plus \$.25 per mile traveled, plus the reasonable cost of equipment or material consumed. This division (N) is also applicable to inspection of empty conduits and the jobs as determined by the city.

(O) *Transient projects.* For inspection of transient projects, including, but not limited to, carnivals and circuses, the inspection fees shall be computed as follows.

(1) *Power supply units according to division (B) above.* A like fee will be required on power supply units at each engagement during the season, except that a fee of \$25 per hour will be charged for additional time spent by the Inspector, if the power supply is not ready for inspection as required by law.

(2) *Rides, devices, or concessions.* Shall be inspected at their first appearance of the season and the inspection fee shall be \$20 per unit.

(Res. 1031, passed 5-13-1999)

APPENDIX C: MECHANICAL PERMITS

(A) *Residential (1- and 2-family dwellings).*

- (1) Base fee for issuing each permit - \$23.50; and
- (2) Minnesota state surcharge - \$.50.

(B) *Unit fee schedule.*

- (1) Furnace (includes ductwork), boiler (in-floor heat), and air conditioner - \$18;
- (2) Garage/unit heater, air exchanger, pool heater, and space heater - \$14;
- (3) Fireplace (gas) and water heater - \$12;
- (4) Exhaust fans (bath, laundry) and kitchen exhaust hoods - \$8;
- (5) Gas piping (each 1 to 5 outlets) - \$5;
- (6) Additions/alterations to duct systems - \$8; and
- (7) Miscellaneous appliance venting (dryer, range, oven, cooktop) - \$5.

(C) *Commercial fees.*

- (1) Base fee - \$23.50;
- (2) Fee is 1% of total valuation of all work being done and equipment being supplied; and
- (3) Minnesota state surcharge is \$.50 on permits with fees less than \$1,000. Surcharge is .0005 times the permit fee for permit fees over \$1,000.

(D) *Other inspections and fees.* Inspections outside of normal business hours, re-inspections, and inspections for which no fee is specifically indicated - per hour \$47.

(E) *Notes.* All work must be done by a City of North Oaks licensed contractor (residential work may be done by an owner/occupant).

(Res. 1031, passed 5-13-1999)

APPENDIX D: PLUMBING PERMITS

(A) *Permit issuance.*

- (1) Base fee for issuing each permit - \$23.50; and
- (2) Minnesota state surcharge - \$.50.

(B) *Unit fee schedule (in addition to divisions (A)(1) and (A)(2) above).*

- (1) Each toilet, bathtub, separate shower, sink, lavatory, laundry tray, dishwasher, washer box, floor drain, lawn faucet, or miscellaneous plumbing fixture - each \$8;
- (2) Gas piping system (1 to 5 outlets) - \$5 (if not included in mechanical permit);
- (3) Outside sewer connection - \$15; and
- (4) Outside water connection - \$15.

(C) *Other inspections and fees.* Inspections outside of normal business hours, re-inspections, and inspections for which no fee is specifically indicated - per hour \$47.

(D) *Commercial.*

- (1) Plans for commercial plumbing installations and alterations must be approved by the Minnesota Department of Health prior to issuing a local plumbing permit.
- (2) Unit fee schedule is as listed above.

(E) *Generally.* All work must be done by a Minnesota licensed plumber. Residential work may be done by an owner/occupant.

(Res. 1031, passed 5-13-1999)

CHAPTER 156: STORMWATER MANAGEMENT

- § 156.001 TITLE.
 - § 156.002 IN GENERAL.
 - § 156.003 RUNOFF RATES
 - § 156.004 WATER QUALITY TREATMENT
 - § 156.005 VOLUME CONTROL/REDUCTION.
 - § 156.006 TOTAL PHOSPHOROUS (TP) CONTROL.
 - § 156.007 TOTAL SUSPENDED SOLIDS (TSS) CONTROL.
 - § 156.008 OFF-SITE MITIGATION.
 - § 156.009 SPECIFIC STANDARDS.
-

§ 156.001 TITLE.

This chapter shall hereafter be known, cited, and referred to as the Stormwater Management Ordinance of the City of North Oaks, except as referred to herein, where it shall be known as this chapter, and is adopted pursuant to the authorization of M.S. § 115.03, as it may be amended from time to time.

§ 156.002 IN GENERAL.

- (A) *Applicability.* No person shall develop land for any purpose without first providing stormwater management measures that control or manage runoff from such developments except as specifically exempted in this Chapter.
- (B) *Use of natural topography.* An applicant seeking to develop land shall reduce the need for stormwater management infrastructure by utilizing natural topography and land cover such as swales and depressions that exist before development to the degree they can accommodate the additional flow of water without compromising the integrity or quality of a receiving water body. Development or redevelopment shall minimize impact to significant natural features.
- (C) *Best management practices.* Proposed design, suggested location, and phased implementation of effective, practicable stormwater management measures for plans shall be designed, engineered, and implemented to achieve all applicable City stormwater standards. Any combination of best management practices (BMPs) may be used with highest preference being given to Green Infrastructure techniques and practices necessary to meet required conditions to the maximum extent practicable (MEP).

§ 156.003 RUNOFF RATES

Runoff rates resulting from a project shall not exceed the pre-project runoff rates for the one-year, two-year, ten-year and one hundred-year critical duration storm events.

§ 156.004

The basin or basins will be required to comply with all MPCA standards regarding infiltration/filtration and will be subject to approval by the VLA WMO and the City Engineer.

If basins are approved, the owner must provide a maintenance agreement for each basin constructed. The City will not maintain private filtration basins.

§ 156.005 VOLUME CONTROL/REDUCTION.

- (A) *New Development.* Stormwater discharge volumes on newly developed property, unless precluded by allowable stormwater management limitations, shall be controlled in a manner that achieves no net increase of the pre-project conditions (on an annual basis).
- (B) *Redevelopment.* Stormwater discharge volumes on property being redeveloped, unless precluded by allowable stormwater management limitations, shall be controlled in a manner that achieves a net reduction of the pre-project conditions (on an annual basis).
- (C) *All Development.*
 - (1) Utilization of infiltration techniques to achieve the conditions for post-construction stormwater management shall be prohibited if the proposed infiltration structural stormwater BMP would receive discharges from or be constructed in the following areas:
 - (a) Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the MPCA;
 - (b) Where vehicle fueling and maintenance occur;
 - (c) With less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock;
 - (d) Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating stormwater.
 - (2) Infiltration techniques to achieve the conditions for post-construction stormwater management shall require high level engineering review sufficient to provide a functioning

treatment system and prevent adverse impacts to groundwater whenever an infiltration structural stormwater BMP is proposed to be constructed in the following areas:

- (a) In areas with predominately Hydrologic Soil Group D (clay) soils;
- (b) Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features;
- (c) Within a Drinking Water Supply Management Area (DWSMA) as defined in Minnesota Statutes; or
- (d) Where soil infiltration rates are more than 8.3 inches per hour.

§ 156.006 TOTAL PHOSPHOROUS (TP) CONTROL.

TP loadings shall be controlled as follows where new development activity results in one-half acre or more of impervious surface, or when redevelopment activity results in any additional impervious surface:

- (A) *New Development.* Stormwater runoff on newly developed property shall be treated to the following standard on an annual basis before discharge to natural water bodies:
 - (1) Achievement of no-net-increase to the predevelopment TP load.
- (B) *Redevelopment.* Stormwater runoff on redeveloped property shall be treated to achieve a net reduction from pre-project TP load conditions on an annual basis before discharge to natural waterbodies.
- (C) *All Development.* Where water quality ponding is exclusively used to meet the TP removal requirement, the pond(s) shall be sized to store, below the normal outlet elevation, the site runoff from a two and one-half-inch rainfall.

§ 156.007 TOTAL SUSPENDED SOLIDS (TSS) CONTROL.

TSS loading shall be controlled as follows where new development activity results in one-half acre or more of impervious surface, or redevelopment activity results in any additional impervious surface:

- (A) *New Development.* Stormwater runoff on newly developed property shall be treated to the following standard on an annual basis before discharge to natural water bodies:
 - (1) Achievement of no-net-increase to the predevelopment TSS load.

- (B) *Redevelopment.* Stormwater runoff on redeveloped property shall be treated to achieve a net reduction from the existing-conditions TSS load on an annual basis before discharge to natural water bodies.
- (C) *All Development.* Where water quality ponding is exclusively used to meet the TSS removal requirement, the pond(s) shall be sized to store, below the normal outlet elevation, the site runoff from a two and one-half-inch rainfall.

§ 156.008 OFFSITE MITIGATION.

Any stormwater discharges of TSS and/or TP not addressed on the site of the proposed construction activity shall need to be addressed through off-site mitigation meeting the following standards:

- (A) *Site Selection;* Off-site mitigation project areas are to be selected using the following order of preference:
 - ① Locations that yield benefits to the same receiving water that receives runoff from the proposed construction activity;
 - ② Locations within the same Minnesota Department of Natural Resource (DNR) catchment area as the proposed construction activity;
 - ③ Locations in the next adjacent DNR catchment area up-stream from the proposed construction activity;
 - ④ Locations anywhere within the City.
- (B) Off-site mitigation projects must involve the creation of new structural stormwater BMPs, the retrofit of existing structural stormwater BMPs, or the use of a properly designated regional structural stormwater BMP.
- (C) Routine maintenance of structural stormwater BMPs already required cannot be used to meet mitigation requirements of this subsection.
- (D) Off-site mitigation projects shall be able to be completed within 24-months following the start of the proposed construction activity.
- (E) The party responsible for long-term maintenance of the off-site mitigation project shall be identified.

- (F) If off-site mitigation can be demonstrated to be infeasible, the City may accept a payment in lieu of the mitigation that would have otherwise been required, and such payment shall be applied to a public stormwater project in compliance with all applicable regulations.

§ 156.009 SPECIFIC STANDARDS

- (1) Impervious surface coverage of lots must not exceed 25% of the lot area.
- (2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the Ramsey County Soil and Water Conservation District.
- (3) New constructed stormwater outfalls to water must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.