

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING CODE

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§ 150.01 MINNESOTA STATE BUILDING CODE.

The Minnesota State Building Code, being Minnesota Rules Ch. 1300, as it may be amended from time to time, is hereby adopted by reference and shall govern the construction, improvement and occupancy of buildings within the city in accordance with its terms. Permit fees shall be as set forth in the 1991 Uniform Building Code, Table No. 3-A Building Permit Fees.

(A) *Codes.* As used in this section, the term **CODES** shall mean those certain documents, copies of which are on file with the Building Official, comprising the building codes as adopted by the state, and the codes shall be designated and are hereby adopted by the city as the codes for the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the city. Further, the codes shall be utilized by the City Building Official in the issuance of permits and collection of fees hereunder and shall hereby be adopted and be made a part of this section by reference as if fully set out hereby. The adoption by reference shall include all mandatory provisions of the appendices to each relevant code and any subsequent amendments thereto; provided, however that to the extent that the codes may be read to provide otherwise, any demolition of a structure, whether primary or accessory, shall require the removal of all foundation walls, basement flooring and/or concrete slab as part of the demolition, unless the owner provided demonstrable evidence that the foundation walls, and basement flooring and/or concrete slab shall be utilized in conformance with building codes and city ordinances.

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(1) *Roofing and roof structures.* All buildings and structures within the city shall have and maintain roofing assemblies, roof coverings and roof structures which are constructed, maintained, improved and meet or exceed the minimum requirements as specified and as otherwise required by the codes.

(2) *Siding and visible address requirement.*

(a) All buildings and structures within the city shall have and maintain siding material covering the entire exterior wall surface of the structure or building, which siding material shall be constructed, maintained, improved and meet or exceed the minimum requirements as specified and as otherwise required by the codes.

(b) Additionally, every commercial and residential structure shall have a street address posted in a manner that it is clearly visible from the road with the following additional requirements, as applicable.

1. All owners of primary structures which are located further than 100 feet from the edge of the driving surface of the nearest road or which are not clear year around from the road because of vegetation, snow conditions, terrain or other obstacles shall display their address number on a signpost. The signpost shall conform with the following standards.

a. The post shall be located within ten feet of the driveway and at a location which is clearly visible year around from the road. The post must be placed in a location which is at least ten feet from the edge of the road surface for roads with a defined shoulder or at least four feet from the edge of the road surface for roads without a defined shoulder and, in any case, not farther from the road than the end of the right-of-way.

b. On the signpost must be placed a sign which contains the assigned address number horizontally.

c. Existing signs which are placed parallel to the road in conformity with the chapter prior to the adoption of the ordinance may remain in place as long as the sign is in good condition and visible from emergency vehicles.

d. New and replacement signs installed after the adoption of this division (A)(2)(b) must contain the assigned address number on both sides of the sign. The sign shall be installed on the sign post from one edge and extend perpendicularly away from the road. The sign shall measure six inches in height and not less than 14 or more than 20 inches in width. The bottom of the signs shall be placed at a height which is no less than four feet above the level of the road surface. The sign shall contain which numbers not less than four inches tall on a red background. The sign shall contain reflective material.

2. The occupant of the primary structure shall be responsible for keeping its address numbers clear of snow, dirt, debris or other obstruction.

(B) *Building permit required; fees; penalties.*

(1) *Building permit required.*

(a) Any alteration, modification, improvement, construction, addition, deletion, enhancement or the like affecting any building or structure within the city limits of the city shall require the equitable or fee owner of the building or structure, his or her designated representative, or the participating contractor or tradesman, to secure a building permit from the City Building Official prior to the commencement of

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work on the building or structure. Inspections by the Building Official shall be as set forth in Chapter 3 of the Uniform Building Code. (For sign fees, see §§ 155.225 through 155.236 of this code of ordinances.)

(b) The Board of Appeals shall follow the provisions of the Uniform Fire Code, §§ 2.301 and 2.302, in the establishment of rules and regulations and in conducting appellate hearings.

(2) *Building permit fee.* Fees for building permits and building inspections shall be as set forth in the following schedule. The amount of the fee shall be based on the value of the work to be performed and shall become the property of the city upon payment. The determination of value or valuation for purposes of ascertaining the amount of the building permit and building inspection fees shall be made by the Building Official. The value to be used in computing the building permit and building inspection fees shall be the total value of all construction work for which the permit is issued. The payment of a fee as provided herein shall not relieve the applicant or holder of the permit from the necessity of obtaining additional permits and the payment of other fees that may be prescribed by law or ordinance.

<i>Building Permit Fee Schedule</i>	
<i>Valuation</i>	<i>Fees</i>
\$1—\$500	Amount set by City Council from time to time by resolution
\$501—\$600	Amount set by City Council from time to time by resolution
\$601—\$700	Amount set by City Council from time to time by resolution
\$701—\$800	Amount set by City Council from time to time by resolution
\$801—\$900	Amount set by City Council from time to time by resolution
\$901—\$1,000	Amount set by City Council from time to time by resolution
\$1,001—\$1,100	Amount set by City Council from time to time by resolution
\$1,101—\$1,200	Amount set by City Council from time to time by resolution
\$1,201—\$1,300	Amount set by City Council from time to time by resolution
\$1,301—\$1,400	Amount set by City Council from time to time by resolution
\$1,401—\$1,500	Amount set by City Council from time to time by resolution
\$1,501—\$1,600	Amount set by City Council from time to time by resolution
\$1,601—\$1,700	Amount set by City Council from time to time by resolution

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<i>Building Permit Fee Schedule</i>	
<i>Valuation</i>	<i>Fees</i>
\$1,701—\$1,800	Amount set by City Council from time to time by resolution
\$1,801—\$1,900	Amount set by City Council from time to time by resolution
\$1,901—\$2,000	Amount set by City Council from time to time by resolution
\$2,001—\$3,000	Amount set by City Council from time to time by resolution
\$3,001—\$4,000	Amount set by City Council from time to time by resolution
\$4,001—\$5,000	Amount set by City Council from time to time by resolution
\$5,001—\$6,000	Amount set by City Council from time to time by resolution
\$6,001—\$7,000	Amount set by City Council from time to time by resolution
\$7,001—\$8,000	Amount set by City Council from time to time by resolution
\$8,001—\$9,000	Amount set by City Council from time to time by resolution
\$9,001—\$10,000	Amount set by City Council from time to time by resolution
\$10,001—\$11,000	Amount set by City Council from time to time by resolution
\$11,001—\$12,000	Amount set by City Council from time to time by resolution
\$12,001—\$13,000	Amount set by City Council from time to time by resolution
\$13,001—\$14,000	Amount set by City Council from time to time by resolution
\$14,001—\$15,000	Amount set by City Council from time to time by resolution
\$15,001—\$16,000	Amount set by City Council from time to time by resolution
\$16,001—\$17,000	Amount set by City Council from time to time by resolution
\$17,001—\$18,000	Amount set by City Council from time to time by resolution
\$18,001—\$19,000	Amount set by City Council from time to time by resolution
\$19,001—\$20,000	Amount set by City Council from time to time by resolution
\$20,001—\$21,000	Amount set by City Council from time to

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Building Permit Fee Schedule	
Valuation	Fees
	time by resolution
\$21,001—\$22,000	Amount set by City Council from time to time by resolution
\$22,001—\$23,000	Amount set by City Council from time to time by resolution
\$23,001—\$24,000	Amount set by City Council from time to time by resolution
\$24,001—\$25,000	Amount set by City Council from time to time by resolution
\$25,001—\$26,000	Amount set by City Council from time to time by resolution
\$26,001—\$27,000	Amount set by City Council from time to time by resolution
\$27,001—\$28,000	Amount set by City Council from time to time by resolution
\$28,001—\$29,000	Amount set by City Council from time to time by resolution
\$29,001—\$30,000	Amount set by City Council from time to time by resolution
\$30,001—\$31,000	Amount set by City Council from time to time by resolution
\$31,001—\$32,000	Amount set by City Council from time to time by resolution
\$32,001—\$33,000	Amount set by City Council from time to time by resolution
\$33,001—\$34,000	Amount set by City Council from time to time by resolution
\$34,001—\$35,000	Amount set by City Council from time to time by resolution
\$35,001—\$36,000	Amount set by City Council from time to time by resolution
\$36,001—\$37,000	Amount set by City Council from time to time by resolution
\$37,001—\$38,000	Amount set by City Council from time to time by resolution
\$38,001—\$39,000	Amount set by City Council from time to time by resolution
\$39,001—\$40,000	Amount set by City Council from time to time by resolution
\$40,001—\$41,000	Amount set by City Council from time to time by resolution
\$41,001—\$42,000	Amount set by City Council from time to time by resolution

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Building Permit Fee Schedule	
Valuation	Fees
\$42,001—\$43,000	Amount set by City Council from time to time by resolution
\$43,001—\$44,000	Amount set by City Council from time to time by resolution
\$44,001—\$45,000	Amount set by City Council from time to time by resolution
\$45,001—\$46,000	Amount set by City Council from time to time by resolution
\$46,001—\$47,000	Amount set by City Council from time to time by resolution
\$47,001—\$48,000	Amount set by City Council from time to time by resolution
\$48,001—\$49,000	Amount set by City Council from time to time by resolution
\$49,001—\$50,000	Amount set by City Council from time to time by resolution
\$50,001—\$51,000	Amount set by City Council from time to time by resolution
\$51,001—\$52,000	Amount set by City Council from time to time by resolution
\$52,001—\$53,000	Amount set by City Council from time to time by resolution
\$53,001—\$54,000	Amount set by City Council from time to time by resolution
\$54,001—\$55,000	Amount set by City Council from time to time by resolution
\$55,001—\$56,000	Amount set by City Council from time to time by resolution
\$56,001—\$57,000	Amount set by City Council from time to time by resolution
\$57,001—\$58,000	Amount set by City Council from time to time by resolution
\$58,001—\$59,000	Amount set by City Council from time to time by resolution
\$59,001—\$60,000	Amount set by City Council from time to time by resolution
\$60,001—\$100,000	Amount set by City Council from time to time by resolution
for the first \$60,000, an amount set by City Council from time to time by resolution for each additional \$1,000 or fraction thereof, plus surcharge of 0.0005 times valuation	

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(3) *Existing violations.* No building permit shall be issued by the city to any person with existing zoning or Building Code violations.

(4) *Failure to obtain building permit prior to commencing work; penalty.* Whenever any work for which a permit is required has been commenced without first obtaining the permit, the fee specified shall be doubled. The Building Official may waive up to 90% of the additional fee if the Building Official determines, in his or her discretion, that the violation was de minimus and unintentional, except that in all circumstances the minimum additional fee of an amount set by City Council from time to time by resolution. The payment of the fee shall not exempt any person from compliance with all other laws and ordinances nor from any penalty prescribed by law or ordinance.

(5) *Other fees.*

(a) *Plan review fee.*

1. In the event the Building Official deems it necessary to conduct a detailed plan review of the drawings, blueprints and plans of a proposed project prior to issuance of a permit, the Building Official shall assess and collect from the owner(s), the contractor or their designated representative a plan review fee. For residential structures, the plan review fee shall be to 50% of the building permit cost. For commercial structures, the plan review fee shall be 65% of the building permit cost. In the event circumstances exist requiring extended plan review time, then the Building Official may assess additional costs based upon the city schedule charges and fees.

2. The plan review fees specified in this section are separate fees from the permit fees specified in division (B)(2) above, and are in addition to permit fees and other fees.

(b) *Variance (Board of Adjustment) fee.* The fee for the processing and determination of a request for a variance shall be subject to the city schedule of charges and fees.

(c) *Rezoning fee.* The fee for the processing and determination of a request for rezoning shall be subject to the city schedule of charges and fees.

(d) *Platting/subdivision review fee.* The fee for the processing and determination of a request for plat and/or subdivision approval or amendment shall be subject to city schedule of charges and fees.

(e) *Special use permits/conditional use permits/community unit development fee.* Any project, development or proposed construction requiring a special use permit, conditional use permit shall be subject to the city schedule of charges and fees.

(f) *Building Code Board of Appeals fee.* The fee for processing and determination of any matter before the Building Code Board of Appeals, or the City Council sitting in that capacity pursuant to § 155.325 of this code of ordinances, shall be subject to the city schedule of charges and fees.

(g) *Housing Code inspection fee.* See division (F) below.

(h) *Request for vacation of alleys or streets.* Any request for vacation of an alley or street shall be subject to the city schedule of charges and fees.

(C) *Procedures for code violations.* Upon receipt of citizen complaints or upon receipt of any information from any source which indicates a building or structure fails to conform to the standards adopted at division (A) above, the City Building Official shall personally view the property complained of and shall meet with the property owner(s) to

discuss the situation. If the property owner(s) is/are unavailable or unknown, notice shall be posted by the City Building Official upon the property asking the owner(s) to contact the Inspector's office within ten days. In the event the owner(s) refuse(s) to abate or repair the problem within 20 days or does not contact the official within the ten days following posting, the Building Official shall cause a citation for any code violation found to be issued by the City Police Department. Questions involving matters appropriate for resolution by the Building Code Board of Appeals shall be referred to that body by the Building Official.

(D) *Penalties.* Each day of violation shall constitute a separate and distinct offense and be subject to the penalties set forth infra at § 10.99.

(E) *Building Code Board of Appeals.* There shall be established a Building Code Board of Appeals in conformance with the Uniform Building Code (§ 204), adopted by reference herein at division (A) above. The Board shall consist of the members of the City Planning Commission. The Board shall adopt rules and regulations as set forth in § 204 of the Uniform Building Code.

(F) *Housing Code inspection fees.* In the event the Building Official is requested or required to inspect any structure for compliance with the ICBO Housing Code, the fee for any inspection shall be per the city schedule of charges and fees.

(G) *Plumbing permit fee.* Subject to the city schedule of charges and fees. (Prior Code, § 1003.01) (Ord. 02-05, passed 4-4-2005; Ord. 02-06, passed 6-5-2006; Ord. 03-06, passed 7-5-2006; Ord. 02-08, passed 6-16-2008) Penalty, see § 10.99

§ 150.02 LICENSES REQUIRED.

(A) *Contractor's license required.* Any residential building contractor and/or remodeler, as those terms are defined within M.S. § 326B.01, as it may be amended from time to time, shall be required to present to the Building Official of the city proof of current compliance with the state's residential contracting licensure procedure, to include presentation to the Building Official of a current and valid license. No building permit shall be issued by the city to any contractor or remodeler for any project unless the licensing requirements of the statute are met or the project is exempt from the licensing requirements of the statute.

(B) *Plumbing, electrical license required.* Any plumbing or electrical contractor, plumber or electrician as those terms are defined by M.S. §§ 326.01 et seq., as it may be amended from time to time, therein, shall be required to present to the Building Official of the city proof of current compliance with the state's plumbing and electrical licensure procedure, to include presentation to the Building Official of a current and valid license including providing the city with proof of the bond as required by M.S. § 326B.0921, as it may be amended from time to time. No building permit shall be issued by the city to any plumber or electrician for any project involving improvements to commercial or rental property, or for residential properties being improved for resale, unless the licensing requirements of the statute are met; the exemptions from the licensing requirements provided for by statute shall not be applicable if the exemptions are inconsistent with this section (including population exceptions).

(Prior Code, § 1003.02) (Ord. 11-05, passed 8-1-2005; Ord. 10-06, passed 12-18-2006) Penalty, see § 10.99

CHAPTER 151: COMMON EXCAVATION, DRAINAGE, CONTAMINATED SOILS AND WETLANDS

Section

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- 151.02 Contaminated soils; definitions
- 151.03 General provisions

Wetland Protection

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- 151.16 Purpose
- 151.17 Delineation of wetlands
- 151.18 No net loss
- 151.19 Standards
- 151.20 Wetland alteration
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GENERAL PROVISIONS

§ 151.01 COMMON EXCAVATION AND DRAINAGE ALTERATIONS.

(A) *Prohibitions.* No person shall engage in the common excavation of soils, rock, gravel or the like upon any parcel of land located within the city so as to permanently interrupt, alter or disturb the existing and/or natural drainage of ground

water upon the parcel; provided, that upon submission of the excavation plans to the city prior to commencement of the excavation and the approval of the plans by the city, the planned excavation may be undertaken and the existing and/or natural drainage of the site may be altered, interrupted or disturbed in accordance with the plans.

(B) *Plan review fee.* All plans reviewed pursuant to division (A) above shall be subject to the payment of an excavation permit fee to be paid to the Clerk-Treasurer prior to review of the plans by the city.

(C) *Temporary interruption.* Nothing in this chapter shall prohibit the temporary interruption, alteration or disturbance of ground water drainage within the city. By definition, the term **TEMPORARY** shall mean that the drainage is altered, interrupted or disturbed for no more than a period of seven days.

(D) *Wetlands considerations.* Any excavations or drainage alterations which may impact upon any wetlands, as defined by this chapter, shall be reviewed in accordance with §§ 151.15 through 151.32.

(Prior Code, § 903.01) (Ord. 02-05, passed 4-4-2005)

§ 151.02 CONTAMINATED SOILS; DEFINITIONS.

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

CONTAMINANT. Any toxic or non-toxic, flammable or non-flammable, corrosive or otherwise dangerous substance, whether the substance is naturally occurring or manufactured. Normal farming practices shall be excluded from the provision of this definition.

MATERIAL. Any processed or human-made substance or thing; it specifically includes all types of human-made ground cover such as cement, concrete, blacktop and wood. It also specifically includes any item which has been used to store, transport or dispense a contaminant.

PERSON. Any human being, any municipality or any other governmental or political subdivision or public agency, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing or any other legal entity.

SOIL. Any substance of the earth; the term specifically includes earth, sand, gravel, boulders and rock.

SPILL or LEAK. Any discharge of any volume of any contaminant, whether the discharge is intentional or accidental.

(Prior Code, § 903.02)

§ 151.03 GENERAL PROVISIONS.

(A) *Activities prohibited.*

(1) No person shall cause, permit or allow land or property, whether or not under his or her ownership or management, to be used for the storage, dumping, depositing and/or incinerating of any contaminated soil or any type of contaminated

material. This provision shall not apply to storage of a contaminant in a container approved by the authority having jurisdiction over the storage of that substance and labeled as to its contents.

(2) No person shall cause, permit or allow any amount of any contaminant, to be spilled or leaked onto soil or material, whether or not under his or her ownership or control.

(B) *Violations.*

(1) A person violating the provisions of this chapter shall be guilty of a misdemeanor resulting in a payment of a fine only, except that the City Attorney, on his or her discretion, may seek injunctive relief depending on the exigency of the situation.

(2) Each day that a violation of this chapter continues may be treated as a separate offense.

(C) *Conditional use permit.* The City Council, upon due consideration and recommendation by the Planning and Zoning Commission, may grant a conditional use permit allowing the landfarming and/or incineration of contaminated soils with the city. Any conditional use permit application shall first be reviewed by the wetlands technical panel. (See § 151.26(A) and the Planning and Zoning Commission pursuant to § 155.270 of this code of ordinances.)

(Prior Code, § 903.03) Penalty, see § 151.99

WETLAND PROTECTION

§ 151.15 FINDINGS AND INTENT.

(A) Wetlands help maintain water quality, serve to reduce flooding and erosion, act as sources of food and habitat for a variety of fish and wildlife, and are an integral part of the community's natural landscape. Wetlands provide the aesthetic benefits of open space and can be used to provide a natural separation of land uses. It is the intent of this subchapter to establish a policy of sound stewardship through coordination of regulations which conserve, protect, enhance and result in the no net loss of these environmentally sensitive resources. In addition, it is the intent of the city to promote the restoration of degraded wetlands.

(B) (1) The intent of this subchapter is to avoid alteration and destruction of wetlands.

(2) When this is not feasible, mitigation must be provided to recreate the lost or altered wetlands value and function.

(Prior Code, § 903.04)

§ 151.16 PURPOSE.

The purpose of this chapter is to assure the general health, safety and welfare of the residents through preservation and conservation of wetlands and sound management of development by:

- (A) Establishment of wetlands and regulations that are coordinated with flood protection and water quality programs;
 - (B) Requiring sound management practices that will protect, conserve, maintain, enhance and improve the present quality of wetlands within the community;
 - (C) Requiring measures designed to maintain and improve water quality in streams and watercourses;
 - (D) Protecting and enhancing the scenic value of wetlands;
 - (E) Restricting and controlling the harmful effects of land development of wetlands;
 - (F) Allowing only development that is planned to be compatible with wetland protection and enhancement;
 - (G) Providing standards for the alteration of wetlands when alteration is allowed;
 - (H) Mitigating the impact of development adjacent to wetlands;
 - (I) Educating and informing the public about the numerous benefits and features of wetlands and the impacts of urbanization; and
 - (J) Obtaining protective easements over or acquiring fee title to wetlands as appropriate.
- (Prior Code, § 903.04)

§ 151.17 DELINEATION OF WETLANDS.

- (A) Wetlands shall be subject to the requirements established herein, as well as restrictions and requirements established by other applicable city ordinances and regulations. The wetlands protection regulations shall not be construed to allow anything otherwise prohibited in the zoning district where the wetland area is located.
- (B) A wetland is land that meets the definition of **WETLANDS** set forth in § 151.32.
- (C) If an applicant questions whether a wetland exists or disputes its delineation, the applicant shall have the burden to supply detailed information for review supporting the applicant's position. The applicant shall provide appropriate technical information, including, but not limited to, topographical survey and soil data, deemed necessary for the city to determine the exact wetland boundary. Data for wetland determination shall be certified by a registered engineer, surveyor or a qualified wetland consultant. The applicant may appeal the Planning Commission's determination of the wetland boundary and type to the City Council.
- (D) This subchapter establishes three wetland types and one body type:
 - (1) *Wetlands, Ag/Urban.* Wetlands that have been influenced by agricultural or urban (residential, commercial or industrial) land uses are called Ag/Urban. Influences include: over nutrification; soil erosion and sedimentation; and water quality degradation. As a result of these influences there is a loss of plant species such as reed canary grass and reduction in wildlife habitat.
 - (2) *Wetlands, natural.* Natural wetlands are still in their natural state and typically show little sign of impact from surrounding land usage. The vegetative community of these wetlands are characterized by a diversity of plant species with

mixed dominance of species. Other key factors include: presence of natural indicator species; good wildlife habitat; and being aesthetically pleasing.

(3) *Wetlands, pristine.* Wetlands that exist in a natural state and have special and unusual qualities worth protecting at a high level are call pristine. These qualities include: rare or unusual species present; and habitat for rare wildlife species.

(4) *Utilized.* Utilized water bodies created for the specific purpose of surface water runoff retention and/or water quality improvements. These water bodies are not to be classified as wetlands even if they take on wetland characteristics. Wetland alteration permits shall not be required to undertake work on these water bodies.

(Prior Code, § 903.04)

§ 151.18 NO NET LOSS.

(A) To achieve no net loss of wetland, except as provided elsewhere in this subchapter or authorized by a wetland alteration permit issued by the city, a person may not drain, grade, fill, burn, remove healthy native vegetation or otherwise alter or destroy a wetland of any size or type.

(B) Any alteration to a wetland, permitted by a wetland alteration permit, will be fully mitigated so that there is no net loss of wetlands.

(Prior Code, § 903.04) Penalty, see § 151.99

§ 151.19 STANDARDS.

The following standards apply to all lands within and abutting a wetland.

(A) Septic and soil absorption system must be a setback minimum of 150 feet from the ordinary high water mark of the wetland.

(B) The lowest ground floor elevation is three feet above ordinary high water mark of the wetland.

(C) Docks or walkways shall be elevated six to eight inches above the ordinary high water mark or six to eight inches above the ground level, whichever is greater.

(D) Access across a wetland shall be by means of a boardwalk and only upon approval of a wetland alteration permit.

(Prior Code, § 903.04) Penalty, see § 151.99

§ 151.20 WETLAND ALTERATION.

(A) An applicant for a wetland alteration permit shall adhere to the following principals in descending order of priority:

(1) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

- (2) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
- (3) Rectifying the impact by repairing, rehabilitating or restoring the affected wetland environment;
- (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and
- (5) Compensating for the impact by replacing or providing substitute wetland resources or environments.

(B) A wetland alteration permit shall not be issued unless the proposed development complies with the provisions of § 151.25 as well as the standards, intent and purpose of this subchapter. If the city determines that the required calculations in a particular instance are needlessly burdensome because of the area and nature of a proposal, it may agree to a substitute analysis.
(Prior Code, § 903.04) (Ord. 08-04, passed 1-18-2005)

§ 151.21 PERMIT REQUIRED.

(A) Drainage, grading, filling, burning, removal of healthy native vegetation or otherwise altering or destroying a wetland of any size or type requires a wetland alteration permit.

(B) Activity in a wetland requiring a wetland alteration permit includes, but is not limited to:

- (1) Construction of new streets and utilities;
- (2) Creation of ponds or dams and alteration of the natural drainageways of watercourses. This shall only be allowed as part of a mitigation project or to restore or improve the function and value of the wetland;
- (3) Installation of boardwalks;
- (4) Creation of sedimentation and water quality improvement basins in part of a mitigation project or used to restore or improve the function and value of the wetland. These basins may not be created in "pristine" wetlands and may only be created in "natural" wetlands if the city determines that there is no reasonable alternative; and

(5) Discharge of stormwater runoff in a manner that impacts the wetland.

(Prior Code, § 903.04) Penalty, see § 151.99

§ 151.22 FILLING.

When a wetland alteration permit is issued allowing filling in a wetland, the following standards shall be followed.

- (A) Filling must be consistent with the city floodplain regulations.
- (B) Filling shall not cause total natural nutrient stripping capacity of the wetland to be diminished to an extent that is detrimental to any area river, lake or stream.

- (C) Only fill free of chemical pollutants and organic wastes may be used.
 - (D) Filling shall be carried out so as to minimize the impact on vegetation.
 - (E) Filling in wetland areas will not be permitted during waterfowl breeding season or fish spawning season unless it is determined by the city that the wetland is not used for waterfowl breeding or fish spawning.
 - (F) Filling in wetland areas will be required to be mitigated in accordance with the requirements of this subchapter.
- (Prior Code, § 903.04) Penalty, see § 151.99

§ 151.23 DREDGING/EXCAVATION/GRADING.

When a wetland alteration permit is issued allowing dredging, excavating or grading in a wetland, the following standards shall be followed.

- (A) The dredging will not have a net adverse effect on the ecological and hydrological characteristics of the wetland.
 - (B) It shall be located as to minimize the impact on vegetation.
 - (C) It shall not adversely change water flow.
 - (D) The size of the dredged area shall be limited to the minimum required for the proposed action.
 - (E) Disposal of the dredged material is prohibited within the wetland area.
 - (F) Disposal of any dredged material shall include proper erosion control and nutrient retention measures.
 - (G) Dredging in any wetland area is prohibited during waterfowl breeding season or fish spawning season unless it is determined by the city that the wetland is not used for waterfowl breeding or fish spawning.
 - (H) Dredging in wetland areas will be required to be mitigated in accordance with the requirements of this subchapter if the activity results in a loss of functional wetland. Dredging to create water quality improvement basins may be allowed by the city where reasonable alternatives are not available or where the wetland is of low quality and designed for this purpose by the city floodplain regulations.
- (Prior Code, § 903.04) Penalty, see § 151.99

§ 151.24 STORMWATER RUNOFF.

When a wetland alteration permit is issued allowing stormwater runoff to discharge directly into a wetland, the following standards shall be followed.

- (A) An increase over the natural volume of stormwater runoff from a development may be allowed when necessary for use of property, but only when it will not have a net adverse effect upon the ecological and hydrological characteristics of the existing wetlands. The restrictions on runoff set out below shall not be exceeded. Since the total increase in runoff which can be permitted is limited, the city, when considering wetland alteration permit applications, shall consider, in addition to the following, apportionment of increased runoff opportunity to all wetland property within the surrounding wetland area.

(B) Stormwater runoff from a development may be directed to the wetland only when free of debris and substantially free of chemical pollutants and silt and only at rates which do not disturb vegetation habitat or increase turbidity. Sheet flow and other overland drainage of runoff shall be encouraged.

(C) The allowed total increased runoff, in combination with the total fill allowed, shall not cause total natural flood storage or nutrient stripping capacity of the wetland to be reduced in a manner inconsistent with requirements established by the city floodplain regulations.

(Prior Code, § 903.04)

§ 151.25 MITIGATION.

(A) *Mitigation intent.* Where wetland alteration is approved and mitigation is required, mitigation must result in an improvement to the wetland function and value of the replacement property. Mitigation plans must address water quality and improvement and maintenance of pre-existing hydrological balance and wildlife habitat. The wetland function and value will include improvement of water quality, maintaining hydrological balance and provision of wildlife habitat. Mitigation will be performed at ratios required by state law to achieve replacement of the wetland function and value. Mitigation will not always be based solely on an acre to acre replacement but may be based on replacement of habitat units (HU) through the use of habitat evaluation procedures. When significant improvements in the wetland value and function result, acre for acre surface area replacement may not be required.

(B) *Mitigation standards.* Mitigation of wetlands for function and value should be restored, created and enhanced to have the following characteristics:

- (1) Relatively stable water levels subject to natural fluctuations;
- (2) Pretreatment of inflow water to improve quality;
- (3) High level of upland/lowland intermingling;
- (4) A ratio of open water to aquatic vegetation between 1:1 and 1:2;
- (5) High degree of intermingling of open water and aquatic vegetation;
- (6) High level of plant species diversity;
- (7) Restoration of native plant species in upland and lowland areas;
- (8) Undisturbed upland/lowland edge (i.e., buffer);
- (9) Meandered wetland edge;
- (10) Irregular bottom contours - mix of shallow and deep water; and
- (11) Shallow side and bottom slopes, preferable 10:1 to 30:1 around

and within wetland; steeper slopes may be used to provide open water and greater vegetation variability.

(C) *Mitigation techniques.*

- (1) Mitigation will be performed at a ratio required by state law.
- (2) Mitigation should always result in an improvement to the wetland function and value. The wetland function and value will include improvements of water quality, maintaining hydrological balance and provisions of wildlife habitat.
- (3) Mitigation will not always be based solely on an acre to acre replacement but may be based on replacement of habitat units (HU) through the use of

habitat elevation procedures (appendix) at a ratio of 2:1. When significant improvements in the wetland value result, direct surface area replacement on a 2:1 basis may not be required. The City Council will determine when wetland impact will be allowed and the nature of mitigation which will be acceptable.

(4) Mitigation shall provide a buffer strip as set forth in this subchapter.

(5) Mitigation shall maintain or enhance the wetland hydrological balance through the following:

- (a) Restoration of deteriorated wetlands;
- (b) Flooding of previously drained wetland basins;
- (c) Creation of new wetlands; and
- (d) Enhancement of existing wetlands.

(6) Mitigation shall provide for pretreatment of water prior to its entering the wetland to improve water quality if required by the city.

(7) Mitigation, through the buffer strip, shall provide landscaping for nesting and food for wildlife habitat. The buffer strip landscape shall provide for wildlife cover and utilize a diversity of native flora (i.e., trees, shrubs, grasses, herbaceous plants) to encourage wildlife diversity and provide visual variety.

(8) Wetland mitigation should be undertaken on-site. If this is not feasible, mitigation should occur locally within the sub-watershed. If this is not possible, mitigation should occur outside the sub-watershed elsewhere in the city. If mitigation cannot be accomplished on-site or if the city deems it necessary to perform mitigation off-site, the applicant shall be responsible for contributing into the city's Wetland Mitigation Fund. The mitigation performed off-site shall meet the above requirements.

(9) The city may determine that the public interest is best served by requiring off-site wetland mitigation. When this situation arises or when the applicant is unable to restore wetlands on-site, the city will require payment into this dedicated Wetland Mitigation Banking Fund. This Fund shall be used solely to create new and/or expand and improve existing wetlands according to the priorities outlined in this subchapter. The City Council shall establish the fee structure on an annual basis. Fees shall be based upon the average price for similar property elsewhere in the city.

(D) *Construction management and long term wetland maintenance.*

(1) The permit holder shall follow the city's best management practices to minimize direct impacts due to erosion and construction practices and to safeguard wildlife habitat.

(2) (a) The permit holder shall conduct a monitoring program and evaluation until construction is completed. A letter of credit of performance bond from the permit holder shall be held to ensure compliance similar to any other public improvement. The city will ensure that the permit holder is delivering the wetland that was promised. The permit holder shall demonstrate compliance with the designed wetland as-built plans.

(b) Where feasible, the city shall require the permit holder to satisfy long term management requirements.

(Prior Code, § 903.04)

§ 151.26 APPLICATION AND ISSUANCE OF PERMIT.

(A) *Wetlands technical panel.* The City Council, City Administrator, Building Official and/or the Planning and Zoning Commission may refer any proposed building permit, subdivision application, conditional use permit, common excavation or drainage permit or any other situation which may be deemed by the referring person or body to adversely impact wetlands within the city to the city wetlands technical panel for review. The wetlands technical panel shall consist of a technical professional employee of the State Board of Water and Soil Resources, a technical professional employee of the South St. Louis County Soil and Water Conservation District and an employee of the city designated by the City Council. All matters referred to the wetlands technical panel shall be considered by the panel and a recommendation made thereon to the Planning and Zoning Commission.

(B) *Permit process.*

(1) The applicant for a wetland alteration permit shall furnish the information required by the city including, but not limited to, a site plan, topographical data, hydrological data and habitat evaluation procedures for the review of a wetland alteration permit application. The wetlands technical panel shall use discretion regarding the level and complexity of information required to review the request. A wetland alteration permit shall not be issued without having been first reviewed the wetlands technical panel and the Planning and Zoning Commission and approved by the City Council, following the review and hearing procedures set forth for conditional use permits. The applicant shall have the burden of proving that the proposed use or activity complies with the purposes, intent and other provisions of this subchapter.

(2) (a) The City Council may establish reasonable conditions which are specifically set forth in the permit to ensure compliance with requirements contained in this subchapter.

(b) These conditions may, among other matters:

1. Limit the size, kind or character of the proposed work;
2. Require the construction of other structures;
3. Require replacement of vegetation and wetland function and value;
4. Establish required monitoring procedures and maintenance activity;
5. Stage the work over time;
6. Require the alteration of the site design to ensure buffering; and
7. Require the provision of a performance security.

(Prior Code, § 903.04)

§ 151.27 INSPECTION OF WORK.

The city may cause inspection of work for which a wetland alteration permit is issued, at the applicant's expense, to be made periodically during the course of the work and shall cause final inspection to be made following the completion of the work. (Prior Code, § 903.04)

§ 151.28 EXPIRATION AND RENEWAL OF PERMIT.

(A) Unless otherwise specified by the City Council, the person issued a wetland alteration permit shall begin and complete the development authorized by the permit within one year after the date the City Council approves the permit application.

(B) The permittee shall provide written notice to the city 24 hours prior to the commencement and completion of the development project. No project shall be deemed to have been completed until approved by the city after receipt of notice of completion.

(C) If the permittee fails to commence work on the development within the time specified in this section, the permit shall be void. The City Council may renew a void permit at its discretion. If the City Council does not renew the permit, the holder of the void permit may make original application for a new permit.

(D) The permittee may make written application to the City Council for an extension of the time to commence work, but only if the permittee submits the application prior to the date already established to commence work. The application of an extension shall state the reasons the permittee requires an extension.

(Prior Code, § 903.04)

§ 151.29 EXEMPTIONS.

(A) Activities exempted by M.S. § 103G.2241, as it may be amended from time to time, from state wetlands protection shall be exempted from the provisions of this chapter. However, certificates of exemption must be obtained from the city and filed with the County Recorder prior to starting work.

(B) The statutory exemptions include, but are not limited to:

(1) Activities necessary to repair and maintain existing public or private drainage systems as long as wetlands that have been in existence for more than 20 years are not drained;

(2) Activities authorized under and conducted in accordance with an applicable general permit issued by the United States Army Corps of Engineers under § 404 of the Federal Clean Water Act, 33 U.S.C. § 1344, except that nationwide permit in 33 C.F.R. § 330.5, limited to when a new road crosses a wetland and all of 33 C.F.R. § 330.5;

(3) Placement, maintenance, repair, enhancement or replacement of utility or utility-type service, including the transmission, distribution or furnishing, at wholesale or retail, of natural or manufactured gas, electricity, telephone or radio service or communications if:

(a) The impacts of the proposed project on the hydrological and biological characteristics of the wetland have been avoided and minimized to the extent possible; and

(b) The proposed project significantly modifies or alters less than one-half acre of wetland.

(4) Activities associated with routine maintenance of utility and pipeline rights-of-way; provided, the activities do not result in additional intrusion into the wetland;

(5) Alteration of a wetland associated with the operation, maintenance or repair of an interstate pipeline;

(6) Activities associated with routine maintenance or existing public highways, roads, street and bridges; provided, the activities do not result in additional intrusion into the wetland and do not result in the draining or filling, wholly or partially, of a wetland;

(7) Emergency repair and normal maintenance and repair of existing public works; provided, the activity does not result in additional intrusion of the public works into the wetland and does not result in the draining or filling, wholly or partially, of a wetland;

(8) Normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the draining or filling, wholly or partially, of a wetland; and

(9) Development projects and ditch improvement projects in the state that have received preliminary or final plat approval or infrastructure that has been installed or having local site plan approval, conditional use permits or similar official approval by the city or other approving governmental body or agency after August 1, 1987.

(Prior Code, § 903.04)

§ 151.30 VARIANCES.

Variations from the requirements of this subchapter may be granted in accordance with the variance provisions of § 155.310 of this code of ordinances.

(Prior Code, § 903.04)

§ 151.31 ENFORCEMENT PROCEDURES.

(A) Wetland reviews conducted by the city shall be coordinated with state wetland protection statutes and rules.

(B) Notice of requested wetland alteration permits shall be mailed to all property owners located within 500 feet of the requested activity. Notification requirements established by state wetland protection statutes and official rules shall be coordinated with city approval.

(Prior Code, § 903.04)

§ 151.32 DEFINITIONS.

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

BUFFER STRIP. An area of nondisturbed ground cover abutting a wetland left undisturbed to filter sediment, materials and chemicals.

CLASS A WETLANDS. Wetland types 3, 4, 5, 6, 7 and 8. In cases of wetlands adjoining public water designated as lake or pond, this class shall also include type 2 wetlands. A type 2 wetland shall also be deemed **CLASS A WETLAND** when adjoining a stream designated as public water to the extent that it encroaches upon the 100-year floodplain of the stream.

CLASS B WETLANDS. Type 2 wetlands not adjoining public water designated as lake or pond nor within the 100-year floodplain of a stream designed as public water.

HABITAT EVALUATION PROCEDURES (HEP).

(1) A species-habitat data management system for impact assessment developed by the U.S. Fish and Wildlife Service.

(2) Its purpose is to document predicted impacts to fish and wildlife from proposed land and water resource development projects. Habitat quality for selected key species is described by an index, the habitat suitability index (HSI).

HABITAT SUITABILITY INDEX (HSI). A fish or wildlife species-specific index value rating the ability of key habitat components to supply essential life requirements for the species. Index value ranges between 0 to 1.0.

HABITAT UNITS (HU). Habitat suitability index (HSI) multiplied by the area of habitat being evaluated. **HUs** are used for comparing habitat quality from one wetland to the next or for measuring the effectiveness of mitigation. **HUs** integrate both quality and quantity of habitat.

PRINCIPAL STRUCTURE. The main building as distinguished from an accessory building or structure.

UTILIZED. Utilized water bodies created for the specific purpose of surface water runoff retention and/or water quality improvements. These water bodies are not to be classified as wetlands even if they take on wetland characteristics. Wetland alteration permits shall not be required to undertake work on these water bodies.

VEGETATION, NATIVE. The pre-settlement group of plant species native to the North American continent which were not introduced as a result of European settlement.

WETLAND TYPES. Classifications of wetlands as defined in U.S. Department of Interior, Fish and Wildlife Service, Circular 39, *Wetlands of the U.S.* 1956.

WETLAND WATERSHED. The area of land from which water drains into a Class A or Class B wetland.

WETLANDS.

(1) 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 definitions, **WETLANDS** must have the following three attributes:

(a) Have a predominance of hydric soils;

(b) Are inundated or saturated by surface or ground water 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.

(3) Wetlands do not include types 3, 4 and 5 wetlands, as defined in U.S. Fish and Wildlife Service Circular No. 39, (1971 edition), not included within the definition of public water, that are 22 or more acres in size.

WETLANDS, Ag/URBAN. Wetlands that have been influenced by agricultural or urban (residential, commercial or industrial) land usage are called **Ag/URBAN**. Influences include: over nurturification, soil erosion and sedimentation, and water quality degradation. As a result of these influences there is a loss of plant species diversity, overcrowding and domination by invasive species such as reed canary grass, and reduction of wildlife habitat.

WETLANDS, NATURAL. Natural wetlands are still in their natural state and typically show little sign of impact from surrounding land usage. The vegetative community of these wetlands are characterized by a diversity of plant species with mixed dominance of species. Other key factors include: presence of natural indicator species; good wildlife habitat; and being aesthetically pleasing.

WETLANDS, PRISTINE. Wetlands that exist in a natural state and have special and unusual qualities worth protecting at a high level are called **PRISTINE**. These qualities include: outstanding vegetation community; native species population; rare or unusual species present; and habitat for rare wildlife species.
(Prior Code, § 903.04)

§ 151.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) Violation of §§ 151.15 through 151.32 or of the terms of a permit issued thereunder shall be a misdemeanor punishable by 90 days in jail and/or a fine of amount set by City Council from time to time by resolution.

(2) Any person who alters a wetland in violation of §§ 151.15 through 151.32 shall apply for a wetland alteration permit and shall pay a filing fee double the regular fee. The City Council may require the violator to restore the wetland or take other mitigative measures.

(Prior Code, § 903.04)

CHAPTER 152: CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT

Section

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§ 152.01 PURPOSE AND INTENT.

The purpose of this regulatory mechanism is to set forth minimum requirements for stormwater management that will prevent or reduce water pollution during and after land-disturbance activities to safeguard persons, protect property and prevent damage to the environment in the city.

(Ord. 01-15, passed 3-2-2015)

§ 152.02 DEFINITIONS.

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

BEST MANAGEMENT PRACTICES or **BMP**. Practices to prevent or reduce the pollution of the waters of the state, including schedules of activities, prohibitions or practices, and other management practices, and also includes treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

CITY. The City of Proctor.

COMMON PLAN OF DEVELOPMENT OR SALE. A contiguous area where multiple separate and distinct land-disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

CONSTRUCTION ACTIVITY. A disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative) or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. This may include clearing, grading, filling and excavating.

DEWATERING. The removal of surface or ground water to dry and/or solidify a construction site to enable construction activity. **DEWATERING** may require a State Department of Natural Resources water appropriation permit and, if dewatering water is contaminated, discharge of the water may require an individual MPCA NPDES/SDS permit.

ENERGY DISSIPATION. Methods employed at pipe outlets to prevent erosion caused by the rapid discharge of water scouring soils.

EROSION CONTROL MEASURE. A measure that prevents soil particle exposure and detachment.

GREEN INFRASTRUCTURE. A wide array of practices at multiple scales that manages wet weather and that maintains or restores natural hydrology by infiltrating, evapotranspiring or harvesting and using stormwater. On a regional scale, **GREEN INFRASTRUCTURE** is the preservation or restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On the local scale, **GREEN INFRASTRUCTURE** consists of site and neighborhood-specific practices.

KARST (ACTIVE). A geographic area underlain by carbonate bedrock (or other forms of bedrock that can erode or dissolve) with less than 50 feet of sediment cover.

LAND-DISTURBANCE. Any project or activity, including removal of vegetation, excavations, clearing, filling, stockpiling, grading or other earth change that directly or indirectly affects slopes, water bodies, the moving of ground cover or which may result in the movement of sediment.

MPCA CONSTRUCTION PERMIT. The current State Pollution Control Agency general permit to discharge stormwater associated with construction activity under the national pollution discharge elimination system state disposal system program (NPDES/SDS).

MUNICIPAL SEPARATE STORM SEWER SYSTEM or **MS4.** The conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains owned and operated by the city.

NEW DEVELOPMENT. All construction activity that is not defined as redevelopment and areas where new impervious is being created.

OWNER. Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi-public corporation, private corporation or a combination of any of them, with legal or equitable interest in the parcel of record or as identified on the land-disturbance permit.

RECEIVING WATER. Any lake, river, stream or wetland that receives stormwater discharges from the MS4.

REDEVELOPMENT. Any construction activity where, prior to the start of construction, the areas to be disturbed have 15% or more of existing impervious surface(s).

SATURATED SOIL. The highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. **SATURATED SOIL** is evidenced by the presence of redoximorphic features or other information.

SEDIMENT CONTROL MEASURE. A measure that prevents eroded sediment from leaving the site.

STEEP SLOPES. Slopes that are 1:3 (V:H) (33.3%) or steeper in grade.

STORMWATER. Stormwater runoff, snow melt runoff and surface runoff and drainage.

STORMWATER POLLUTION PREVENTION PLAN or **SWPPP.** A comprehensive plan developed to manage and reduce the discharge of pollutants in stormwater.

STRUCTURAL STORMWATER BMPs. Stationary and permanent BMPs designed, constructed and operated to prevent or reduce the discharge of pollutants in stormwater.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.
(Ord. 01-15, passed 3-2-2015)

§ 152.03 APPLICABILITY.

This chapter shall apply to all land disturbance and construction activity that disturbs land of equal to or greater than 2,500 square feet, or includes the disturbance of less than 2,500 square feet of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than 2,500 square feet as deemed necessary by the city to safeguard persons, protect property and prevent degradation to the environment in the city.
(Ord. 01-15, passed 3-2-2015)

§ 152.04 REQUIRED EXCAVATION/FILL PERMIT.

The permit authorizes, subject to the terms and conditions of this chapter, land disturbance and the discharge of stormwater.

(A) Prior to the commencement of any land-disturbing activities on lands subject to this chapter, the owner shall obtain an excavation/fill permit from the city.

(B) The following activities are not required to obtain an excavation/fill permit:

(1) Any emergency activity that is immediately necessary for the protection of life, property or natural resources;

(2) Nursery, home gardening and agricultural operations conducted as a permitted main or accessory use; and

(3) Maintenance work conducted by city employees.

(Ord. 01-15, passed 3-2-2015) Penalty, see § 152.99

§ 152.05 EXCAVATION/FILL PERMIT PROCESS AND DATA REQUIREMENTS.

(A) An excavation/fill permit application and applicable application fee shall be filed with the city on an approved form, with accompanying documents including erosion and sediment control site plan and plan narrative and stormwater pollution prevention plan (SWPPP), as applicable, meeting the requirements of this chapter and the city stormwater management design standards.

(B) The city representative will review each excavation/fill permit application. It is the responsibility of the owner/applicant to meet the provisions of this chapter and the city stormwater management design standards.

(C) The city shall in writing either:

(1) Approve the permit application;

(2) Approve the permit application subject to reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

(3) Disapprove the permit applications, indicating the reason(s) and procedure for submitting a revised application and/or submission.

(Ord. 01-15, passed 3-2-2015)

§ 152.06 EROSION AND SEDIMENT CONTROL SITE PLAN AND PLAN NARRATIVE.

(A) A document or plan will be prepared and submitted to the city for approval by the developer prior to land-disturbance activity.

(B) This plan will outline practices that will minimize soil erosion or sediment transport.

(1) The erosion and sediment control plan and plan narrative shall address the following criteria:

- (a) Stabilization of denuded areas and soil stockpiles;
- (b) Establishment of permanent vegetation;
- (c) Protection of adjacent properties;
- (d) Timing and stabilization of sediment trapping measures;
- (e) Use of sediment basins;
- (f) Cut and fill slopes;
- (g) Stormwater management criteria for controlling off-site erosion;
- (h) Stabilization of waterways and outlets;
- (i) Storm sewer inlet protection;
- (j) Working in or crossing waterbodies;
- (k) Underground utility construction;
- (l) Construction access routes;
- (m) Disposition of temporary erosion and sediment control measures; and

(n) Maintenance of erosion and sediment control measures.

(2) The site plan shall include:

- (a) Location map;
- (b) North arrow;
- (c) Scale (one inch = 100 feet or greater detail);
- (d) Benchmark;
- (e) Existing contours, two-foot intervals extending 200 feet beyond property boundary;
- (f) Final contours;

- the like;
- (g) Existing vegetation - trees, shrubs, grasses;
 - (h) Soil boundaries;
 - (i) Property boundary and lot lines;
 - (j) Elevations and grades - street grades, pond elevations and
- (k) Drainage direction arrows;
- (1) Critical erosion areas;
 - (m) Limits of clearing and grading;
 - (n) Utility plans;
 - (o) Location of other practices;
 - (p) Signature of plan preparer; and
 - (q) Name of responsible individual.
- (3) The plan narrative shall include:
- (a) Project description;
 - (b) Phasing of construction;
 - (c) Existing site conditions;
 - (d) Adjacent areas affected by project;
 - (e) Critical areas identified;
 - (f) Erosion and sediment control measures;
 - (g) Soil descriptions;
 - (h) Permanent stabilization methods;
 - (i) Stormwater management considerations;
 - (j) Maintenance schedule for erosion and sediment control
- measures; and
- (k) Calculations made for practice design.

(Ord. 01-15, passed 3-2-2015)

§ 152.07 MAINTENANCE OF STRUCTURE BMPs.

Any structural BMPs which are designed and installed to meet the post-construction stormwater management requirements set forth in the city stormwater management design standards shall meet the following requirements.

(A) *Private facilities.*

(1) A permanent public easement shall be provided to the city for access for inspection and/or maintenance purposes. Costs incurred by the city for any maintenance of private systems will be billed and/or assessed to the owner/operator.

(2) The owner shall enter into a maintenance agreement with the city. The agreement shall include as an attachment a maintenance plan which identifies and defines inspection and maintenance responsibilities. Agreements are transferrable to any party that becomes the owner/operator of the site.

(3) If site configurations or structural stormwater BMPs change, causing decreased BMP effectiveness, new or improved structural stormwater BMPs must be designed and implemented to meet the requirements set forth in the city stormwater management design standards for post-construction stormwater

management. New and/or improved BMP design information and plans must be submitted to the city for review and approval.

(B) *Public facilities.* A permanent public easement shall be provided to the city for access for inspection and/or maintenance purposes prior to final acceptance of the project.

(Ord. 01-15, passed 3-2-2015)

§ 152.08 INSPECTION AND FEES.

(A) The city or city representative shall review all documents and material submitted showing compliance with this chapter and the city stormwater management design standards. The costs associated with the review process including, but not limited to, staff hours, engineering fees, administrative tasks, reproductions and other expenses associated with the review, shall be charged back to the applicant, including any follow-up reviews for incomplete or noncompliant submittals.

(B) The city or city representative may make inspections of the temporary and/or permanent stormwater management measures prior to construction, during the construction and/or after construction is complete. Upon inspection, the city shall notify the owner/operator wherein the work fails to comply with this chapter, the city stormwater management design standards or the site specific stormwater pollution prevention plan (SWPPP) as approved.

(C) The owner or his or her agent shall make regular inspections of the property, construction activity, land-disturbance activity and/or permanent stormwater management features after construction is complete in accordance with this chapter, the city stormwater management design standards and the site specific stormwater pollution prevention plan (SWPPP) as approved. All inspections shall be documented in written form and made available upon request to the city or city representative. Records shall be retained and made accessible for a period of at least five years.

(D) The city or city representative shall be allowed access to enter the property of the applicant as deemed necessary to make inspections to ensure the validity and compliance with this chapter, the city stormwater management design standards and the site specific stormwater pollution prevention plan (SWPPP) as approved.

(E) See schedule of charges and fees for associated fees.
(Ord. 01-15, passed 3-2-2015)

§ 152.09 ENFORCEMENT.

(A) *Violations.*

(1) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Any person who has violated or continues to violate the provisions of this chapter may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

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(2) In the event the violation constitutes an immediate danger to public health or public safety, the city is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The city is authorized to seek costs of the abatement as outlined in § 152.13.

(B) *Warning notice.* When the city finds that any person has violated, or continues to violate any provision of this chapter, or any order hereunder, the city may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting a violator to immediately investigate the matter and to seek a resolution whereby any offending violation will cease. Investigation and/or resolution of the matter in response to the warning notice in no way relieves the alleged violator of liability for any violations occurring before or after the receipt of the warning notice. Nothing in this section shall limit the authority of the city to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

(C) *Violation notice.*

(1) Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the city may order compliance by violation notice to the responsible person.

(2) The violation notice shall contain:

- (a) The name and address of the alleged violator;
- (b) The address when available or a description of the building structure or land upon which the violation is occurring, or has occurred;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of the remedial action;
- (e) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within ten days of service of notice of violation; and
- (f) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(3) The notice may require without limitation, at the violator's expense:

- (a) The performance of monitoring, analysis and reporting;
- (b) The elimination of the violation(s);
- (c) That violating discharges, practices or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

(Ord. 01-15, passed 3-2-2015) Penalty, see § 152.99

§ 152.10 COSTS.

In addition to the other penalties provided herein, the city may recover engineering fees court costs, court reporter's fees, attorney fees and other expenses of litigation or enforcement by an appropriate action against the person or entity found to have violated this chapter or the orders, rules, regulations and permits issued hereunder.

(Ord. 01-15, passed 3-2-2015)

§ 152.11 STOP WORK ORDER.

In the event that any person holding an excavation/fill permit pursuant to this chapter violated the terms of the permit and is found noncompliant with the permit or implements site development construction practices in a manner as to materially adversely affect the health, welfare or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may suspend or revoke the excavation/fill permit. The city shall notify the owner in writing with a notice of violation of the approved excavation/fill permit to remove the conditions or remedy the defects. The notice shall require the owner to stop work immediately and remove or abate the violations within 48 hours of notification.

(Ord. 01-15, passed 3-2-2015)

§ 152.12 APPEAL NOTICE OF VIOLATION.

Any person receiving a notice of violation may appeal the determination of the city. The notice of appeal must be received within ten days from the date of the notice of violation, except in the instance where a stop work order is issued as described above in § 152.11, then the notice of appeal must be received within 48 hours from the date of the stop work order. Hearing on the appeal before the appropriate authority or his or her designee shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the municipal authority or its designee shall be final.

(Ord. 01-15, passed 3-2-2015)

§ 152.13 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 two days of the decision of the municipal authority upholding the decision of the city, then representation of the city shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be

unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 01-15, passed 3-2-2015) Penalty, § 152.99

§ 152.14 COST OF ABATEMENT OF THE VIOLATION.

(A) Within 45 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 30 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(B) Any person violating any of the provisions of this chapter shall become liable to the city by reason of the violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 8% per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

(Ord. 01-15, passed 3-2-2015)

§ 152.15 REMEDIES NOT EXCLUSIVE.

(A) The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies.

(B) The city may recover all attorney fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(Ord. 01-15, passed 3-2-2015)

§ 152.99 PENALTY.

(A) *Civil penalties.* In the event the alleged violator fails to take the remedial measure set forth in the notice of violation or otherwise fails to cure the violations described therein within 48 hours, or a greater period as the city shall deem appropriate, after the city has taken one or more of the actions described above, the city may impose a penalty not to exceed an amount set by City Council from time to time by resolution (depending on the severity of the violation) for each day the violation remains un-remedied after receipt of the notice of violation.

(B) *Criminal penalties.* Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

(Ord. 01-15, passed 3-2-2015)

CHAPTER 153: FLOODPLAINS

Section

153.01 Adopted by reference

§ 153.01 ADOPTED BY REFERENCE.

The city's floodplain policy, copies of which are on file in the city's offices, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Policy adopted - -, amended 6-17-1991, amended 12-16-1991)

CHAPTER 154: SUBDIVISIONS

Section

154.01 Definitions
154.02 Procedure
154.03 Design standards
154.04 Improvements
154.05 Pre-application plans and data
154.06 Preliminary plats
154.07 Final plats
154.08 Variance
154.09 Inspection
154.10 Maintenance
154.11 Acceptance
154.12 Conveyance of property by metes and bounds
154.13 Building permits
154.14 Regulation of subdivisions, transfer of part of parcel

§ 154.01 DEFINITIONS.

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

ENGINEER. The City Engineer or engineering consultant of the Council.

PEDESTRIAN/BICYCLE WAYS. Paved ways for the exclusive use of pedestrians and/or bicycle riders.

STREETS and ALLEYS.

(1) The term **STREET** means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, drive or however otherwise designated.

(2) The following shall be types of **STREETS**.

(a) **ALLEYS**. Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

(b) **ARTERIAL STREETS AND HIGHWAYS**. Those which are used primarily for fast or heavy traffic.

(c) **COLLECTOR STREETS**. Those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within a development.

(d) **MARGINAL ACCESS STREETS**. Minor streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

(e) **MINOR STREETS**. Those which are used primarily for access to the abutting properties.

SUBDIVISION or **SUBDIVIDE**. The subdivision of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development or, if a new street is involved, any division of a parcel of land; provided that a division of the land for agricultural purposes into lots or parcels of five acres or more and not involving a new street shall not be deemed a **SUBDIVISION**. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

(Prior Code, § 1001.01)

§ 154.02 PROCEDURE.

(A) *Pre-application.*

(1) Previous to the filing of an application for conditional approval of the preliminary plat (preliminary subdivision plan or general subdivision plan), the subdivider shall submit to the Planning Commission plans and data as specified in § 154.05. This step does not require formal application, fee or filing of the plat with the Planning Commission.

(2) Within 15 days of submission, the Planning Commission shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the general objectives of these regulations. When the Planning Commission finds the plans and data do not meet the general objectives of these regulations, it shall express its reasons therefor. Approval under this division (A) does not constitute approval of any type of preliminary or final plat.

(B) *Conditional approval of preliminary plat.*

(1) On reaching conclusions informally as recommended in division (A) above regarding the general program and objectives, the subdivider shall cause to be prepared a preliminary plat, together with improvement plans and other supplementary material as specified in § 154.06.

(2) Twelve copies of the preliminary plat and supplementary material specified shall be submitted to the Planning Commission with written application for conditional approval at least 25 days prior to the meeting at which it is to be considered.

The Planning Commission shall give notice of public hearing on the preliminary plat by at least ten days' published notice in the official newspaper and shall submit copies of the preliminary plat and supplementary material specified to the Public Utilities, Flood Control Commission, Police Department and Fire Department for a report upon the features of the plat of concern to each Department, and to the City Engineer for his or her report upon the accuracy of the surveys, the adequacy of the monuments, the proposed street improvements, other special features of concern and to check the plat boundary survey with the County Surveyor to determine the coinciding of the plat boundary lines with the boundary line of adjoining plats, tracts or other subdivision lines or markers.

(3) The Planning Commission shall hold the hearing and receive testimony from persons interested in the plat and either during the hearing or at its conclusion shall review other data submitted in response to the requests in division (B)(2) above.

(4) The Planning Commission shall, within 40 days of initial submission, act thereon as submitted or modified and shall make recommendations in regard to the plat and its reasons therefor following:

- (a) Review of the preliminary plat and other material submitted for conformity thereof to these regulations;
- (b) Testimony at the hearing and agency response; and
- (c) Recommended changes deemed advisable and the kind and extent of improvements to be made.

(5) The action of the Planning Commission shall be noted on three copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider, one retained by the Planning Commission and one sent to the City Council for its action.

(6) Conditional approval of a preliminary plat shall not constitute approval of the final plat (subdivision plat). Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat which will be submitted for approval of the Planning Commission and for recording upon fulfillment of the requirements of these regulations and conditions of the conditional approval, if any.

(C) *Final plat.*

(1) The final plat shall conform substantially to the preliminary plat as approved and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he or she proposes to record and develop at the time; provided, however, that the portion conforms to all requirements of these regulations.

(2) Applications for approval of the final plat shall be submitted in writing to the Planning Commission at least 15 days prior to the meeting at which it is to be considered.

(3) The Planning Commission shall make recommendations to the City Council which shall act to approve or disapprove the plat. The action shall be taken within 60 days of initial application for final plat approval.

(4) Five copies of the final plat and other exhibits required for approval shall be prepared as specified in § 154.07, and shall be submitted to the Planning Commission within six months after approval of the preliminary plat; otherwise, the

approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.

(Prior Code, § 1001.02) (Ord. 04-04, passed 6-7-2004)

§ 154.03 DESIGN STANDARDS.

(A) *Application.* All plats shall comply with the design standards set forth in this section.

(B) *Community unit development.* The design standards of this section may be modified in the case of a plan utilizing an unusual concept of development which meets the requirement of and has gained approval. The community unit development provision is intended to encourage original and imaginative subdivision design which preserves the natural amenities of the site and provides for the general welfare of the city. All modification of the subdivision regulations shall conform with the community unit development requirements of the zoning chapter.

(C) *Dedication of lands for public purposes.* The developer shall dedicate a reasonable portion of the subdivision to the public for use as public streets, roads, sewers, electric, gas and water facilities, stormwater drainage and holding areas for ponds, and similar utilities and improvements. In addition, the developer shall dedicate a reasonable portion of the subdivision to the public or preserve the same for public use at the option of the Council as parks, playgrounds, trails or open space; provided, however, that the city may chose, at its option, to accept an equivalent amount in cash from the developer for all or part of the portion required to be dedicated for public use based upon the fair market value of the land no later than at the time of final approval. Any cash payments received hereunder shall be placed in a special fund which shall be used only for the purposes of acquisition of additional open spaces described above or maintenance thereof. In determining what is a reasonable portion of the subdivision to be dedicated, the Council shall consider all relevant factors relating to the subdivision, including the additional burden to be placed upon city's public facilities as set forth herein.

(D) *Natural features.* Existing natural features which would add value to the subdivision and the city such as trees, steep slopes, watercourses, historic spots and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision.

(E) *Streets.* The Council shall not approve any plat unless all streets shown thereon are designed and located as to accommodate the probable volume of traffic thereon, afford adequate light and air, facilitate fire protection, provide access of firefighting equipment to buildings, and provide a coordinated system of streets conforming to the city street plan and shall specifically comply with the following.

(1) In the case of subdivision for commercial, industrial and public purposes, no street giving access upon a major street shall be located closer than 100 feet along the same side of the major street, to any other driveway, or public or private street in the same or another subdivision.

(2) Local streets shall be so planned as to discourage through traffic.

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(3) Cul-de-sacs shall normally not be longer than 400 feet, including a turnaround which shall be provided at the closed end with an outside curb radius of at least 40 feet and a right-of-way radius of not less than 50 feet.

(4) Alleys shall not be provided in residential districts but shall be included in commercial and industrial areas where needed for loading and unloading or access purposes.

(5) The minimum distance between centerlines of parallel or approximately parallel streets intersecting a cross street from opposite directions shall be 125 feet.

(6) Intersections of more than two streets at one point shall be avoided.

(7) Dead-end streets shall be prohibited unless provided with a turnaround or cul-de-sac arrangement.

(8) Right-of-way requirements may be increased for specific thoroughfares if existing or anticipated traffic flow warrants it or if drainage easements parallel the thoroughfares. The increased width will be set by the Council after recommendation of the Planning Commission and Engineer.

STREET DESIGN STANDARDS					
	Major Streets	Collector Streets	Local Streets	Culs-de-Sac	Pedestrian/Bike Ways
Horizontal alignment (minimum radii of centerline)	Subject to approval of City Engineer				
Maximum angle for intersection	90 degrees	80 degrees	70 degrees	70 degrees	-
Maximum grade subject to approval of City Engineer	3%	4%	5%	5%	-
Minimum curb radius	35 ft.	12 ft.	12 ft.	12 ft.	-
Paving width	44	40	28	28	8
Right-of-way width	80	70	50	50	10
Vertical curves (minimum sight distance)	500	350	200	100	-

(F) *Blocks.* Blocks shall ordinarily not exceed 1,000 feet in length. Where it is necessary for blocks to exceed this length, pedestrian ways and/or easements may be required near the center of the block.

(G) *Lots.* The lot and yard sizes shall conform with the requirements of the city zoning regulations, Chapter 155 of this code of ordinances, and the lot shall be designed in accord with the following design standards.

(1) Every lot shall be provided with access adequate for the use of public safety vehicles and other public and private street system, improved in accordance with this chapter and connected to the general street system.

(2) Side lines of lots shall be approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is

permissible, but pointed or very irregular lots shall be avoided unless it is clearly evident that the variation shall improve the overall neighborhood design.

(3) Double frontage lots shall be avoided.

(4) When a tract is subdivided into larger than required building lots and there is no covenant preventing resubdivision of the lots, the lots or parcels shall be so arranged as to permit a logical location and opening of future streets and resubdividing with provisions for adequate utility connections for each subdivision.

(H) *Easements*. Shall be required at a minimum of 20 feet. Where a subdivision is traversed by a watercourse, there shall be provided a stormwater easement or drainage right-of-way of width sufficient for the purpose.

(I) *Water and sewer systems*. The water supply and sewage disposal systems for the subdivision shall meet the design standards and requirements of the city and all regulations promulgated by the State Department of Health.

(J) *Commonly-owned conservation areas*.

(1) The developer may include areas within the plat which are to be commonly-owned and which are to be set aside and not improved in order to preserve the natural features thereof.

(2) The city, in its discretion, may permit the developer to deviate from the minimum lot size requirements after consideration of the commonly-owned conservation areas; provided, however, that the aggregate deviation from the minimum lot size permitted by virtue of commonly-owned conservation areas shall not exceed the size of the commonly-owned conservation areas.

(Prior Code, § 1001.03)

§ 154.04 IMPROVEMENTS.

(A) *General*. All of the required improvements specified in this section shall be constructed in accordance with the city standards for construction and all other applicable city, county and state regulations.

(B) *Monuments and markers*. Concrete monuments shall be set at the intersection of all lines forming angles in the boundary of the subdivision. Iron or steel markers shall be set at the beginning and ending of all curves along street property lines, at all points where lot lines intersect curves, either front or rear, at all angles in property lines of lots, and at all other lot corners.

(C) *Streets*. The streets shall be graded if required by the Planning Commission to the grades and dimensions shown on plans and profiles and approved by the Planning Commission and shall include the following improvements.

(1) Suitable drainage structures, culverts, storm sewers, ditches and related installations shall be provided to ensure adequate drainage of all points along the streets.

(2) Concrete curbs and gutters shall be required on all streets.

(3) The base course shall consist of latest State Department of Highways approved material having a thickness of not less than eight inches. The Council shall have the right to determine whether this thickness is adequate for the type of street that has been proposed.

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(4) "Blacktop" paving, as specified by the Engineer, shall be required on all streets.

(5) Street shoulders shall be constructed which are uniformly and thoroughly compacted by rolling and level with tops of curbs.

(D) *Sidewalks.* Paved sidewalks shall be installed along all streets.

(E) *Storm drainage.* The construction of a storm drainage system shall conform to the following requirements.

(1) Drainage ditches or channels shall have a minimum gradient of 1%.

(2) Open watercourses shall have adequate capacity and erosion control to ensure safe and healthful disposal of stormwater.

(3) When top soil has been removed from the surface of a lot on a slope where erosion will cause a displacement of loose material, the subdivider shall be required to seed or provide other means to prevent the wash from damaging adjacent property or accumulating on street surfaces.

(F) *Water supply.*

(1) Where public water supply is available, as determined by the Planning Commission, the subdivider shall connect to the public water supply and construct a system of water mains with a connection for each lot.

(2) Where public water is not available:

(a) The subdivider shall supply acceptable evidence of the availability of water. The subdivider may be required to make one or more test wells in the area to be platted if the evidence is deemed not acceptable. Copies of well logs from the test wells which are obtained shall include the name and address of the well driller and shall be submitted with the plan to the Council; and

(b) If a private water supply is permitted, individual private wells shall be located at least 25 feet from property lines, 50 feet from all septic tanks, approximately 100 feet from all tile disposal fields and other sewage disposal facilities, ten feet from all cast iron sewer lines, 30 feet from any vitrified sewer tile lines, and shall not be located within any floor plan.

(G) *Sewers.* Where the municipal sewer system is reasonably accessible to the subdivision, the subdivider shall provide the subdivision with a complete sanitary sewer system to be connected to the municipal sanitary sewer. Where the municipal sewer system is not reasonably accessible to the subdivision and, in the judgment of the Planning Commission, extension of the municipal sewage system to the subdivision will not take place in the foreseeable future, private sewage disposal systems on individual lots consistent with all city, county and state regulations applicable thereto.

(H) *Utilities.* Every lot in a subdivision shall be capable of being served by utilities, and easements acceptable to the utility companies shall be provided. Electric, gas and other utility distribution lines shall be installed within public rights-of-way or within properly designated easements. To the fullest extent possible, underground utility lines shall be encouraged but not installed beneath existing or proposed paved areas.

(I) *Trees.* Trees shall be planted or existing trees maintained along the streets. The location and types of trees must meet the approval of the Planning Commission.

(J) *Street signs.* Street name signs of a type adopted or approved by the Planning Commission shall be installed at each street intersection by the subdivider on a location specified by the engineer.
(Prior Code, § 1001.04)

§ 154.05 PRE-APPLICATION PLANS AND DATA.

The following information shall be submitted prior to the submission of the preliminary plat.

(A) *General subdivision information.* General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required below. This information shall include, but is not necessarily limited to, data on existing covenants, land characteristics, available community facilities and utilities, and information describing the subdivision proposal such as number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park areas, other public areas, proposed protective covenants and proposed utilities and street improvements.

(B) *Location map.* Location map shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. Include development name and location, main traffic arteries, public transportation lines, shopping centers, elementary and high schools, parks and playgrounds, principal places of employment, other community features such as railroad stations, airports, hospitals and churches, title, scale, north arrow and date.

(C) *Sketch plan on topographic survey.* Sketch plan on topographic survey shall show in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan may be a free-hand pencil sketch made directly on a print of the topographic survey. In any event, the sketch plan shall include either the existing topographic data showing prevalent water flows, general slopes of the lands and anticipated wetlands.
(Prior Code, § 1001.05)

§ 154.06 PRELIMINARY PLATS.

(A) *Data for preliminary plats.* The following information shall be submitted as a basis for the preliminary plat and shall include existing conditions as follows, except when otherwise specified by the Planning Commission:

- (1) *Boundary lines.* Bearings and distances;
- (2) *Easements.* Location, width and purpose;
- (3) *Streets on and adjacent to the tract.* Name and right-of-way width and location; type, width and elevation of surfacing; any legally established center-line elevations; walks, curbs, gutters, culverts and the like;
- (4) *Mailbox location in culs-de-sac.* In the event that the planned improvement contains cul(s)-de-sac, the location of all mailboxes to be installed in the

cul(s)-de-sac must be identified, and all of the mailboxes shall be gang mailboxes. The mailboxes shall be installed in the location(s) depicted on the preliminary plat;

(5) *Utilities on and adjacent to the tract.* Location, size and invert elevation of sanitary, storm and combined sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone pole, and street lights; if water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to and size of nearest ones, showing invert elevation of sewers;

(6) *Ground elevations on the tract, based on a datum plane approved by the City Engineer.* For land that slopes less than approximately 2%, show spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions; for land that slopes more than approximately 2%, either show contours with an interval of not more than five feet if ground slope is regular and the information is sufficient for planning purposes or show contours with an interval of not more than two feet if necessary because of irregular land or need for detailed data for preparing plans and construction drawings;

(7) *Subsurface conditions on the tract, if required by the Planning Commission.* Location and results of tests made to ascertain subsurface soil, rock and ground water conditions, depth to ground water unless tests pits are dry at a depth of five feet, location and results of soil percolation tests if individual sewage disposal systems are proposed;

(8) *Other conditions on the tract.* Watercourses, marshes, rock outcrop, wooded areas, isolated preservable trees one foot or more in diameter, houses, barns, shacks and other significant features. No plat will be approved for a subdivision which covers an area subject to periodic flooding or which contains extremely poor drainage facilities and which make adequate drainage of the streets and lots impossible;

(9) *Other conditions on adjacent land.* Approximate direction and gradient of ground slope, including any embankments or retaining walls, character and location of buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influences, owners of adjacent unplatted land; for adjacent platted land refer to subdivision plat by name, recordation date and number and show approximate percent built-up, typical lot size and dwelling type;

(10) *Photographs, if required by the Planning Commission.* Camera locations, directions of views and key numbers;

(11) *Zoning.* Zoning on and adjacent to the tract;

(12) *Proposed public improvements.* Highways or other major improvements planned by public authorities for future construction on or near the tract;

(13) *Key plan.* Key plan showing location of the tract;

(14) *Title and certificates.* Present tract designation according to official records in office of appropriate recorder, title under which proposed subdivision is to be recorded with names and addresses of owners, notation stating acreage, scale, north arrow, datum, benchmarks, certification of registered civil engineer or surveyor, date of survey;

(15) *Commonly-owned conservation areas.* Location, dimensions and notable natural features; and

(16) *Wetlands.* Any and all wetlands required to be delineated by state or federal law must be identified on the preliminary plat.

(B) *Form of preliminary plat.* The preliminary plat shall be at a scale of 200 feet to one inch or larger (preferred scale of 100 feet to one inch). It shall show all existing conditions required in division (A) above and shall show all proposals including the following:

- (1) Streets: names, right-of-way and roadway widths, approximate grades and gradients, similar data for alleys, if any;
- (2) Other rights-of-way or easements: location; width; and purpose;
- (3) Location of utilities, if not shown on other exhibits;
- (4) Lot lines, lot numbers and block numbers;
- (5) Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses;
- (6) Sites, if any, for multi-family dwellings, shopping centers, churches, industry or other non-public uses, exclusive of single-family dwellings;
- (7) Minimum building setback lines;
- (8) Site data, including number of residential lots, typical lot size and acres in parks and the like; and
- (9) Title, scale, north arrow and date.

(C) *Other preliminary plans.* When required by the Planning Commission, the preliminary plat shall be accompanied by profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision, typical cross-sections of the proposed grading, roadway and sidewalk, and preliminary plan of proposed sanitary and stormwater sewers with grades and sizes indicated. All elevations shall be based on a datum plane approved by the City Engineer.

(D) *Protective covenants.* Proposed protective covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development shall be submitted with the preliminary plat.

(Prior Code, § 1001.06) (Ord. 08-04, passed 1-18-2005; Ord. 05-06, passed 8-21-2006)

§ 154.07 FINAL PLATS.

(A) *Final plat data and form.* The final plat shall be drawn in ink on Mylar, or modern day replacement, on sheets 30 inches wide by 18 inches long and shall be at a scale of 100 feet to one inch or larger. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions, the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Planning Commission. Additionally, the applicant shall provide to the Planning Commission at least five 11 inches by 17 inches paper copies of the final plat prior to approval and one signed and recorded paper copy with recording information thereon after approval and recording have been accomplished. The final plat shall show the following:

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(1) Primary control points, approved by the City Engineer, or descriptions and “ties” to the control points to which all dimensions, angles, bearings and similar data on the plat shall be referred;

(2) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites; with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves;

(3) Name and right-of-way width of each street or other right-of-way;

(4) Location, dimensions and purpose of any easements;

(5) Number to identify each lot or site;

(6) Purpose for which sites, other than residential lots, are dedicated or reserved;

(7) Location of description of monuments;

(8) Reference to recorded subdivision plats of adjoining platted land by record name, date and number;

(9) Certification by surveyor or engineer certifying to accuracy of survey and plat;

(10) Certification of title showing that applicant is the landowner;

(11) Statement of owner dedicating street, rights-of-way and any sites for public uses; and

(12) Title, scale, north arrow and date.

(B) *Street cross-sections.* There shall be submitted with the final plat street cross-sections and profiles drawn to city standard scales and elevations and shall be based on a datum approved by the City Engineer. The profiles and cross-sections shall be approved by the City Engineer.

(C) *Other data.* Other certificates, affidavits, endorsements or deductions as may be required by the Planning Commission in the enforcement of these regulations. (For fees, see § 150.01(B).)

(D) *Deadline for recording.* The final plat and any and all necessary exhibits shall be properly recorded with the County Recorder’s office within six months after approval thereof; otherwise, the approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission. (Prior Code, § 1001.07) (Ord. 05-04, passed 6-7-2004)

§ 154.08 VARIANCE.

(A) *Hardship.* Where the Planning Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that the variation will not have the effect of nullifying the intent and purpose of the general community plan or these regulations.

(B) *Conditions.* In granting variances, the Planning Commission may require conditions such as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

(C) *Multiple hearings.* Whenever multiple hearings relating to the same property take place on the same date as hearings required under this chapter, the applicant shall be obligated to pay only the highest applicable application fee. (Prior Code, § 1001.08)

§ 154.09 INSPECTION.

When the plans of street and other improvements have been approved as provided in this chapter, the subdivider shall first notify the Clerk-Treasurer of his or her intention to proceed with the construction or installation of streets and improvements; notification shall be made at least one week before any construction or installation shall commence so as to give the city officials an opportunity to inspect the site prior to commencement of work and to inspect installation or construction of the streets and improvements during the course of work being performed. In order to defray a part of the costs incurred by the city in inspecting the installation of the improvements required by this chapter, the subdivider shall, before he or she proceeds with any construction or installation, present a certified check or money order made payable to the Council in an amount equal to 1.5% of the engineer's estimate of the cost of the improvements. (Prior Code, § 1001.09)

§ 154.10 MAINTENANCE.

Prior to any street or other improvement being accepted by the city as hereinafter provided, the subdivider shall post a maintenance bond and/or other security naming the city as obligee in an amount deemed adequate by the Council to insure maintenance of the improvements for a period of at least 12 months from the date of acceptance by the city. (Prior Code, § 1001.10)

§ 154.11 ACCEPTANCE.

After streets and improvements have been installed and constructed pursuant to the requirements contained in this chapter and in the event that the subdivider desires to have the city accept the streets or improvements, the subdivider shall notify the proper city officials that the construction or installation has been completed and shall supply the city with a minimum of five copies of the as-built plan on which the street or improvement in question has been constructed or installed. The five copies of the plan shall show thereon the signatures of all agencies and individuals who have approved the plan and contain a notice thereon as to where and when the plan was recorded in the County Register of Deeds office. The portion of street or improvement which the subdivider desires to have the city accept shall be shaded or colored in yellow on each of the five copies. The plan shall also clearly designate the number of lineal feet of the street or improvement which the subdivider desires to be accepted by the city.

(Prior Code, § 1001.11)

§ 154.12 CONVEYANCE OF PROPERTY BY METES AND BOUNDS.

No land within the city shall be conveyed by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961, or to a plat not approved under city subdivision regulations; nor shall the conveyance be recorded in the office of the County Recorder, except for those exceptions set forth in M.S. § 462.358, subd. 4b paragraphs (1) through (6), as it may be amended from time to time; provided, however, that where the Council finds compliance with the foregoing restriction will create unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the Council may waive the compliance by adoption of a resolution to that effect and the conveyance may then be made and filed or recorded.

(Prior Code, § 1001.12)

§ 154.13 BUILDING PERMITS.

No building permit shall be issued by the city for work on any land or lot which is described and/or conveyed in violation of § 154.12 or any other provision of this chapter or M.S. § 462.358. (See §§ 150.01 and 151.02 regarding applicable codes and fees.)

(Prior Code, § 1001.13)

§ 154.14 REGULATION OF SUBDIVISIONS, TRANSFER OF PART OF PARCEL.

(A) *Purpose.* The purpose of this section is to allow the city to ensure subdivision regulations, restrictions and ordinances are followed relative to each transfer of real property which may be controlled by Chapter 239 of the Laws of 1983, codified as M.S. § 272.162, as it may be amended from time to time.

(B) *Procedure.* Pursuant to M.S. § 272.162, as it may be amended from time to time, each parcel of land subject to the chapter shall not be presented to and approved by the County Auditor for transfer until the transfer and parcel have been reviewed by the Clerk-Treasurer for the city to determine if the transfer is appropriate and conforms with existing city ordinances and regulations.

(Prior Code, § 1002.24)

CHAPTER 155: ZONING

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GENERAL PROVISIONS

§ 155.001 DEFINITIONS.

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

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

ATTACHMENT. An extension of or increase to the floor area or height of an existing building or structure meeting building code standards.

BOARDINGHOUSE. A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for five or more persons, but not exceeding 15 persons.

DWELLING.

(1) Any building or portion thereof which is designed for or used for residential purposes. For the purposes of this chapter, a **DWELLING** shall have an outside width of 20 feet at its narrowest point and shall be placed upon a permanent foundation which complies with all applicable manufacturer's specifications, building or other codes, and the city code.

(2) Manufactured homes meeting the width and foundation requirements set forth above and that otherwise fully comply with applicable codes shall be considered **DWELLINGS**. **MOBILE HOMES** shall be defined as those manufactured homes which do not meet the minimum width requirements of this definition. Mobile homes shall be regulated by other provisions of the city code limiting their placement to mobile home parks or other specialized uses.

(a) **ONE-FAMILY.** Detached residential dwelling unit designed for and occupied by one family only.

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

(c) **TWO-FAMILY.** A detached residential building containing two dwelling units designed for occupancy by not more than two families.

FAMILY. One or more persons related by blood, adoption or marriage, living and cooking together as a single house-keeping unit, exclusive of household servants. A number of persons but not exceeding two living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage shall be deemed to constitute a **FAMILY**.

FILLING STATION, GAS STATION or SERVICE STATION. Any building, structure or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils and accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories.

HOME OCCUPATIONS.

Proctor, MN Code of Ordinances

(1) *Permit required.* No person required to obtain a permit as provided herein shall engage or conduct a **HOME OCCUPATION** in any dwelling unit within the city not otherwise zoned for the use without first obtaining a permit to do so.

(2) *Permit requirements.* **HOME OCCUPATIONS** shall require a permit if any of the following circumstances would occur more than 90 days each year:

- (a) Customers visiting the premises;
- (b) Manufacture of products on the premises;
- (c) More than one vehicle associated with the **HOME OCCUPATION** which is classified as a light commercial vehicle; and
- (d) A vehicle(s) used in the **HOME OCCUPATION**, and parked on the premises, which exceeds a three-quarter ton payload capacity.

(3) *Definitions used in this code.*

DWELLING UNIT. Except as hereinafter specifically limited, means any living unit contained within a dwelling and occupied by a person or family as a residence.

HOME OCCUPATION. The use of dwelling unit for gainful employment through the manufacture of or providing the sale of goods and/or services.

(4) *Intent.* It is the intent of these regulations to permit in dwelling units only those **HOME OCCUPATIONS** that are compatible with other permitted uses and character of residential neighborhoods. No **HOME OCCUPATION** shall be permitted in any building containing more than one dwelling unit or where the owner(s) of the building do not reside therein. Only one permit per dwelling unit shall be generally allowed, provided that the City Council may allow a resident's request for no more than two permits in a single dwelling unit if the combined operation of the two permitted uses does not otherwise violate the provisions herein.

(5) *Application and permit fee.*

(a) All applicants for a permit for **HOME OCCUPATIONS** shall file with the Clerk- Treasurer a written application for each permit on forms to be prescribed by the city. The application shall be submitted by the Clerk-Treasurer to the Fire Chief, the Building Inspector and other city inspectors as may be appropriate. The approval or disapproval of the Fire Marshal and all city inspectors shall be delivered to the Clerk-Treasurer within 15 working days from the date the application is received by the Clerk-Treasurer. The appropriate permit fee shall accompany each application. All permits shall be reviewed by the Planning Commission. The Commission's recommendations on each permit shall be submitted to the City Council for the Council's consideration.

(b) The annual permit fee shall be subject to the city schedule of charges and fees and in addition to the annual permit fee, any additional costs incurred by the city in processing any application shall be borne by the applicant and shall be paid prior to the issuance of the permit. All applications for renewal shall be submitted to the Clerk-Treasurer, together with applicable fee, not later than December 1 prior to the effective renewal date. Any annual renewal inspection required of the permitted premises by the City Building Official shall be performed immediately after the renewal application is received by the city. The permit shall run from January 1 of each calendar year, regardless of when the permit was obtained, until December 31 of each calendar year.

(6) *Regulation and performance standards.*

(a) No one other than a member of the immediate family occupying the dwelling unit shall be employed on the licensed premises at any time.

(b) Sign: **HOME OCCUPATIONS** shall be permitted one sign which shall not exceed five square feet in size. If the sign is double-faced, both faces of the sign may contain a graphic message, but the total area of any face of the sign shall not exceed five square feet. The sign may be located upon the dwelling in which the **OCCUPATION** is conducted, or it may be placed in the front yard of the premises with a minimum setback from the front property line of 15 feet.

(c) No **HOME OCCUPATION** shall be conducted in an accessory building except in an attached or detached garage.

(d) No **HOME OCCUPATION** shall create substantial additional traffic. More than 20 vehicles coming to the licensed dwelling unit for service or products in any one day shall constitute substantial additional traffic.

(e) Any need for parking shall be met off the street and other than in the required front yard. Any planned use of backyards for parking shall be detailed in the application for permit.

(f) No **HOME OCCUPATION** shall cause an increase in sewer, electric or water usage to the extent that the combined total use for the licensed dwelling unit exceeds the normal average for comparable residences within the city.

(g) There shall be no storage of any kind of equipment, materials, supplies or products used or manufactured under the permit which are visible from the outside of any buildings on the licensed premises.

(h) No use of the licensed premises shall result in a change in fire rating of the dwelling unit or the fire district in which the licensed dwelling unit is located.

(i) All licensed dwelling units shall retain their residential look, appearance and character; and the appearance of any dwelling unit shall not be altered so as to change its residential look, appearance and character. No **HOME OCCUPATIONS** shall be conducted in the licensed dwelling unit which alters the residential character of the dwelling unit, either by the use of colors, materials, construction, lighting or the use of advertising signs (other than those specifically permitted).

(j) No **HOME OCCUPATION** shall be conducted in the licensed dwelling unit which results in the emission of sounds, odors, noises, vibrations, heat, glare or electrical disturbances which constitute a nuisance to other property owners within the city.

(k) 1. An area equivalent to no more than 20% of the gross floor space of the dwelling unit, including the basement and garage, shall be used in the conduct of a **HOME OCCUPATION**.

2. In calculating the gross floor space devoted to a **HOME OCCUPATION**, the following rules shall apply:

a. Any room located in the dwelling unit or an attached garage in which the **HOME OCCUPATION** is carried out shall be included in its entirety in the calculation; and

b. If the **HOME OCCUPATION** is carried on in a detached accessory building, only those portions actually devoted to the **HOME OCCUPATION** shall be included in the calculation.

(l) No equipment or process shall be used in a **HOME OCCUPATION** which creates noise, vibration, glare, fumes, odor or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

(m) There shall be no fire, safety or health hazards.

(n) A **HOME OCCUPATION** shall not include the repair of internal combustion engines, body shops, machine shops, welding, ammunition manufacturing or other objectionable uses as determined by the city. Machine shops are defined as places where raw metal is fabricated using machines that operate on more than 120 volts of current.

(o) The City Council may add any additional requirements that it deems necessary to ensure that the operation of **HOME OCCUPATION** will be compatible with nearby land uses.

(7) *Hours of operation.* No **HOME OCCUPATION**, except family day care homes, shall receive the public in any licensed dwelling unit before 7:00 a.m. or after 9:00 p.m. of any day.

(8) *Revocation.* Every permit granted hereunder may be revoked by the City Council for a violation of any provision of this chapter or of any ordinance, law, statute or regulation; provided, however, no revocation shall become effective until the permittee has been given ten days' notice by mail or personal service of the Council's intent to revoke the permit. If within the ten-day period the permittee shall request a hearing on a proposed revocation, the revocation shall not become effective until the Planning Commission has held a hearing regarding the matter and made its recommendations to the City Council. After revocation, no permit shall be granted for the same dwelling unit during the three-month period following the effective date of any revocation.

(9) *Penalties.* Any person violating any provision of this chapter shall upon conviction thereof be guilty of a misdemeanor.

LOT. Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with the open space as are required under the provisions of this chapter for a building site in the district in which the lot is situated and having its principal frontage on an improved street.

LOT, CORNER. A lot abutting upon two or more streets at their intersection.

LOT DEPTH. The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

LOT, DOUBLE FRONTAGE or THROUGH LOT. A lot having a frontage on two streets as distinguished from a corner lot.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and

through lots, all sides of a lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under the definition for yards in this section.

LOT OF RECORD. A parcel of land which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of the county or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of the county or of the County Auditor.

LOT WIDTH. The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width except in case of lots on turning circle culs-de-sac, where the 80% requirement shall not apply.

MOBILE HOME PARK. A contiguous parcel of land which has been developed for the placement of no less than 25 mobile homes and is and shall continue under single ownership by an individual, firm, trust, partnership or public or private association or corporation who shall be responsible for maintenance, operations and control.

MOTOR COURT or **MOTEL.** A building or group of buildings used primarily for the temporary residence of motorists or travelers.

NONCONFORMING USE. A use or structure lawfully in existence on November 3, 1975, and not conforming to the regulations for the district in which it is situated.

OUTDOOR ADVERTISING DISPLAY. A sign which advertises goods, products, facilities or services not on the premises where the sign is located or which directs persons to a different location from where the sign is located.

PARKING AREA. An open unoccupied space used or required for use for parking of vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.

PARKING LOT. An open surfaced area used exclusively for the temporary storage of motor vehicles and within which motor fuels and oils may be sold, but no vehicles are to be equipped, repaired, rented or sold.

PARKING SPACE. A surfaced area, enclosed or unenclosed, having a width of not less than seven feet and an area of not less than 180 square feet exclusive of driveways permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords a satisfactory ingress or egress for vehicles.

PARKING SPACE, OFF-STREET.

(1) Consists of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.

(2) For purposes of rough computation, an **OFF-STREET PARKING SPACE** and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a

manner appropriate to the circumstances of the case, and in accordance with all regulations of the city.

SIGN. Signage within the city shall be governed and regulated by §§ 155.225 through 155.236.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.

STRUCTURE.

(1) Any building or edifice, or any constructed addition to a building or edifice that changes its external dimensions which is placed or built in or on the ground, shall be considered a **STRUCTURE**. Every **STRUCTURE** shall be subject to setback requirements prescribed by the city code. Required permits shall be obtained for **STRUCTURES** before they are placed. Temporary storage bins or units and the like are not considered **STRUCTURES**, unless they meet applicable building codes; provided, however, that the storage bins or units and the like are only permitted pursuant a conditional use permit in all zones, except for "I" Zones, in which zone no conditional use permit is required.

(2) Accessory use buildings with a footprint of less than 30 square feet and up to eight feet in height are not considered structures, but are still subject to established setbacks. Buildings with this footprint size are an exception to the accessory building separation setback only and therefore allowed to be placed within five feet of other accessory buildings.

VARIANCE. A change of the terms of the zoning chapter where the variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship. As used in this chapter, a **VARIANCE** is authorized only for height, area, size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by **VARIANCE**; nor shall a **VARIANCE** be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

YARD.

(1) An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a **YARD** for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

(2) The following apply to the areas specified.

(a) **FRONT.** A yard existing across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projections thereof other than projections permitted in this chapter. On corner lots, the **FRONT YARD** shall be considered as parallel to the street upon which the lot has its least dimension.

(b) **REAR.** A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear of the main

building or any projections thereof, other than the projections of uncovered steps, uncovered balconies or uncovered porches, and the rear lot line. On all lots, the **REAR YARD** shall be at the opposite end of the lot from the front yard.

(c) **SIDE.** A yard between the main building and the side line of the lot and extending from the front lot line to the rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.

(Prior Code, § 1002.01) (Ord. 02-05, passed 4-4-2005; Ord. 01-10, passed 3-15-2010; Ord. 04-15, passed - -2015; Ord. 02-21, passed 11-1-2021)

§ 155.002 PROVISIONS OF CHAPTER DECLARED TO BE MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals or general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

(Prior Code, § 1002.20)

§ 155.003 COMPLAINTS REGARDING VIOLATIONS.

(A) Whenever a violation of this chapter occurs or is alleged to have occurred, complaint shall be made in writing to the Building and Zoning Official, who shall investigate the alleged violation. The Building and Zoning Official shall then take action pursuant to this chapter if the violation exists.

(B) The Building and Zoning Official shall be empowered to issue citations for violation of this chapter and the applicable regulatory statutes and codes enforced by and through his or her office. Where appropriate, the Official may also refer matters to the City Administrator or his or her designee for review by the City Attorney and action thereon if deemed appropriate by the City Attorney.

(Prior Code, § 1002.21)

ESTABLISHMENT OF DISTRICTS

§ 155.015 OFFICIAL ZONING MAP.

(A) The city is hereby divided into zones or districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

(B) The official zoning map shall be identified by the signature of the Mayor, attested by the Clerk-Treasurer, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map of the City of Proctor, Minnesota", together with the date of the adoption of this chapter.

(C) If, in accordance with the provisions of this chapter and M.S. Ch. 462, as it may be amended from time to time, changes are made in district boundaries or other matter portrayed on the official zoning map, the changes shall be entered at Council direction with an entry on the official zoning map as follows: "On (date), by official action of the City Council, the following change(s) were made in the official zoning map. (Brief description of nature of change)", which entry shall be signed by the Mayor and attested by the Clerk-Treasurer. No amendment to this chapter which involves matter portrayed on the official zoning map shall become effective until after the change and entry has been made on the map.

(D) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the Clerk- Treasurer shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the city. (Prior Code, § 1002.02)

§ 155.016 REPLACEMENT OF OFFICIAL ZONING MAP.

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Council may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Mayor, attested by the Clerk-Treasurer and bearing the seal of the city under the following words: "This is to certify that this is the official zoning map as part of the zoning ordinance of the City of Proctor, Minnesota." Unless the prior official zoning map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

(Prior Code, § 1002.02)

§ 155.017 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply.

(A) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow the centerlines.

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

(C) Boundaries indicated as approximately following city limits shall be construed as following the city limits.

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

(E) Boundaries indicated as following shore lines shall be construed to follow the shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow the centerlines.

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

(G) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by divisions (A) through (F) above, the Board of Adjustment shall interpret the district boundaries.

(H) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(Prior Code, § 1002.02)

§ 155.018 APPLICATION FOR DISTRICT REGULATIONS.

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, including, but not limited to, the following.

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

(B) No building or other structure shall hereinafter be erected or altered:

(1) To exceed the height or bulk;

(2) To accommodate or house a greater number of families;

(3) To occupy a greater percentage of lot area; and

(4) To have narrower or smaller rear yards, front yards, side yards or

other open spaces than herein required; or in any other manner contrary to the provisions of this chapter.

(C) No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

(D) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards

or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(E) All territory which may hereafter be annexed to the city shall be considered to be in the "S" Suburban District until otherwise classified.
(Prior Code, § 1002.02) Penalty, see § 10.99

§ 155.019 DISTRICTS ENUMERATED.

For the purpose of this chapter, the city is hereby divided into districts, of which there shall be ten in number, as follows:

- (A) "O/R" Open Space/Recreational District;
- (B) "S" Suburban District;
- (C) "R-1a" One Family Residential District;
- (D) "R-1b" One Family Residential District;
- (E) "R-1c" One Family Residential District;
- (F) "R-2" Two Family Residential District;
- (G) "R-3" Apartment Residential District;
- (H) "C-1" Retail District;
- (I) "C-2" Commercial District; and
- (J) "I" Industrial District.

(Prior Code, § 1002.02)

HEIGHT AND AREA REQUIREMENTS

§ 155.030 STANDARDS.

- (A) *General setback requirements.*
 - (1) *All dwellings, primary structures.*

General Setback Requirements							
Dwellings, Primary Structures							
District	Minimum Lot Area per Family	Minimum Lot Frontage (In Feet)	Minimum Front Yard Depth (In Feet)	Minimum Side Yard Width (In Feet)	Minimum Rear Yard Depth (In Feet)	Maximum Height of Buildings	
						Stories *	Feet*
"O/R" (Allowed as "C"-use § 155.228)	10 acres	250	50	25	50	2.5	35
"S"	5 acres	250	50	25	50	2.5	35
"R-1a"	14,000 sq. ft. **	75***	35	8	25	2.5	35
"R-1b"	7,500 sq. ft.	60***	35	6	25	2.5	35
"R-1c"	32,670 sq. ft.	3/4 Acre*** (150 feet)	35	6	25	2.5	35

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General Setback Requirements							
Dwellings, Primary Structures							
District	Minimum Lot Area per Family	Minimum Lot Frontage (In Feet)	Minimum Front Yard Depth (In Feet)	Minimum Side Yard Width (In Feet)	Minimum Rear Yard Depth (In Feet)	Maximum Height of Buildings	
						Stories *	Feet*
"R-2"							
1- Family	7,500 sq. ft.	60	35	6	25	2.5	35
2- Family	3,750 sq. ft.						
"R-3"							
1- Family	7,500 sq. ft.	60	35 (5)	6 (1)	25 (5)	3.0	45
2- Family	3,750 sq. ft.						
Multi-Family	1,500 sq. ft.						
Efficiency	380 sq. ft.						

Dwellings, Primary Structures							
District	Minimum Lot Area per Family	Minimum Lot Frontage (In Feet)	Minimum Front Yard Depth (In Feet)	Minimum Side Yard Width (In Feet)	Minimum Rear Yard Depth (In Feet)	Maximum Height of Buildings	
						Stories *	Feet*
"C-1"	Same as "R-3"	N/A	5	5 (2)	25	3.0	45
"C-2"	Same as "R-3"	N/A	5	5 (2)	25	3.0	45
"I"	Not allowed		5 (6)	5 (3)	(3)	4.0	60 (4)
* See § 155.032 for standards, restrictions and the like regarding antennas and the like							
** Except Scott's/McGovern Addition as set forth on zoning map; 9,000 square feet where city water available							
*** Except single lot, where owner of lot does not own other adjacent lots as of date of adoption of zoning ordinance, 33 foot frontage will be buildable. Does not apply where lot is sold or transferred prior to building; see § 155.036							

(2) *Notes to tables.*

Notes to Tables
(1) For buildings less than three stories in height. For three story buildings, side yards of 10 feet are required.
(2) The side yard setback is as set forth, except that a side yard of not less than seven feet shall be provided on the side of lot abutting a residential district.
(3) No rear yard required and the side yard setback is as set forth; except, that a side yard of not less than 7 feet and a rear yard of not less than 25 feet shall be provided on the side or rear of a lot abutting a residential district.
(4) Whenever any building on a "M-1" District adjoins or abuts a residential district, the building shall not exceed three stories or 40 feet in height, unless it is set back one foot from the required side and rear yard lines for each foot of additional height above 40 feet.
(5) Front and rear yard requirements in "R-3" District are a minimum of 35 and 25 feet, respectively, except for three story buildings which shall have requirements of 40 and 30 feet, respectively.
(6) If average depth of the lot is less than 250 feet, the minimum front yard depth required is 10% of the average lot depth, but not less than 10 feet.

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Notes to Tables	
(7)	No lot of record containing 7,500 square feet or less shall be used except for a single-family dwelling or a permitted non-dwelling use.
(8)	To be computed so as to include any highway easements or parts thereof within the original parcel of land.

(B) The Planning Commission shall make findings on each of these requirements as seen in light of the individual development, the site and surrounding developments.
(Prior Code, § 1002.03) (Ord. 01-11, passed 6-20-2011) Penalty, see § 10.99

§ 155.031 ALLOWABLE PERCENTAGE OF LOT COVERAGE.

(A) All structures placed upon a lot within the city shall conform to the following allowable percentage of lot coverage standards:

District	Percentage
"O/R"	N/A
"S"	N/A
"R-1"	35%
"R-1a"	35%
"R-1b"	35%
"R-1c"	35%
"R-2"	35%
"R-3"	50%
"C-1"	50%
"C-2"	50%
"I"	75%

(B) *"R" Zones.* Provided, that in any "R" Zone, no accessory structure shall exceed 1,200 square feet on any lot; provided further, that in no event shall any lot located in an "R" Zone have more than three accessory structures located upon it. An exception shall be that within "R-2" and "R-3" Zones, multiple family structures shall be allowed one single-stall motor vehicle garage per dwelling unit. In addition to the single-stall garage, there may also be allowed two additional accessory structures in "R-2" and "R-3" Zones.

(C) *"S" Zones.* Provided, that in any "S" Zone, no accessory structure shall exceed 5,000 square feet on any lot; provided further, that in no event shall a lot have more than four accessory structures in total placed upon it. Only one of the accessory structures located upon the lot may exceed 1,200 square feet in size.

District	Minimum Depth of Front Yard (In Feet)	Minimum Width of Either Side Yard (In Feet)	Minimum Depth of Rear Yard (In Feet)
"O/R" Open Space-Recreation	N/A	N/A	N/A
"S" Suburban	50	25	50

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<i>District</i>	<i>Minimum Depth of Front Yard (In Feet)</i>	<i>Minimum Width of Either Side Yard (In Feet)</i>	<i>Minimum Depth of Rear Yard (In Feet)</i>
"R-1a" Residential	35	8	25
"R-1b" Residential	35	6	25
"R-1c" Residential	35	6	25
"R-2" Residential	35	6	25
"R-3" Residential	35 (5)	6 (1)	25 (5)
"C-1" Commercial		None (2)	25
"C-2" Commercial		None (2)	25
"I" Industrial	See (6)	None (3)	None (3)

(D) *Specific setback requirements; structures and accessory buildings.*

Specific Setback Requirements				
Standards for Structures, Accessory Buildings				
Structures and Accessory Buildings	Zone Applicable	Front Yard Setback	Side Yard Setback	Rear Yard Setback
Alleys, impact of	All			1/2 alley width may be used as part of required setback
Alley, lack of	"O/R", "S", all Residential		May use one side yard, minimum 9 ft., for driveway; other side yard must be minimum of 5 ft.	
Apartments, duplexes	"R-2", "R-3" only		Follow rules for single-family zones	
Carport, canopy	All residential		5 ft. setback from side lot line	
Corner lots*	All residential			
(a) Dwellings	"R-1a"		25 ft.	
	"R-1b" - "R-3"		15 ft.	
(b) Detached accessory buildings	"R-1a"		25 ft.	
	"R-1b" - "R-3"		20 ft.	

Specific Setback Requirements				
Standards for Structures, Accessory Buildings				
Structures and Accessory Buildings	Zone Applicable	Front Yard Setback	Side Yard Setback	Rear Yard Setback
(includes attached garage, front wall)				
(c) Educational, religious structure	"R-1a"		35 ft.	
	"R-1b" - "R-3"		25 ft.	
Deck or porch	All		5 ft.	
(a) Open		May project 10 ft. into required front yard	5 ft.	
(b) Closed (maximum 40 sq. ft.)		May project 4 ft. into front yard	5 ft.	
Double lots (frontage)	All	Setback required on all lots with frontage		
Dwelling in "C" District (adjacent to or above commercial business)	"C"		If abuts "R" District, must follow abutting "R" requirement for side yard	
Fire escapes and the like	All			May project 5 ft. into rear yard setback
Garage, lack of, see Alley, lack of				
Nonconforming lots	Residential (see also § 155.035)			
(a) "R-1a"		Lots less than 60 ft. frontage: minimum side yard setback, 5 ft.		
(b) "R-1b" - "R-2"		Lots less than 50 ft. frontage: if		

Specific Setback Requirements				
Standards for Structures, Accessory Buildings				
Structures and Accessory Buildings	Zone Applicable	Front Yard Setback	Side Yard Setback	Rear Yard Setback
		garage on premises, minimum aggregate side yard, 12 ft.		
Projecting sills, eaves and the like. General rule: cannot project beyond a required line running along any street/road	All residential	Minimum of 18 in. from front yard setback	Minimum of 18 in. from required side yard setback (see rear yard for accessory structures)	Minimum of 18 in. from rear yard for main structure; accessory structures: 5 ft. minimum side yard setback measured from closest point of structure to side lot line
Rear yards, general rules	All residential	Rear yard must be set back 60 ft. from front property line	5 ft. setback required from eaves of accessory structure to side lot line	See § 155.032 for maximum heights: 20 ft., "R- 3", "C-1" and above; 18 ft., "R-1" and "R-2". Also, accessory structure must be: 10 ft. from main structure 5 ft. from rear lot line 5 ft. from any other structure If no accessory structure in

Specific Setback Requirements				
Standards for Structures, Accessory Buildings				
Structures and Accessory Buildings	Zone Applicable	Front Yard Setback	Side Yard Setback	Rear Yard Setback
				rear yard, parking area cannot exceed 90% of required rear lot.
Walls, fences and the like** See §§ 155.037	All			
Filling station pumps	"C", "I"	Pumps or islands may be in required front yard setback, but must be a minimum of 15 ft. from road; 50 ft. from any "R" District		
* See also § 155.037(C)				
** Cannot exceed 2 1/2 feet or 30 inches in height along front except by variance in "R" Zone. See § 155.037(G) and (H), 6 ft. general restriction in height for commercial districts.				
Subject to conditional use permit provided in §§ 155.270 through 155.276 if requested setback is to be less than 5 ft.				

(Prior Code, § 1002.03) (Ord. 01-11, passed 6-20-2011; Ord. 03-11, passed 12-19-2011; Ord. 07-17, passed 10-16-2017)

§ 155.032 EXCEPTIONS FOR HEIGHT.

(A) The height regulations prescribed in this chapter shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, and flag poles.

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(B) Public, semi-public or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding 60 feet and churches and temples not exceeding 75 feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.

(C) The limitation on number of stories shall not apply to buildings used exclusively for storage purposes; provided, that the buildings do not exceed the height in feet permitted in the district in which they are located.

(D) Antenna structures.

(1) The structures shall include any and all device or apparatus exceeding six feet in height from the ground or roof of the structure mounted to, constructed, erected or maintained for the purpose of sending or receiving radio waves, television signals, microwave signals or other forms of energy utilized in wireless communication.

(2) The antennas shall be considered accessory uses in all zoning districts within the city subject to the following restrictions and standards.

(a) With the exception of commercial broadcast and non-broadcast antennas maintained, owned, operated and erected by commercial entities or non-profit organizations licensed and/or regulated by the Federal Communications Commission (FCC) for the purpose of broadcasting for commercial purposes or the receipt of broadcast signals for commercial purposes, shall exceed 75 feet as measured from the ground upon which the structure is anchored or immediately adjacent.

(b) Provided, antenna structures erected for satellite television reception or residential reception of commercial television shall not exceed a height 15 feet above the highest point of the tallest building located upon the same parcel of land as the structure. In no case shall the antenna structures, when ground mounted, exceed 30 feet in height from the ground adjacent to the structure.

(c) Satellite television receive antennas, citizens' band antennas, residential television reception antennas.

1. In any commercial, industrial or multi-family residential zone, the antenna structures may be located anywhere on the lot or buildings thereon.

2. In a noncommercial or single-family zone, subject to the provisions contained herein, the antenna structure shall be located only in the rear yard of any lot. If usable signals cannot be obtained from the rear yard, the antenna structure may be located on the side yard.

3. In the event that usable signals cannot be received by locating the antenna structure on the rear or side yard of the property, the structure may be placed in the front yard or on the roof of the dwelling structure, provided that a special use permit is obtained prior to the installation. The permit shall be issued upon a showing by the applicant that usable signals are not receivable from any location on the property other than the location selected by the applicant. No fee shall be assessed, and no public hearing shall be required for the issuance of the permit.

(d) Amateur radio antennas. Antenna structures owned, operated, erected and maintained by residents of the city for purposes of amateur radio

reception and transmission and licensed therefor by the FCC shall not exceed the height limitations set forth above at division (D)(1) above and shall be placed in the priority set forth at divisions (D)(2)(e)1., (D)(2)(e)2. and (D)(2)(e)3. below.

(e) Standards.

1. In all zones, all noncommercial antenna structures shall be located and designed to reduce visual impact from surrounding properties at street level and from public streets.

2. Antenna structures shall meet all manufacturer's specifications. The mast or tower shall be made of corrosive-resistant materials. The miscellaneous hardware, such as brackets, turnbuckles, clips and similar type equipment subject to rust or corrosion, shall be protected with a zinc or cadmium coating by either galvanizing or sherardizing process after forming. These finishes are selected to guard against corrosion and to protect the elements against electrolytic action due to the use of adjoining dissimilar metals.

3. Any part of the antenna structure, including, but not restricted to, the reflector, probe, guy wires and signal clearness from any electric lines, which conform to the latest edition of the National Electrical Safety Code. No attachment of any type shall be made from or to power poles owned, operated, maintained or controlled by the city public utility by any person owning, maintaining, using or erecting any antenna.

4. Every antenna structure must be adequately grounded for protection against a direct strike of lightning with an adequate ground wire.

5. Guy wires and satellite antenna structures shall be considered accessory structures and shall meet setbacks for accessory structures except where it is part of a public utility.

6. a. All noncommercial antenna structures shall be required to meet the required setbacks for structure in the zone located. In addition, antennas so erected shall maintain a setback from the property line equal to 20 feet of setback for every 50 feet of antenna height (40% setback requirement).

b. Further, all antenna structure installations shall be setback from high voltage electric power lines so that there is a one to one setback ratio relative to the height of the antenna structure.

(f) Commercial broadcast and non-broadcast antennas. For the purposes of this division (D), the term **COMMERCIAL** means a use of the antenna structure adjunct to or connected with any for-profit or not-for-profit enterprise in any manner, to include FCC regulated broadcasting entities.

(g) Site location process for commercial antennas. For commercial antennas, as defined in division (D)(2)(f) above, installing of commercial antennas shall follow the requirements of § 155.270 through 155.276.

(h) Permits and regulations. All antenna structures above-described at division (D)(2)(g) above shall be erected or installed within the city as follows.

1. Applicants for installation of the antenna structures shall pay the applicable building permit fee required by the fee ordinances and shall have the plans and specifications for the proposed structure reviewed by the Building Inspector.

2. All commercial broadcast and non-broadcast FCC regulated installations shall be subject to approval by the FCC, if required.
(Prior Code, § 1002.03)

§ 155.033 EXCEPTIONS FOR FRONT YARD.

(A) The purpose of this section is to render front yards setbacks relatively consistent in neighborhoods where structures do not comply with the required front yard setback. When 40% or more of the frontage on one side of the street have structures thereon, which structures have observed, with a variation of six feet or less, deviation from the required front yard setback, a proposed improvement shall be allowed to be constructed, provided:

(1) The setback shall not be less than 50% of the setback required by ordinances; and

(2) The setback shall not be less than the lesser of the setbacks on the two adjoining lots.

(B) On lots having double frontage, the required front yard shall be provided on both streets.

(C) An open, uncovered porch or paved terrace may project into a required front yard for a distance of not more than ten feet. An enclosed vestibule or fixed canopy with a floor area of not more than 40 square feet may project into a front yard for a distance not to exceed four feet.

(D) Filling station pumps and pump islands may be located within a required yard; provided, that they are not less than 15 feet from any street line and not less than 50 feet from the boundary of any residential district.

(E) The ordinary projections of sills, belt courses, cornices, eaves, awnings, overhangs and ornamental features may extend to a distance not to exceed 18 inches into a required front yard.

(F) In the "I" District, if a lot is less than 250 feet in average depth, the required front yard shall be 10% of the average depth of the lot; provided, that in no event shall the front yard be reduced to less than ten feet.

(Prior Code, § 1002.03)

§ 155.034 EXCEPTIONS FOR SIDE YARDS.

(A) On a corner lot the minimum depth of the yard between the side street property line and the structure shall be not less than that shown in the table below; provided, however, that the buildable width of a lot of record on date of adoption shall not be reduced to less than 60 feet.

Structure Use	Zoning Districts	
	"R-1a"	"R-1b" through "R-3"
For dwellings	25 ft.	15 ft.
Detached accessory buildings and front wall of	25 ft.	20 ft.

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attached garage		
Educational, religious, institutional and recreational buildings	35 ft.	25 ft.

(B) No accessory building shall project beyond a required line along any street.

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

(D) A porte-cochere, carport or canopy may project into a required side yard; provided, that every part of the porte-cochere, carport or canopy is unenclosed, except for necessary structural supports and not less than five feet from any side lot line.

(E) For the purpose of side yard regulations, a two-family dwelling, multiple dwelling or two dwellings shall be considered as one building occupying one lot.

(F) Where a lot of record on date of adoption is less than 60 feet in width, no side yard shall be less than five feet.

(G) The ordinary projections of sills, belt courses, cornices, eaves, awnings, overhangs and ornamental features may extend to a distance not to exceed 18 inches into a required side yard.

(H) Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an "R-1b" or "R-2" District, there shall be provided one side yard of a minimum of nine feet for a driveway and the other side yard shall have a minimum width of five feet.

(I) On the lots in the "R-1b" or "R-2" Districts having a frontage of 50 feet or less upon which a garage is provided, the aggregate of the side yards may be 12 feet. (Prior Code, § 1002.03)

§ 155.035 EXCEPTIONS FOR REAR YARD.

(A) Where a lot abuts upon an alley, one-half of the alley width may be considered as part of the required rear yard.

(B) An accessory building may not occupy in excess of 30%, and unenclosed parking spaces may not occupy in excess of 90%, of the area of a required rear yard; but no accessory building or private swimming pool shall be closer than 10 feet to the main building, or any dwelling no closer than 5 feet to any rear lot line, nor closer than 5 feet to any side property line, nor closer than 60 feet to the front property line, except where an improved alley does not exist at the rear of the yard; provided, that the measurement from the accessory building to the side property line, which cannot be closer than 5 feet, shall be measured from that portion of the accessory building closest to the side property line.

(C) The ordinary projections of sills, belt courses, cornices and ornamental features may extend to a distance not to exceed 18 inches into a required rear yard.

(D) Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear

yard may project for a distance not to exceed five feet when these are so placed as not to obstruct light and ventilation.

(Prior Code, § 1002.03) (Ord. 01-11, passed 6-20-2011)

§ 155.036 EXCEPTIONS FOR LOT AREA PER FAMILY.

Where a lot of record on date of adoption was held under separate ownership from adjoining lots and has less area or width than required by this chapter, the lot may nonetheless be used for a one-family dwelling or for any non-dwelling use permitted in the district if it has a width of 33 feet or more. Other area requirements shall be complied with to the maximum extent possible.

(Prior Code, § 1002.03)

§ 155.037 FENCES, WALLS AND HEDGES.

(A) *Standards.* All fences, walls and other screening, which is not natural growth or foliage and which is erected within the city, shall be subject to all the requisites of the city code with respect to construction standards, building code fees, site plans and the like. Fences shall be constructed so as to have the most improved side of the fence facing the public.

(B) *Intersections in residential districts.* On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in a manner as to materially impede vision between a height of two and one-half feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of the corner lots and a line joining points along the street lines 50 feet from the point of the intersection.

(C) *Fences, walls and hedges.* Notwithstanding other provisions of this chapter, fences, walls and hedges may be permitted in any required yard or along the edge of any yard; provided that no fence, wall or hedge along the sides or front edge of any front yard shall be over two and one-half feet in height; further provided that no fence, wall or hedge shall be placed or constructed within five feet of an alley right-of-way.

(D) *Fences in side and rear yard.* No fence, hedge or wall, other than a retaining wall, along a side line of a lot in a residential district shall be higher than six feet unless any part above the height has at least 50% of the surface uniformly open and unobstructed or unless the adjoining lot is not in a residential district.

(E) *Residential fences.* Fences constructed in any of the following residential districts, "R-1a", "R-1b", "R-1c", "R-2", "R-3", shall not be constructed of barbed wire. This regulation shall apply to any fence in a side yard, rear yard or front yard. Barbed wire may be allowed in "C" or "I" Districts only as set forth at division (K)(1) below.

(F) *Fences restricting access from the front to the rear yard.* Those instances where a fence exists as an enclosure which restricts access from the front to the rear yard, a gate or other means of recognizable ingress shall be provided. The location of

the ingress points shall be positioned at any point paralleling the front lot line, between the side lot property line and the principal structure.

(G) *Electric fences.* Fences in "S" Suburban and "O/R" Open Space Districts shall conform to the restrictions set forth above for residential zones; provided that electric fences shall be permitted in the "S" or "O/R" District when related to farming.

(H) *Construction and maintenance.*

(1) Every fence shall be constructed in a substantial workmanlike manner and of substantial material reasonable suited for the purpose for which the fence is proposed to be used. No constructed fence may have boards, planks or panels larger than 12 inches in width.

(2) All fences, except hedge fences, in front yards shall be constructed of chain link or wood fencing. Materials such as wire mesh, hog wire, welded wire and straight wire will not be allowed in front yards. Fencing for the remainder of the yard may be constructed of chain link, wood, hog wire or welded wire. No fences likely to cause harm to persons will be permitted.

(3) (a) Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance, public or private.

(b) Any fence which is, or has become, dangerous to the public safety, health or welfare is a public nuisance, and the Building Official shall commence proper proceedings for the abatement thereof.

(4) Link fences, wherever permitted, shall be constructed in a manner that no barbed ends shall be at the top.

(I) *Commercial and industrial district fences.* Fences in all commercial and industrial districts shall not exceed six feet in height except that:

(1) Boundary line fences abutting other zoning districts shall conform to those conditions applying to the most restrictive district; and

(2) (a) Fences which are erected primarily to secure a particular given area may have arms not to exceed 36 inches in length located a minimum of seven feet and a maximum of eight feet above the ground surface.

(b) The term **ARMS** shall be defined as those supports extending above the main fencing upon which barbed or electric wire may be placed.

(J) *Special purpose fences.*

(1) (a) Fences for special purposes and fences differing in construction, height or length may be permitted in any district in the city by issuance of a conditional use permit approved by the Planning Commission and the City Council.

(b) Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which the fence is intended.

(2) An amortization period of 60 days shall be established for the removal of all nonconforming fences stipulated in this section.

(K) *Harmful fencing.* Hazardous fences and walls such as barbed wire, electrical fences (except as allowed in division (G) above), fences with security arms and walls with protruding sharp edges, and other fences designed for or likely to cause harm to persons are declared hazardous and are prohibited in the city except as follows:

(1) Security fences, as defined in division (I)(2) above with top barbs will be permitted in the city for security reasons on commercial and industrial property, but only if a special permit is issued by the Building Official.

(2) Fencing on nonresidential property required for screening exterior storage may exceed the limitations herein, but only by a special permit issued by the Planning Commission. See division (J) above regarding conditional use permits. The permit process to be used is that set forth at § 155.271.
(Prior Code, § 1002.03)

§ 155.038 ACCESSORY BUILDINGS.

No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five feet of any other building.
(Prior Code, § 1002.03)

§ 155.039 ACCESS.

Every building hereafter erected or moved shall be on a lot adjacent to a public street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.
(Prior Code, § 1002.03)

“O/R” OPEN SPACE/RECREATIONAL DISTRICT

§ 155.050 GENERALLY.

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the “O/R” Open Space/Recreational District.
(Prior Code, § 1002.031)

§ 155.051 PERMITTED USES.

A building or premises in the “O/R” Open Space/Recreational District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features:

- (A) Management and utilization of forest resources;
- (B) Non-intrusive livestock grazing or other farm operation; each farm parcel shall measure at least 20 acres in size;
- (C) Compatible recreational uses; and

(D) Services, utilities and ancillary structures intended to serve the principal permitted use.
(Prior Code, § 1002.031)

§ 155.052 CONDITIONAL USE PERMIT PROCESS.

(A) *Generally.* In addition to the uses permitted above in § 155.051, the district shall also be governed by the conditional use permit process at §§ 155.270 through 155.276.

(B) *Planning Commission review.* The Planning Commission, in determining the acceptability and approval of any “O/R” District conditional use permit, shall follow the procedures outlined in §§ 155.270 through 155.276 and shall require that any conditional use protect and preserve the open space/recreational character and appeal of the property; no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features.

(C) *Conditional uses permitted.* The only conditional uses permitted in the “O/R” District shall be as follows:

- (1) Cemetery;
- (2) Non-intrusive recreation development;
- (3) Campground (public or commercial);
- (4) Riding stable;
- (5) Hospital, clinic or other medical treatment facility;
- (6) Community building or recreation area;
- (7) Golf course; and
- (8) Single-family residence occupied by owner, renter or manager of

any allowed conditional use or “O/R” use. The residence shall comply with all zoning regulations applicable to the “S” District.

(Prior Code, § 1002.031)

§ 155.053 MINIMUM PARCEL SIZE.

Each parcel within the “O/R” District shall be a minimum of ten acres except as otherwise required herein.

(Prior Code, § 1002.031)

“S” SUBURBAN DISTRICT

§ 155.065 GENERALLY.

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the “S” Suburban District.

(Prior Code, § 1002.04)

§ 155.066 PERMITTED USES.

A building or premises in the “S” Suburban District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features:

- (A) One-family dwelling;
 - (B) Church or other place of worship or Sunday school;
 - (C) Public school, elementary and high school, parochial school or private school having a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school;
 - (D) Universities and colleges;
 - (E) Publicly owned or operated forest reserve, park, playground or community building, seasonal camp or cabin, buildings to be located not less than 200 feet from an “R” District;
 - (F) Hospital or institution of an educational, religious, charitable or philanthropic nature; provided, that the buildings shall occupy not more than 10% of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;
 - (G) Home occupation;
 - (H) Accessory building or use, customarily incident to the above uses; provided, that any accessory building shall be erected at the same time or after the construction of the principal building; and
 - (I) Signs. All signage in the “S” District is governed by §§ 155.225 through 155.236.
- (Prior Code, § 1002.04)

§ 155.067 CONDITIONAL USES.

See §§ 155.270 through 155.276.
(Prior Code, § 1002.04)

“R-1a” ONE-FAMILY RESIDENTIAL DISTRICT

§ 155.080 GENERALLY.

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the “R-1a” One-Family Residential District.
(Prior Code, § 1002.05)

§ 155.081 PERMITTED USES.

A building or premises in the “R-1a” One-Family Residential District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features:

- (A) One-family dwelling;
- (B) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards and apiaries, including a greenhouse, but not including a salesroom or roadside stand;
- (C) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any building shall be located not less than 25 feet from any side lot line;
- (D) Church or other place of worship or Sunday school; provided, that any building shall be located not less than 25 feet from any side lot line;
- (E) Public school, elementary and high, university, college, parochial school or private school having a curriculum similar to that ordinarily given in public schools; provided, that any building shall be located not less than 40 feet from any side or rear lot; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school;
- (F) Home occupation;
- (G) Accessory building or use, including a private garage, customarily incident to the above uses but not involving the conduct of a business; provided, that any accessory building shall be erected at the same time or after the construction of the principal building; and
- (H) Signs. All signage in the “R-1a”, “R-1b” and “R-2” Districts is governed by §§ 155.225 through 155.236.
(Prior Code, § 1002.05)

§ 155.082 CONDITIONAL USES.

See §§ 155.270 through 155.276.
(Prior Code, § 1002.05)

“R-1b” ONE-FAMILY RESIDENTIAL DISTRICT

§ 155.095 GENERALLY.

The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section, are the regulations in the “R-1b” One-Family Residential District.
(Prior Code, § 1002.06)

§ 155.096 PERMITTED USES.

The use regulations in the “R-1b” One-Family Residential District are the same as those in the “R-1a” One-Family Residential District.
(Prior Code, § 1002.06)

“R-1c”

§ 155.110 GENERALLY.

“R-1c” shall follow the restrictions and requirements of “R-1b” Zones except as to height and area requirements described.
(Prior Code, § 1002.06A)

“R-2” TWO-FAMILY RESIDENTIAL DISTRICT

§ 155.125 GENERALLY.

The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the regulations in the “R-2” Two-Family Residential District.
(Prior Code, § 1002.07)

§ 155.126 PERMITTED USES.

A building or premises in the “R-2” Two-Family Residential District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features:

- (A) Any uses permitted in the “R-1a” One-Family Residential District; and
 - (B) Two-family dwelling provided the dwelling is under one roof and not of an add-on design such as a renovated garage.
- (Prior Code, § 1002.07)

§ 155.127 TEMPORARY FAMILY HEALTH CARE DWELLINGS.

Pursuant to authority granted by M.S. § 462.3593, subd. 9, as it may be amended from time to time, the city opts out of the requirements of M.S. § 462.3593, as it may be amended from time to time, which defines and regulates temporary family health care dwellings.
(Ord. 03-16, passed 9-6-2016)

“R-3” APARTMENT RESIDENTIAL DISTRICT

§ 155.140 GENERALLY.

The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the regulations in the “R-3” Apartment Residential District.

(Prior Code, § 1002.08)

§ 155.141 PERMITTED USES.

A building or premises in the “R-3” Apartment Residential District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features:

- (A) Any use permitted in the “R-2” Two-Family Residential District;
 - (B) Multiple dwellings containing seven or fewer units per building;
 - (C) Attached single-family dwellings;
 - (D) Signs. All signage in the “R-3” District is governed by §§ 155.225 through 155.236; and
 - (E) Accessory building or uses customarily incidental to any of the uses in this section; provided, that any accessory building shall be erected at the time or after the construction of the principal building.
- (Prior Code, § 1002.08)

§ 155.142 CONDITIONAL USES.

See §§ 155.270 through 155.276.

- (A) Multiple dwelling with eight or more units per building;
- (B) Day care center, rooming house, boardinghouse, short term rental;
- (C) Religious, educational, charitable institution of a philanthropic nature, but not a penal or mental institution;
- (D) Hospital, sanitarium, chiropractic, medical and/or dental clinic, or other similar facility; except a criminal, mental, animal hospital, nor hospital, clinic or group home for the mentally impaired, physically impaired or chemically impaired (see § 155.273);
- (E) Nursing, rest or convalescent home;
- (F) Private club, fraternity, sorority or lodge, excepting one the chief activity of which is a service customarily carried on as a business; and
- (G) Professional offices.
 - (1) Professional offices shall include offices of attorneys, public accountants, engineers, architects, real estate agents, insurance agents or other similar professions requiring advanced educational training and/or licensure by the state; and

(2) This provision does not apply to offices located within a residential structure subject to the home occupation provisions of this chapter.

(H) Accessory building or uses customarily incidental to any of the uses in this section; provided, that any accessory building shall be erected at the time or after the construction of the principal building; and

(I) Light retail.

(Prior Code, § 1002.08) (Ord. 03-11, passed 12-19-2011)

“C-1” RETAIL DISTRICT

§ 155.155 GENERALLY.

The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the regulations in the “C-1” Retail District.

(Prior Code, § 1002.09)

§ 155.156 PERMITTED USES.

A building or premises in the “C-1” Commercial District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features:

(A) Any use permitted in the “R-3” Zone;

(B) Apartment complex and condominiums;

(C) Automobile, light truck, boat, and/or motor, lawn and garden repair sales and display, and mini-storage facilities, **pursuant to conditional use permit only**; (See § 155.157 *Conditional Uses*)

(D) Bank, credit union or savings and loan;

(E) Medical, dental, chiropractic or other health care clinic, including pharmacies;

(F) Retail sales and service establishments;

(G) Movie theater; dance, play or stage theater; dinner theater; gymnasiums, health clubs;

(H) Convenience stores, including self-service gasoline, kerosene or diesel fuel pumps or premises; provided, all plans and specifications of the store have been approved by the Building Official and the Fire Chief and all applicable licenses, fees and permits have been obtained; provided further, that no motor vehicle repair work, body work, painting or any other activity relating to the repair or reconditioning of motor vehicles shall be allowed at the store;

(I) Hotels and motels;

(J) Restaurants;

(K) The storage and repair of motor vehicles by a public entity; and

(L) Outdoor advertising signs or off-site signs and signs which direct attention of the general public to a business, product, service or commodity which is conducted, sold or offered other than on the premises on which the sign is located.
(Prior Code, § 1002.09) (Ord. 01-20, passed 8-3-2020)

§ 155.157 CONDITIONAL USES.

(A) *Generally.* In addition to the uses permitted above in § 155.156, the following uses may be permitted pursuant to a conditional use permit as allowed under §§ 155.270 through 155.276.

(B) *Planning Commission review.* The Planning Commission, in determining the acceptability and approval of any conditional use permit, shall follow the procedures outlined in §§ 155.270 through 155.276 and shall require that any conditional use protect and preserve the character and appeal of the property; no conditional use shall be allowed which is likely to substantially impact the surrounding properties in an adverse fashion.

(C) *Permitted conditional uses.* The following may be permitted in the “C-1” Retail District as conditional uses:

- (1) Self-service establishments such as self-service laundromats, car washes and dry cleaners;
 - (2) Retail amusement and video game operations, hobby centers;
 - (3) Photographic, art, television, recording, radio or other type of studios;
 - (4) Mortuaries or funeral homes;
 - (5) An attached single-family dwelling unit which is incidental to any use permitted or allowed under a conditional use permit in the “C-1” Retail District;
 - (6) Service station, motor vehicle repair facility, body shop or paint shop; provided, the inspection, plan review, licensing and permitting provisions applicable to § 155.156(H) shall apply to any use;
 - (7) Light, non-intrusive repair facilities such as sewing machine repair, small appliance repair, electronics repair and computer repair;
 - (8) Hardware store;
 - (9) Retail sales, service and display of furnaces, hot water heaters, air conditioners, humidifiers and related appliances, to include the light fabricating of ductwork and accessory sheet metalwork used in the installation of the appliances. In addition, wholesale sales of the appliances and fabricated products are permitted as ancillary to the retail sales permitted hereunder;
 - (10) Outdoor advertising signs or off-site signs and signs which direct the attention of the general public to a business, product, service or commodity which is conducted, sold or offered other than on the premises on which the sign is located; and
 - (11) Printing and finishing of textiles and fibers into fabric goods.
- (Prior Code, § 1002.09) (Ord. 12-05, passed 8-16-2005; Ord. 08-17, passed 10-16-2017; Ord. 01-18, passed 5- -2018)

§ 155.158 HEIGHT AND AREA REGULATIONS.

The height and area regulations set forth in §§ 155.030 through 155.039 shall apply in the “C-1” District; and, in addition, every building or portion thereof used for dwelling purposes shall comply with the side yard and lot area per family requirements of the “R-3” Apartment Residential District; provided, however, that single-family residences shall be subject to setbacks as provided for in “R-1a” Zones.
(Prior Code, § 1002.09) (Ord. 01-18, passed 5- -2018)

§ 155.159 LANDSCAPING REQUIREMENTS.

- (A) All exposed surfaces shall be covered with vegetation, wood chips, crushed rock or similar cover.
 - (B) Trees, shrubs and other vegetative growth, existing or planted, must be located around the site in planters and/or in the required yards.
 - (C) Off-street parking areas must be screened with vegetative growth, wood fencing or other suitable materials.
 - (D) All objectionable views must be screened with trees, shrubs, wood fencing or other suitable materials. This requirement is mandatory where “C-1” uses abut a residential district.
- (Prior Code, § 1002.09)

§ 155.160 BUFFER AREA BETWEEN “C-1” AND RESIDENTIAL ZONES.

There shall be a buffer area of not less than 50 feet between any and all zones designated as “C-1” Zones and zones designated as “R” Zones. The uses otherwise permitted as of right or by conditional use in “C-1” Zones shall not be allowed in the buffer area. The buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent “R” Districts.
(Prior Code, § 1002.09)

“C-2” COMMERCIAL DISTRICT

§ 155.175 GENERALLY.

The regulations set forth in this section or set forth elsewhere in this chapter when referred to in this section are the regulations in the “C-2” Commercial District.
(Prior Code, § 1002.10)

§ 155.176 PERMITTED USES.

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A building or premises in the “C-2” Commercial District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features:

- (A) All uses allowed in “C-1” except that no conditional uses shall be issued for an attached single- family dwelling unit as allowed in § 155.157(C)(5);
 - (B) Wholesale supply and/or display;
 - (C) Bowling alley; indoor rifle, pistol or archery range;
 - (D) Light repair and light fabricating, including, but not limited to, outdoor advertising and display shop, household appliance, dry cleaning, pressing, wholesale catering, wholesale baking, small engine repair;
 - (E) Automobile, light truck, boat and/or motor, lawn and garden repair sales and display;
 - (F) Veterinary clinic and/or hospital;
 - (G) Commercial laundry or car wash (non-self serve);
 - (H) Trade or business school, not including industrial technical school;
 - (I) College or university;
 - (J) Publishing, job printing, blue-lining;
 - (K) Wholesale furniture sales, furniture repair and refinishing, business or office supplies sales;
 - (L) Shopping center or mall;
 - (M) Accessory buildings incidental to uses in divisions (A) to (L) above.
- (Prior Code, § 1002.10) (Ord. 01-20, passed 8-3-2020)

§ 155.177 **CONDITIONAL USES.**

(A) *Generally.* In addition to the uses permitted above in § 155.176, the following uses may be permitted pursuant to a conditional use permit as allowed under §§ 155.270 through 155.276.

(B) *Planning Commission review.* The Planning Commission, in determining the acceptability and approval of any conditional use permit, shall follow the procedures outlined in §§ 155.270 through 155.276 and shall require that any conditional use protect and preserve the character and appeal of the property; no conditional use shall be allowed which is likely to substantially impact the surrounding properties in an adverse fashion.

(C) *Conditional permitted uses.* The following may be permitted in a “C-2” Commercial District as conditional uses:

- (1) Retail lumber yard; retail plumbing, electrical or other building supply sales and services;
- (2) Dying; painting; plumbing; electrical; tinsmithing automotive, light truck and/or smaller-sized tire sales and service; ornamental iron fabrication; other light fabrication; upholstery; other general or light service and repair of a similar nature;
- (3) Industrial technical school;
- (4) Wholesale nursery or greenhouse;
- (5) Licensed contractor’s shop or garage; provided, no heavy equipment shall be stored nor repaired within the premises located in a “C-2” Zone;

- (6) Open air or cooperative produce market; and
 - (7) Outdoor advertising signs (off-site signs) and signs which direct the attention of the general public to a business, product, service or commodity which is conducted, sold or offered other than on the premises on which the sign is located.
- (Prior Code, § 1002.10)

§ 155.178 LANDSCAPING REQUIREMENTS.

- (A) All exposed surfaces shall be covered with vegetation, wood chips, crushed rock or similar cover.
 - (B) There shall be trees, shrubs and other vegetation, existing or newly planted, located on the site.
 - (C) Off-street parking areas should be screened with vegetation, wood fencing or other suitable materials.
- (Prior Code, § 1002.10)

§ 155.179 BUFFER AREA BETWEEN “C-2” AND RESIDENTIAL ZONES.

There shall be a buffer area of not less than 50 feet between any and all zones designated as “C-2” and zones designated as “R” Zones. The uses otherwise permitted as of right or by conditional use in “C-2” Zones shall not be allowed in the buffer area. The buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent “R” Districts.

(Prior Code, § 1002.10)

“I” INDUSTRIAL DISTRICT

§ 155.190 GENERALLY.

The regulations set forth in this section or set forth elsewhere in this chapter, when referred to in this section, are the regulations in the “I” Industrial District.

(Prior Code, § 1002.11)

§ 155.191 PERMITTED USES.

A building or premises in the “I” Industrial District shall be used only for the following purposes; provided, however, that no use shall be allowed which will be likely to directly or indirectly pollute, impair or destroy critical environmental features:

- (A) All uses permitted in “C-2” as permitted or by conditional uses;
- (B) Truck stop or center;
- (C) The manufacturing of the following products:

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- (1) Ice manufacture, including dry ice;
- (2) Pharmaceutical products;
- (3) Clay stone and glass products;
- (4) Concrete products (except central mixing and proportioning plant);
- (5) Pottery and porcelain products;
- (6) Bakery products, wholesale (manufacturing permitted);
- (7) Beverage blending and bottling (all types);
- (8) Confection, wholesale (manufacturing permitted);
- (9) Dairy products;
- (10) Gelatin products;
- (11) Glucose and dextrine;
- (12) Ice cream, wholesale (manufacturing permitted);
- (13) Macaroni and noodle manufacture;
- (14) Malt products manufacture (except breweries);
- (15) Meat and fish products, packaging and processing (no slaughtering);
- (16) Agricultural or farm implements;
- (17) Aircraft and aircraft parts;
- (18) Aluminum extrusion, rolling, fabrication and forming;
- (19) Automobile, truck, trailer, motorcycle and bicycle assembly;
- (20) Boat manufacture (vessels less than five tons);
- (21) Bolts, nuts, screws, washers and rivets;
- (22) Container (metal);
- (23) Culvert;
- (24) Firearms;
- (25) Foundry products manufacture (electrical only);
- (26) Heating, ventilating, cooking and refrigeration supplies and appliances;
- (27) Machinery manufacture;
- (28) Nails, brads, tacks, spikes and staples;
- (29) Needle and pin;
- (30) Plumbing supplies;
- (31) Safe and vault;
- (32) Sheet metal products;
- (33) Silverware and plated ware;
- (34) Stove and range;
- (35) Tool, die, gauge and machine shops;
- (36) Tools and hardware products;
- (37) Vitreous enameled products;
- (38) Bedding (mattress, pillow and quilt);
- (39) Carpet, rug and mat;
- (40) Hat bodies of fur and wool felt manufacture (including men's hats);
- (41) Hosiery mill;
- (42) Knitting, weaving, printing, finishing of textiles and fibers into fabric goods;

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(43) Rubber and synthetic treated fabrics (excluding all rubber and synthetic processing);

(44) Yarn, threads and cordage;

(45) Basket and hamper (wood, reed, rattan and the like);

(46) Box and crate;

(47) Cooperate works (except cooperate stock mill);

(48) Furniture (wood, reed, rattan and the like);

(49) Pencils;

(50) Pulp goods, pressed or molded (including paper-mache products);

(51) Shipping container (corrugated board, fiber or wire bound);

(52) Trailer, carriage and wagon;

(53) Veneer;

(54) Wood products;

(55) Button manufacture; and

(56) Leather goods manufacture, but not including tanning operations.

(D) The compounding, processing and packaging of:

(1) Cosmetics and toiletries (compounding only);

(2) Ink manufacture (mixing only);

(3) Perfumes and perfumed soap (compounding only);

(4) Soap, wash or cleaning, powder or soda (compounding only);

(5) Chocolate, cocoa and cocoa products, processing and packaging;

(6) Coffee, tea and spices, processing and packaging;

(7) Condensed and evaporated milk processing and canning;

(8) Flour, feed and grain (packaging, blending and storage only, with no high-rise storage elevator in excess of three stories);

(9) Fruit and vegetable processing (including canning, preserving, drying and freezing);

(10) Grain blending and packaging, but not milling; and

(11) Margarine (compounding and packaging only).

(E) Other commercial operations as follows:

(1) Creamery and dairy operations;

(2) Planing and millwork;

(3) Animal pound;

(4) Building materials (cement, lime, sand, gravel, lumber and the like), storage and sales;

(5) Semi-tractor/trailer garage and repair shop;

(6) Cleaning and dyeing of garments, hats and rugs;

(7) Coal and coke storage and sales;

(8) Contractor's shop and storage;

(9) Fur finishing;

(10) Storage, repair and/or sales of buses, heavy trucks, heavy equipment and/or farm implements;

(11) Industrial technical school, including internal combustion engines;

(12) Laboratories, research, experimental, including combustion type motor testing;

(13) Laundries;

- (14) Market, wholesale;
- (15) Printing, publishing and engraving;
- (16) Produce and storage warehouse;
- (17) Tire retreading and vulcanizing shop;
- (18) Air, truck, rail or other transfer terminal or yard, including airport;
- (19) Wholesale houses and distributors; and
- (20) Bulk fuel and petroleum products storage facility.

(a) The storage of the products for wholesale or retail sale by the owner of the facility where the express business and intent of the owner is to sell the products in bulk quantity sufficient to differentiate the business from convenience stores (as defined in § 155.156(H) and from services stations and the like (as defined in § 155.176(H)) shall be limited to the "I" District.

(b) This permitted use shall allow the owner of the facility the right to dispense, exchange, barter and/or sell bulk fuel products at the facility in question. No other products may be dispensed, exchanged, bartered or sold at retail or wholesale from the facility.

(c) Mixing and/or blending of fuels is permitted at the facility, but no manufacturing, distilling or refining of any fuel or petroleum-based product is permitted under this division (E)(20).

(d) Any storage tanks erected, placed or constructed to facilitate the uses set forth above, whether above or below ground, shall be located a minimum of 250 feet from and "S" or "R" District and at least 100 feet from the property line of any abutting parcel of land now owned by the bulk fuel facility regulated hereunder, regardless of the zoning district.

(Prior Code, § 1002.11)

§ 155.192 LANDSCAPING REQUIREMENTS.

(A) All exposed surfaces shall be covered with vegetation, wood chips or similar cover.

(B) Trees, shrubs and other vegetative growth, existing or planted, must be located around the site in planters and/or in the required yards.

(C) Off-street parking areas must be screened with vegetative growth, wood fencing or other suitable materials.

(D) All objectionable views must be screened with trees, shrubs, wood fencing or other suitable materials. This requirement is mandatory where "I" uses abut a residential district, open area or major street. This requirement is optional, at the Planning Commission's discretion, where the "I" use abuts commercial or industrial uses.

(Prior Code, § 1002.11)

§ 155.193 BUFFER AREA BETWEEN "I" AND RESIDENTIAL ZONES.

There shall be a buffer area of not less than 50 feet between any and all zones designated as “I” and zones designated as “R” Zones. The uses otherwise permitted as of right or by conditional use in “I” Zones shall not be allowed in the buffer area. The buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent “R” Districts.
(Prior Code, § 1002.11)

OFF-STREET PARKING

§ 155.205 REQUIRED PARKING SPACES.

(A) In all districts there shall be provided, at the time any building or structure is erected or structurally altered, off-street parking spaces in accordance with the following requirements:

Bowling alley	5 parking spaces for each alley
Business, professional or public office building, studio, bank, medical or dental clinic	3 parking spaces plus 1 additional parking space for each 400 square feet of floor area over 1,000 square feet
Church or temple	1 parking space for each 8 seats in the main auditorium
College or high schools	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
Community center, library, museum or art gallery	10 parking spaces plus 1 additional space for each 300 square feet of floor area in excess of 2,000 square feet
Dance hall, assembly or exhibition hall without fixed seats	1 parking space for each 100 square feet of floor area used therefor
Dwellings three stories or less	1 parking space for each dwelling unit
Fraternity or sorority	1 parking space for each 6 beds
Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service shop	2 parking spaces plus one additional parking space for each 300 square feet of floor area over 1,000 square feet
Golf club	1 parking space for every 400 square feet of clubhouse area
Hospital	1 parking space for each 4 beds
Hotel	1 parking space for each 3 sleeping rooms or suites plus 1 space for each 200 square feet of commercial floor area contained therein
Manufacturing or industrial	1 parking space for each 2 employees on the

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establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment	maximum working shift, but no less than 1 space for every 1,000 square feet of floor area
Mortuary or funeral home	1 parking space for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms
Multiple dwelling over three stories or apartment hotel	2 parking spaces for each 3 dwelling units or suites
Private club or lodge	1 parking space for every 400 square feet of floor area
Restaurant, night club, café or similar recreation or amusement establishment	1 parking space for each 100 square feet of floor space
Retail store, billiard parlor or personal service establishment, except as otherwise specified herein	1 parking space for each 200 square feet of floor area
Rooming or boardinghouse	1 parking space for each 2 sleeping rooms
Sanatorium, convalescent home, home for the aged or similar institution	1 parking space for each 6 beds
School, except high school or college	1 parking space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater
Seasonal camp or cabin	1 parking space for each 2 beds or for each cabin or sleeping unit, whichever is greater
Sports arena, stadium or gymnasium (except school)	1 parking space for each 5 seats or seating spaces
Theater or auditorium (except school)	1 parking space for each 5 seats or bench seating spaces
Tourist home, cabin or motel	1 parking space for each sleeping room or suite

(B) In all other cases, the required parking spaces shall be determined by the Planning Commission prior to issuance of any permits or licenses.
(Prior Code, § 1002.12)

§ 155.206 RULES FOR COMPUTATION OF PARKING SPACES.

In computing the number of parking spaces required by this subchapter, the following rules shall govern.

(A) **FLOOR AREA** shall mean the gross floor area of the specific use.

(B) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

(C) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Planning Commission.

(D) Whenever a building or use is enlarged to the extent of 50% or more in floor area or in the area used, the building or use shall then and thereafter comply with the parking requirements set forth in this section for the entire use.

(E) In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
(Prior Code, § 1002.12)

§ 155.207 PARKING SPACES TO BE LOCATED ON SAME LOT; EXCEPTION.

All parking spaces required by this subchapter shall be located on the same lot with the building or use served, except, that where an increase in the number of spaces is required by a change or enlargement of use or where the spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from an institutional building served and not to exceed 500 feet from any other nonresidential building served. In any case, where the required parking spaces are not located on the same lot with the building or use served or where the spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for those purposes shall be properly drawn and executed by the parties concerned, approved as to form and execution by the City Attorney, and shall be filed with the application for a building permit.

(Prior Code, § 1002.12)

§ 155.208 SHARING OF PARKING SPACES.

Up to 50% of the parking spaces required for:

(A) Theaters, public auditoriums, bowling alleys, dance halls, night clubs or cafés and up to 100% of the parking spaces required for a church or school auditorium may be provided and used jointly by:

(B) Banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in division (A) above; provided, that written agreement thereto is properly executed and filed as specified in the preceding section.

(Prior Code, § 1002.12)

§ 155.209 LOCATION OF REQUIRED PARKING SPACES IN FRONT YARDS.

Off-street parking space may be located within the required front yard of any “C” or “I” District, but no parking lot shall be located nearer than 50 feet to any “O/R”, “S” or “R” District and no off-street parking shall be permitted in the required front yard of any

“R” District. This section does not prohibit parking in a driveway designed primarily for access to the dwelling or the garage.
(Prior Code, § 1002.12)

§ 155.210 REQUIRED LOADING SPACE.

(A) There shall be provided at the time any building is erected or structurally altered, except as otherwise provided in this chapter, off-street loading space in accordance with the following requirements:

Industrial use	1 space for each 5,000 to 25,000 square feet of gross floor area in the “I” District
	1 additional space for each 75,000 square feet of gross floor area in the “I” District
Office space and hotels	1 space for each 5,000 to 50,000 square feet of gross floor area in the “C-1” and “C-2” Districts
	1 space for each 20,000 to 50,000 square feet of gross floor area in the “I” District, 2 spaces for each 50,000 to 200,000 square feet of gross floor area in any district
	1 additional space for each 75,000 square feet of gross floor area above 200,000 square feet in any district
Retail or service establishments or wholesale commercial use	1 space for each 2,000 to 20,000 square feet of gross floor area in the “C-1” and “C-2” Districts
	1 space for each 4,000 to 20,000 square feet of gross floor area in the “I” District
	2 spaces for each 20,000 to 100,000 square feet of gross floor area in any district
	1 additional space for each 75,000 square feet of gross floor area above 100,000 square feet in any district

(B) No building or part thereof in the “C-1” and “C-2” Districts erected prior to date of adoption which is used for any of the purposes specified above shall hereafter be enlarged or extended unless off-street loading space is provided for both the original structure and the addition in accordance with the provisions of this subchapter.

(C) No building or part thereof in the “I” District erected prior to date of adoption which is used for any of the purposes specified above shall be hereafter be enlarged or extended to provide a gross floor area of 25,000 square feet or more unless off-street loading space is provided in accordance with the provisions of this subchapter.
(Prior Code, § 1002.12)

§ 155.211 USE OF MAJOR RECREATIONAL EQUIPMENT.

For purpose of these regulations, **MAJOR RECREATIONAL EQUIPMENT** is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwelling, tent trailers and the like and cases or boxes used for transporting recreational equipment, whether occupied by the equipment or not. No equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for that use.
(Prior Code, § 1002.12)

§ 155.212 PARKING AND STORAGE OF CERTAIN VEHICLES.

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any zoned property other than in completely enclosed buildings or as allowed under §§ 71.40 through 71.42 of this code of ordinances.
(Prior Code, § 1002.12) Penalty, see § 10.99

§ 155.213 BUFFER AREA BETWEEN COMMERCIAL OR INDUSTRIAL ZONES AND RESIDENTIAL ZONES.

(A) There shall be a buffer area of not less than 25 feet between any and all zones designated as either “C” or “I” Zones and zones designated as “R” Zones. The uses otherwise permitted as of right or by conditional use in “C” or “I” Zones shall not be allowed in the buffer area.

(B) The buffer area shall be arranged or designed in a way to minimize the disturbance created by the uses therein to adjacent “R” Districts, and shall be subject to the following additional restrictions:

(1) Off-street parking areas must be screened with vegetative growth, wood fencing or other suitable materials; and

(2) All objectionable views must be screened with trees, shrubs, wood fencing or other suitable materials.

(Prior Code, § 1002.12)

§ 155.214 GRANDFATHERING OF NONCONFORMING PARKING, DOWNTOWN AREA.

(A) *Definition.* For purposes of this chapter, **DOWNTOWN AREA** is defined as that area bordered on the south by First Street, on the east by Second Avenue, on the north by Sixth Street, and on the west by Third Avenue Highway 2. The properties include both sides of the streets and avenues included in the border definition.

(B) *Restriction.* Where on May 2, 2005, if a lawful use of land located in the downtown area exists, and the parking related to the use of land does not conform to the city code as of the date, the parking shall be deemed lawful in the event of a transfer of ownership of the property and a continuation of the use, or of a use which does not

require more off-street parking than its use as of May 2, 2005; provided, however, that uses requiring more off-street parking than the land's use as of May 2, 2005, shall require a conditional use permit.

(Prior Code, § 1002.12) (Ord. 04-05, passed 5-2-2005)

SIGNS

§ 155.225 PURPOSE.

(A) It is the purpose of this subchapter to create the legal language and mechanism for a comprehensive and balanced system of standards, regulations and procedures governing the erection, use and display of all advertising street graphics and symbols used to facilitate visual communication of products and services in the city.

(B) It is also the purpose of this subchapter to authorize all visual communicative devices which:

- (1) Are compatible with their surroundings;
- (2) Are appropriate to the type of activity to which they pertain;
- (3) Are safely located with respect to vehicular and pedestrian traffic;
- (4) Will preserve and promote the aesthetics of location, area and

community as a whole; and

- (5) Will protect the value of land, buildings and landscapes.

(Prior Code, § 1002.13)

§ 155.226 INTENT.

The intent of this subchapter is to protect the health, safety and public welfare through the control of all signs so as to achieve the following:

(A) To control signs which violate privacy or which increase the likelihood of accidents by distracting attention or obstructing vision;

(B) To preserve and protect property values and civic beauty and not allow signs which detract from this objective due to excess size, height, number, visual impact, undesirable location, maintenance, spacing or illumination;

(C) To establish standards which will permit businesses a reasonable and equitable opportunity to advertise, but which will avoid excessive visual competition among sign displays; and

(D) To provide signs which are compatible with their surroundings and appropriate to the type of activity to which they pertain.

(Prior Code, § 1002.13)

§ 155.227 DEFINITIONS.

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

ABANDONED SIGN. A sign which becomes vacant or unoccupied for a period of six months or more, or a sign which pertains to an event, time or purpose which no longer applies, or a sign which no longer correctly directs a person or advertises a product or activity. A sign which applies to a business temporarily suspended because of a change of ownership or management of the business shall not be deemed to be an **ABANDONED SIGN** unless the property on which the sign is located remains vacant for a period of more than six months.

ADDRESS SIGN. A sign identifying street address only, either written or numerical.

AREA IDENTIFICATION SIGN. A freestanding, on-premises sign which identifies a residential complex of five or more units, a shopping center or complex consisting of three or more separate business concerns, an industrial complex or park, an office building consisting of three or more separate business concerns and located on the contiguous property.

BANNERS AND PENNANTS. Advertising or attention-getting devices which resemble flags, streamers and similar devices and are made of paper, cloth or plastic materials. **BANNERS AND PENNANTS** are only permitted in the "O/R" Zone or in association with a community festival pursuant to City Council resolution.

CHANGING SIGN (AUTOMATIC).

(1) A sign including an electrically controlled public service information sign, message center or reader board where different automatic messages of an informative or commercial nature of interest to the public are shown.

(2) The following are examples of this type of sign.

(a) **MESSAGE CENTER SIGN.** Any sign which contains a changing message within the copy area that remains on for a specified period of time.

(b) **PUBLIC SERVICE INFORMATION SIGN.** Any sign intended primarily to promote messages of general interest to the community such as time, temperature, date, events, news and the like.

(c) **READER BOARD SIGN.** Any sign which contains a traveling message, usually in a horizontal manner. The characters of the message remain constant and do not change in hue or intensity as they travel across the copy area of the sign.

FLASHING SIGN. Any illuminated sign which when operated does not maintain a uniform light, intensity or color at all times.

FREESTANDING SIGN. A sign which is either attached directly to the ground or is on pylons, posts or walls and is completely independent of any building or other structure on the property upon which it is located.

GOVERNMENTAL SIGN. A sign erected by a local or other unit of government which is used to identify a public building or area, to direct traffic or to otherwise inform the public.

IDENTIFICATION SIGN. Freestanding signs which indicate the name of a subdivision, neighborhood or business center.

ILLUMINATED SIGN. Any sign which depends upon any artificial light source either directed at the sign or as an integral component of the sign.

INFORMATIONAL/DIRECTIONAL SIGN. A sign which has the purpose of informing or directing visitors, employees or delivery vehicles on the premises of a business. The signs shall not contain any advertising messages.

INSTITUTIONAL SIGN. Any sign displaying the name of a medical clinic, hospital, veterinary facility, dental facility, school, library, public building, church or other religious structure, or nursing home.

NAMEPLATE SIGN. A sign designating the name of a person, business or other entity which is directly attached and affixed flat to the wall of the building housing the individual, business or entity.

NONCONFORMING SIGN. Any advertising device or sign which was designed, converted or adopted for a use prior to the adoption of provisions prohibiting the advertising device or sign in that location.

ON-PREMISES SIGN (BUSINESS SIGN). Any sign used to direct the attention to a business, service or commodity conducted upon the premises on which the sign is located and/or which refers to goods or services produced, offered for sale or obtained on the premises.

OUTDOOR (OFF-SITE) ADVERTISING SIGN. A sign, including all supporting structures, poles and supports which directs the attention of the general public to a business, product, service or commodity which is conducted, sold or offered other than on the premises on which the sign is located.

POLITICAL CAMPAIGN SIGN. Signs, posters or banners which pertain to an upcoming election of a candidate and/or political issue.

PORTABLE SIGN. A sign which is not affixed permanently to the premises on which it is located and is moveable on the premises or from one location to another.

REAL ESTATE SIGN. A sign affixed to a business or lot which advertises the premises on which it is located is for sale, lease or rental.

ROOF SIGN. Any sign which is permanently attached to the roof of a building that extends above the roof of the building to which it is attached.

SIGN. The use of any letter, symbol, art, device, reading matter, either non-illuminated or illuminated, which is visible by the public, is located upon public or private property, and is used to direct the public attention to any business, product, service, commodity or profession located either on or off the premises on which the sign is located.

SIGN AREA; CALCULATING SURFACE AREA. The area within a single continuous perimeter enclosing the extreme limits of the actual sign surface or, in the case of letters, numerals, symbols attached to a building, the area that is included in the smallest continuous perimeter enclosing the letters, numerals or symbols. The sign surface area shall be computed using only one side of a double-face or V-type sign structure.

TEMPORARY. Ninety days or less.

WALL SIGN. A sign affixed flush and flat to the wall of a building, dwelling or other solid structure.

WINDOW SIGN. Any sign affixed to the interior surface of a window of a retail commercial business or service business in an area zoned commercial under the zoning laws of the city which advertises the wares, business, function, price, quality or quantity of items sold by the business.

(Prior Code, § 1002.13) (Ord. 17-05, passed 2-6-2006; Ord. 01-19, passed 4-1-2019)

§ 155.228 GENERAL PROVISIONS.

(A) *Permit required.* The following general provisions are applicable to all signs. It shall be unlawful for any person to erect, alter, replace or relocate any sign or other advertising structure without first obtaining a permit and paying required fees, except as herein otherwise provided.

(B) *Application.* An application for a sign permit shall be made upon blanks obtained from the City Building Inspector and shall state or have attached thereto the following information:

(1) The name and address of the applicant, location of the building, structure or lot on which the sign is to be erected, the position of the sign in relation to nearby buildings or structure, the name of the person that will be erecting the sign, and the written consent of the owner of any land, if different from the applicant, on which the sign is to be erected;

(2) A drawing of the plans, specifications and method of construction or attachment to a structure on the ground; and

(3) The application shall also reference the type of construction standard to be utilized by the applicant in installing the sign, to reference and meet or exceed one of the following alternative standards:

(a) Submission of blueprints, scale drawings or other engineering design documentation reflecting the installation design has been approved by a licensed engineer;

(b) Adherence to national standards as set forth in any nationally recognized and engineer-approved reference guide for the construction of signage. Applicants utilizing the design standards must provide the city with copies of the reference standards relied upon prior to approval of any applications hereunder; and

(c) Compliance with the Uniform Sign Code's Construction Standards as amended by the city code.

(C) *Fees.*

(1) *Initial sign fee.* Every applicant shall pay a sign permit fee for each sign regulated by the chapter before being granted a permit. The signage permit shall be the sole and only permit required for signs to be constructed and erected.

(2) *Initial inspection.* All sign installations for which a permit is required shall be subject to inspection by the Building Inspection Department to insure that the signs are safely secured, supported and braced.

(3) *Fee charged.*

(a) The fee to be charged for any applications relative to this sign subchapter shall be in lieu of the fees charged for building permits and inspections.

(b) Any fee charged shall thus be based upon the project cost of the sign, based upon the following schedule:

Valuation	Fees
\$1 to \$500	Amount set by City Council from time to time by resolution

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Valuation	Fees
\$501 to \$600	Amount set by City Council from time to time by resolution
Etc. @ \$1.50 per \$100.00 up to \$2,000.00	
\$2,001 to \$3,000	Amount set by City Council from time to time by resolution
\$3,001 to \$4,000	Amount set by City Council from time to time by resolution
\$4,001 to \$5,000	Amount set by City Council from time to time by resolution
\$5,001 to \$6,000	Amount set by City Council from time to time by resolution
\$6,001 to \$7,000	Amount set by City Council from time to time by resolution
\$7,001 to \$8,000	Amount set by City Council from time to time by resolution
\$8,001 to \$9,000	Amount set by City Council from time to time by resolution
\$9,001 to \$10,000	Amount set by City Council from time to time by resolution
\$10,001 to \$11,000	Amount set by City Council from time to time by resolution
\$11,001 to \$12,000	Amount set by City Council from time to time by resolution
\$12,001 to \$13,000	Amount set by City Council from time to time by resolution
\$13,001 to \$14,000	Amount set by City Council from time to time by resolution
\$14,001 to \$15,000	Amount set by City Council from time to time by resolution
\$15,001 to \$16,000	Amount set by City Council from time to time by resolution
\$16,001 to \$17,000	Amount set by City Council from time to time by resolution
\$17,001 to \$18,000	Amount set by City Council from time to time by resolution
\$18,001 to \$19,000	Amount set by City Council from time to time by resolution
\$19,001 to \$20,000	Amount set by City Council from time to time by resolution
\$20,001 to \$21,000	Amount set by City Council from time to time by resolution
\$21,001 to \$22,000	Amount set by City Council from time to time by resolution
\$22,001 to \$23,000	Amount set by City Council from time to

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Valuation	Fees
	time by resolution
\$23,001 to \$24,000	Amount set by City Council from time to time by resolution
\$24,001 to \$25,000	Amount set by City Council from time to time by resolution
\$25,001 to \$26,000	Amount set by City Council from time to time by resolution
\$26,001 to \$27,000	Amount set by City Council from time to time by resolution
\$27,001 to \$28,000	Amount set by City Council from time to time by resolution
\$28,001 to \$29,000	Amount set by City Council from time to time by resolution
\$29,001 to \$30,000	Amount set by City Council from time to time by resolution
\$30,001 to \$31,000	Amount set by City Council from time to time by resolution
\$31,001 to \$32,000	Amount set by City Council from time to time by resolution
\$32,001 to \$33,000	Amount set by City Council from time to time by resolution
\$33,001 to \$34,000	Amount set by City Council from time to time by resolution
\$34,001 to \$35,000	Amount set by City Council from time to time by resolution
\$35,001 to \$36,000	Amount set by City Council from time to time by resolution
\$36,001 to \$37,000	Amount set by City Council from time to time by resolution
\$37,001 to \$38,000	Amount set by City Council from time to time by resolution
\$38,001 to \$39,000	Amount set by City Council from time to time by resolution
\$39,001 to \$40,000	Amount set by City Council from time to time by resolution
\$40,001 to \$41,000	Amount set by City Council from time to time by resolution
\$41,001 to \$42,000	Amount set by City Council from time to time by resolution
\$42,001 to \$43,000	Amount set by City Council from time to time by resolution
\$43,001 to \$44,000	Amount set by City Council from time to time by resolution
\$44,001 to \$45,000	Amount set by City Council from time to

Valuation	Fees
	time by resolution
\$45,001 to \$46,000	Amount set by City Council from time to time by resolution
\$46,001 to \$47,000	Amount set by City Council from time to time by resolution
\$47,001 to \$48,000	Amount set by City Council from time to time by resolution
\$48,001 to \$49,000	Amount set by City Council from time to time by resolution
\$49,001 to \$50,000	Amount set by City Council from time to time by resolution

(c) In addition to the above, plan checking fees (if applicable) shall be included.

(D) *Revocation of permit.* The Building Inspection Department is hereby authorized to revoke a sign permit upon failure of the holder thereof to comply with any provision of this chapter, including failure to pay the required inspection fee. Any party aggrieved by the revocation may appeal the action to the Board of Zoning Adjustment within 60 days after the revocation.

(E) *Expiration of permit.* A permit shall expire if the sign is not erected within 360 days after issuance, and no permit fees or inspection fees for the sign shall be refunded.

(Prior Code, § 1002.13) Penalty, see § 10.99

§ 155.229 ON-PREMISES SIGNS.

(A) *Exempted signs.* The following signs are exempt from all of the requirements of this subchapter and do not require a permit or permit fee:

- (1) Informational/directional signs not exceeding two square feet in area;
- (2) Memorial plaques, cornerstones and historical tablets;
- (3) Wall or window occupational signs of marquee, awning or canopy signs giving the name or profession of a business; provided the sign does not exceed six square feet in area; and
- (4) Public signs, street signs, warning signs, railroad crossing signs, signs of public service companies for the purpose of safety or traffic and on-site directional signs.

(B) *Allowed signs, exempt from permit or permit fee.* The following allowed signs do not require a permit or permit fee. The structural, design and other requirements of this subchapter shall apply:

- (1) Informational signs not exceeding two square feet;
- (2) Memorial plaques, cornerstones and historical tablets;

(3) Construction signs designating the architects, lending institutions, engineers or contractors when placed on a site where a building is to be constructed within 90 days;

(4) Temporary window signs;

(5) Holiday signs. Signs or displays which contain or depict message pertaining to a national, state or local holiday and no other matter and which are displayed for a period not to exceed 60 days; and

(6) Rummage sale signs. Rummage sales may be held and signs displayed; provided, therefore, that all related signs shall be confined to the private property, conform to the applicable provisions of this subchapter and be removed at the termination of the sale. Any signs allowed pursuant to the above designations shall not exceed 16 square feet in surface area in any "S" or "R" Zoned District. In all other zones, the signs may not exceed 20 square feet in surface area.

(C) *Prohibited signs.*

(1) No signs shall be attached to trees or utility poles.

(2) No signs shall overhang the public right-of-way, except in the "C-1" Retail Zoning District and in conformance with other requirements in this chapter.

(3) No sign shall be installed which by reason of position, movement, shape, illumination or color would constitute a traffic hazard by obstructing a driver's vision or by interfering, confusing or misleading traffic.

(4) All other signs not expressly permitted by this chapter.

(D) *Size limitations.* On-premises signs in commercial zones for use in connection with commercial structures located on streets or highways with a maximum speed limit of 55 mph or more shall not exceed 200 square feet, or 10% of the gross silhouette of the front of the structure, whichever is less. On-premises signs in commercial zones for use in connection with commercial structures located in the I-35 Corridor shall not exceed 400 square feet, or 10% of the gross silhouette of the front of the structure, whichever is less. The Planning and Zoning Commission shall review each application for a sign permit in areas falling within this provision.

(Prior Code, § 1002.13) (Ord. 05-14, passed 11-17-2014) Penalty, see § 10.99

§ 155.230 DISTRICT REGULATIONS FOR ON-PREMISES SIGNS.

(A) *Residential.* In zoning districts "O/R", "R-1a", "R-1b", "R-1c", "R-2" and "R-3" only the following signs shall be permitted to be erected.

(1) *Type of signs.* The type of signs allowed is as follows:

(a) Political campaign signs;

(b) Real estate signs;

(c) Nameplate signs;

(d) Identification signs;

(e) Institutional signs; and

(f) Banners and pennants.

(2) *Restrictions on residential signs.* The restrictions on these type of signs are as follows.

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(a) Political campaign banners and pennants and real estate signs shall not exceed 12 square feet in area or be located not less than five feet from the property line and shall be removed within ten days after the election or sale or lease of the building respectively by the owner.

(b) Nameplate signs shall not exceed 12 square inches in area and be within the building lines of the property.

(c) Institutional signs where required shall not exceed 20 square feet or be located less than five feet from the property line. This sign may be illuminated.

(d) No signs shall be attached to trees or utility poles.

(e) No sign shall be installed which by reason of position, movement, shape, illumination or color would constitute a traffic hazard by obstructing a driver's vision or by interfering, confusing or misleading traffic.

(f) No permit or permit fee shall be required for the above-stated types of signs.

(B) *Retail and commercial districts "C-1", "C-2".* In zoning districts "C-1", "C-2" only the following signs shall be permitted to be erected.

(1) *Types of signs.* The type of signs allowed are as follows:

(a) All residential signs;

(b) Changing sign (automatic);

(c) Message center sign;

(d) Reader board sign;

(e) On-premises sign (business sign);

(f) Portable sign;

(g) Roof sign; and

(h) Wall sign.

(2) *Restrictions on signs.* The restrictions on these types of signs are as follows.

(a) There shall be no signs having blinking, flashing or fluttering lights or having a changing brightness or colors.

(b) All other illuminated signs may be permitted; provided they do not constitute a traffic or safety hazard to the public.

(c) The aggregate square footage of sign surface shall not exceed the sum of two square feet per lineal foot of street frontage, but in no case shall the sign area exceed 100 square feet.

(d) The sign shall not exceed three feet in height above the roof line of the building.

(e) The sign shall contain only the name of the business establishment, the principal product, the services sold on the premises, or all three.

(f) The changing sign shall become part of the total sign area allowed on the property.

(C) *Industrial District "I".* In zoning district "I" only the following permitted uses will be allowed:

(1) *Types of signs.* The type of signs allowed is as follows: all signs allowed in "C-1" and "C-2".

(2) *Restrictions on signs.* The restrictions on these types of signs are as follows: restrictions as stated under "C-1" and "C-2" Commercial.

(Prior Code, § 1002.13) (Ord. 17-05, passed 2-6-2006; Ord. 01-19, passed 4-1-2019)
Penalty, see § 10.99

**§ 155.231 DISTRICT REGULATIONS FOR OUTDOOR ADVERTISING SIGNS
(OFF-SITE SIGNS).**

(A) Outdoor advertising signs or off-site signs and signs which direct the attention of the general public to a business, product, service or commodity which is conducted, sold or offered other than on the premises on which the sign is located.

(B) For purposes of this section, the term ***I-35 CORRIDOR*** shall mean that area within the city adjacent to and within 100 feet of the northerly right-of-way boundary of Interstate Highway No. 35. No off-site advertising of any nature shall be permitted along the southerly right-of-way boundary of I-35 or the adjacent properties. For purposes of this division (B), the term ***HIGHWAY 2 CORRIDOR*** shall mean that area within the city adjacent to and within 100 feet of the right-of-way line of United States Highway No. 2.

(C) Outdoor advertising signs or off-site signs are permitted upon the following conditions and under the following circumstances.

(1) *Location.* Outdoor advertising signs or off-site signs shall be allowed on property which is zoned for commercial or industrial uses only as provided herein.

(2) *Size.*

(a) For outdoor advertising signs or off-site signs located in the Highway 2 Corridor, the maximum sign area for any one face of an outdoor advertising sign or off-site sign shall not exceed 390 square feet, excluding border, trim and structural supports and extensions.

(b) For outdoor advertising signs or off-site signs located in the I-35 Corridor, the maximum sign area for any one face of an outdoor advertising sign or off-site sign shall not exceed 700 square feet, excluding border, trim, structural supports and extensions.

(c) For all signs, the maximum sign area limitations shall apply to each face of a sign structure. Signs may be placed back to back, side by side or in a "V" type construction (not to exceed 45 degrees), but not more than two separate advertisements are allowed on each face of an outdoor advertising sign structure. For purposes of calculating the sign area of a back to back or a "V" type constructed sign, only one face of the sign shall be considered.

(3) *Height.* The maximum height of an outdoor advertising or off-site sign shall not exceed 50 feet. The height of an outdoor advertising sign or off-site sign shall be measured from the point where the base of the sign meets the ground or from the street grade, whichever is higher, to the top of the outdoor advertising sign or off-site sign.

(4) *Spacing.*

(a) In the Highway 2 Corridor, no outdoor advertising sign may be closer than 500 feet to any other outdoor advertising sign located on the same side of the street or highway.

(b) In the I-35 Corridor, no outdoor advertising sign may be closer than 1,000 feet to any other outdoor advertising sign located on the same side of Interstate No. 35.

(c) This provision shall not prohibit back-to-back or "V" type construction of outdoor advertising signs. The distance between outdoor advertising signs shall be measured along the nearest edge of the pavement between points directly opposite the center of the outdoor advertising signs along the same side of the street or highway.

(d) The spacing requirements of this division (C)(4) shall apply to any outdoor advertising sign, outdoor advertising display or off-site sign constructed pursuant to this division (C)(4) or pursuant to any other provision of this zoning chapter.

(5) *Setbacks.* All outdoor advertising signs must be off the highway, street or other public right-of-way and must be placed within 100 feet from the street or highway right-of-way line.

(6) *Construction requirements.* All outdoor advertising signs or off-site signs larger than 32 square feet in sign area shall be constructed to the design standards set forth in division (C)(4)(c) above.

(7) *Lighting.* Outdoor advertising signs or off-site signs may be illuminated. Illumination of signs shall not be of a flashing type. Changing signs (automatic) are permitted.
(Prior Code, § 1002.13)

§ 155.232 IDENTIFICATION SIGNS.

Identification signs shall be permitted for the purpose of permanent identification. At each principal entrance to an area, a maximum of one sign, not to exceed 20 square feet of sign area per side with a maximum of two sides, excluding decorative landscaping and sign base, will be permitted on private property. The maximum height on the signs shall be six feet above the natural grade including the base, or two and one-half feet above natural grade including the based if located within 50 feet of the cross-section of an intersection, in which the case the sign may be located up to the property line. When the signs are proposed and constructed by an individual or firm other than the individual or association who will be responsible for the maintenance, there shall be a covenant or easement prepared to the proponent establishing responsibility for the maintenance for the sign or signs over the entire project or subdivision, to be approved by the city, and to be recorded on the property title(s) prior to issuance of the sign permit.

(Prior Code, § 1002.13) (Ord. 17-05, passed 2-6-2006)

§ 155.233 VARIANCES FOR SIGNAGE.

The variance procedure established in § 155.310 shall apply to all signs covered and regulated by this chapter.

(Prior Code, § 1002.13)

§ 155.234 NONCONFORMING USES/SIGNAGE.

(A) Any sign legally existing on the effective date of this chapter which does not conform to the requirements set forth in this chapter shall become a nonconforming use.

(B) Nonconforming signs shall comply with the following requirements.

(1) Permanent nonconforming or premises signs shall be allowed to continue, and reasonable maintenance of the sign shall be allowed, but the sign shall not be rebuilt, relocated, replaced or substantially altered without being brought into compliance with all the requirements of this chapter.

(2) All nonconforming signs shall be subject to the provision of § 155.253 regarding nonconforming structures and shall be deemed nonconforming structures.

(Prior Code, § 1002.13)

§ 155.235 MAINTENANCE AND REMOVAL OF SIGNS.

(A) All signs shall be maintained by the owner in a safe condition. A sign shall be repainted whenever its paint begins to fade, chip or discolor.

(B) If the Building Inspection Department shall find that any sign is abandoned, unsafe, a detriment to the public, not maintained or constructed, erected or maintained in violation of the provisions of this chapter, the Building Official shall give written notice to the sign owner thereof. If the sign owner fails to comply with the standards of this chapter with 30 days after the notice, a sign shall be removed, and the costs for the removal charged against the property in the manner prescribed for public nuisances. Erection of a sign which requires the issuance of a permit without a lawful permit shall further constitute a petty misdemeanor and fined based upon the city administrative fine schedule.

(Prior Code, § 1002.13) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

§ 155.236 BOND REQUIREMENTS.

Every person regularly engaged in the business of erecting advertising and business signs in the city shall, before any sign permits are granted under this chapter, file with the Clerk-Treasurer a continuing bond in the penal sum of an amount set by City Council from time to time by resolution executed by the applicant and a surety company approved by the corporation counsel and conditioned for the faithful observance of the provisions of this chapter.

(Prior Code, § 1002.13)

NONCONFORMING USES AND STRUCTURES

§ 155.250 NONCONFORMITIES.

Within the districts established by this chapter or later amendments there may exist uses of structures, land, or land and structures combined under a prior ordinance or regulation which were lawful at the time but which are prohibited, regulated or restricted under the terms of this chapter or its amendment. Nonconforming uses are declared by this subchapter to be incompatible with permitted uses in the districts involved. Therefore, it is the intent of this subchapter to permit these nonconformities to continue until they are removed but not to encourage their survival. It is further the intent of this subchapter that nonconformities shall not be enlarged upon, expanded or extended, nor the use for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use or structure, a nonconforming use of land or a nonconforming use of structure and land in combination shall not be extended or enlarged by attachment on a building or premises of additional signs intended to be seen from off the premises or by the addition of a nature which would be prohibited generally in the district involved. To avoid undue hardship, nothing in this subchapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawful under this chapter or its amendment and which actual building construction has been carried on diligently. **ACTUAL CONSTRUCTION** is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun preparatory to rebuilding, the excavation, demolition or removal shall be deemed to be actual construction; provided that work shall be carried on diligently.
(Prior Code, § 1002.14)

§ 155.251 NONCONFORMING LOTS OF RECORD.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record on November 3, 1975, or which are made lawful by an amendment of this subchapter, notwithstanding the limitations imposed by other provisions of this subchapter. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width or both that are generally applicable in the district; provided, that yard dimensions and requirements other than these applying to area or width or both of the lot shall conform to the regulations for the district in which the lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment; provided, however, that 32-foot wide lots (or those less than 32 feet in width) do not meet requirements to build under any circumstances. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership were of record at the time of November 3, 1975, or at a time of amendment of this subchapter and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this subchapter, and no portion of the parcel shall be used or sold in

a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.

(Prior Code, § 1002.14)

§ 155.252 NONCONFORMING USES OF LAND.

Where on November 3, 1975, a lawful use of land exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful; provided:

(A) No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than on November 3, 1975;

(B) No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use on November 3, 1975;

(C) If any nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of the land shall conform to the regulations specified by this chapter for the district in which the land is located; and

(D) No additional structure not conforming to the requirements of this chapter shall be erected in connection with the nonconforming use of land.

(Prior Code, § 1002.14) (Ord. 15-05, passed 10-17-2005)

§ 155.253 NONCONFORMING STRUCTURES.

Where a lawful structure exists on November 3, 1975, that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the structure, the structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(B) Should the nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 80% of its replacement cost at time of destruction due to other causes, it shall not be reconstructed except in conformity with the provisions of this chapter. A building permit to reconstruct the structure or portion of a structure must be applied for within 180 days from when the property was damaged, provided that the structure was damaged to an extent of less than 80% of its replacement cost at time of destruction.

(C) Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(D) With regard to accessory buildings, it shall be deemed an expansion or enlargement of a nonconformity in the event any addition or enlargement to a nonconforming portion of the accessory building is made; or in the event that repair or

rebuilding of the nonconforming portion of the accessory building is made or done which has the effect of adding to or enlarging the nonconforming portion thereof.
(Prior Code, § 1002.14) (Ord. 15-05, passed 10-17-2005)

§ 155.254 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.

If lawful use involving individual structures with a replacement cost of an amount set by City Council from time to time by resolution or of a structure and premises in combination exists on November 3, 1975, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(B) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the use at the time of adoption or amendment of this chapter, but no use shall be extended to occupy any land outside the building.

(C) If no structural alterations are made, any nonconforming use of a structure or structure and premises may as a special exception be changed to another nonconforming use; provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting the change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.

(D) Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be reused.

(E) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for one year, the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(F) (1) Where nonconformity use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(2) **DESTRUCTION** for the purposes of this section is defined as damage to an extent of more than 80% of the replacement cost at the time of destruction.

(Prior Code, § 1002.14) (Ord. 15-05, passed 10-17-2005)

§ 155.255 REPAIRS AND MAINTENANCE.

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or nonrepair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding 10% of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be; provided that the cubic content existing when it became nonconforming shall not be increased. The repairs shall be performed only after issuance of proper building permits. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of the official.

(Prior Code, § 1002.14)

CONDITIONAL USES

§ 155.270 PERMIT FROM CITY COUNCIL.

Subject to the provisions of §§ 155.271 and 155.272, the Council may, by resolution, grant a special permit for the special uses set out in this subchapter in any district except "I" as herein qualified, which uses are otherwise prohibited by this chapter and shall impose appropriate conditions and safeguards, including a specified period of time for the permit to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood. The Council may issue the permits only after a hearing and recommendation thereon by the Planning Commission.

(Prior Code, § 1002.15)

§ 155.271 STUDY AND REPORT BY PLANNING COMMISSION.

Before any action is taken either by the Planning Commission or the City Council, the applicant, except the state, any of its political subdivisions, or the federal government, shall pay to the Clerk- Treasurer a filing fee of an amount set by City Council from time to time by resolution for all conditional use permits other than community unit plans. In the case of community unit plans, the fee for conditional use permit application shall be based upon the city schedule of charges and fees plus any charges for Building Inspector's time and Working Street Foreman's/City Engineer's time for plan alteration review. The purpose of the fees is to help defray the cost of reviewing and hearing the application. Prior to the Planning Commission hearing required in § 155.270, notice to all affected landowners, as defined at § 155.310 shall be provided.

(Prior Code, § 1002.15) (Ord. 02-05, passed 4-4-2005)

§ 155.272 COMPLIANCE.

Any proposed conditional use shall otherwise comply with all the regulations set forth in this chapter for the district in which the use is located and, in addition, shall comply with the following:

- (A) Will not be detrimental to or endanger the public health, safety, morals, comfort, convenience or general welfare of the neighborhood or the city;
- (B) Will be harmonious with the general and applicable specific objectives of the comprehensive plan of the city and this chapter;
- (C) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area;
- (D) Will not be hazardous or disturbing to existing or future neighboring uses;
- (E) Will be served adequately by essential public facilities and services, including parking, streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems, and schools, or will be served adequately by the facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;
- (F) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (G) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors;
- (H) Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;
- (I) Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance; and
- (J) Will conform to specific standards of this chapter applicable to the particular use.

(Prior Code, § 1002.15)

§ 155.273 USES ENUMERATED.

The following are the conditional uses for which the Council may issue a conditional use permit upon finding that the conditions of § 155.272 have been met:

- (A) Amusement park, but not within 300 feet of any other "O/R", "S" or "R" parcel;
- (B) Circus or carnival grounds, but not within 300 feet of any other "O/R", "S" or "R" parcel;

(C) Commercial, recreational or amusement development for temporary or seasonal periods;

(D) Hospital, clinic, group home for the mentally impaired, physically impaired or chemically impaired, or other similar institution; provided, that any hospital or institution permitted in any "R" District shall be located on a site of not less than five acres, shall not occupy more than 10% of the total area, and shall be set back from all yard lines at least two feet for each foot of building height;

(E) Privately operated community building or recreation field;

(F) Any public or government owned or leased building not permitted in a particular district; provided, that the permit shall run for not less than ten years from date of permit;

(G) Riding stable;

(H) Radio or television broadcasting tower or station;

(I) Tourist or trailer camp; provided, that the tourist or trailer camp shall comply with the applicable provisions of this code and the laws of the state;

(J) Day care center, early learning center, nursery school, or the like licensed and regulated by the state. Residential day care homes licensed by the county shall not require a conditional use or home occupation permit; and

(K) Other conditional uses as set forth in the provisions applicable to each specific zone.

(Prior Code, § 1002.15)

§ 155.274 PROTECTIONS REQUIRED.

Whenever a conditional use is granted under this chapter, the following area protections and requirements shall be imposed and observed.

(A) *Storage.* All materials, supplies, merchandise or other similar matter not on display for direct sale, rental or lease shall be stored out of sight of passing pedestrians and/or motorists.

(B) *Buffering.* All conditional uses, except business signs, which are within 50 feet of any "O/R", "S" or "R" District shall be buffered from any adjoining parcels of land by open space of not less than ten feet in depth. In addition, the uses shall have an opaque fence screening the business premises from the "O/R", "S" or "R" properties adjacent to it; the plans for the fence to be approved by the Building Inspector prior to the fence being constructed.

(C) *Other protections, constraints.* Should the Planning Commission determine it necessary to restrict the hours of operation, type of lighting, storage of units for sale or any other attributes and activities of the business seeking a conditional use permit, the Planning Commission may, prior to the recommendation of the permit to the City Council, place upon the operation the protections and constraints as are deemed necessary to protect the public health, welfare, safety, peace and quiet, and enjoyment. (Prior Code, § 1002.15)

§ 155.275 MANUFACTURED HOUSING PARK.

Proctor, MN Code of Ordinances

A conditional use permit is required for the construction of a manufactured home park and may be issued by the Council, upon approval by the Planning Commission, on land zoned "S" and "R-1a"; provided, that the application for the construction conforms to the following requirements.

(A) *Lot size.* The lot size shall comply with lot sizes and specifications in "R-1b".

(B) *Site location.* Same as for § 155.274(A).

(C) *Site design.* Same as § 155.274(B) plus the following additional requirements.

(1) All manufactured homes shall be located at least 65 feet from any manufactured home park property boundary line abutting upon a public street or highway and at least 50 feet from other park property boundary lines.

(2) There shall be a minimum distance of 15 feet between the manufactured home stand and abutting internal streets, but in no case shall there be less than 58 feet between units located on opposite sides of a park street.

(3) Manufactured homes shall be separated from each other and from other buildings and structures by at least 12 feet. Structures such as awnings, porches and the like, which are attached to the manufactured home shall, for the purposes of separation requirements, be considered a part of the manufactured home.

(4) Manufactured home stands shall be constructed of asphalt or concrete so as to provide adequate support for the placement and tie-down of the manufactured home unit; thereby securing the superstructure against uplift, sliding, rotation and overturning. Each anchor or tie-down shall be able to sustain a minimum tensile strength of 2,800 pounds. The area between any manufactured home and the ground shall be surrounded by a skirting of sufficient construction so as to be stable and attractive in appearance.

(5) All fuel oil and petroleum gas containers shall be permanently installed and securely fastened in place and screened or located in an inconspicuous and safe location or manner.

(6) The minimum width of any manufactured housing unit shall be 12 feet.

(D) *Operation and maintenance.*

(1) No space shall be rented for residential use of a manufactured home in any park except for periods of 30 days or more, and no manufactured home shall be admitted to any park unless it meets the requirements of state codes.

(2) All refuse shall be stored in fly-tight, water-tight, rodent-proof containers which shall be located not more than 150 feet from any manufactured home lot. Containers shall be provided in sufficient number and capacity to properly store all refuse. Collections stands shall be provided for all refuse containers and shall be designed as to prevent spillage and container deterioration and to facilitate cleansing around them. The refuse areas shall be screened in an attractive manner. All refuse which contains garbage shall be collected as required by the other provisions of the city code. (See Chapter 50 of this code of ordinances.)

(3) Roadways and sidewalks shall be maintained in a neat and attractive manner, and snow accumulating thereon shall be removed as soon thereafter

as it is reasonably practicable in order to ensure passage by motor vehicles and pedestrians.

(4) The park management shall operate the park in compliance with this chapter and in accord with the following restrictions.

(a) The park management shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

(b) Rental of lots within the park shall not be restricted to those renters who have purchased their manufactured homes from the owners of the park.

(c) The park management is hereby forbidden to enter a manufactured home on his or her lot which he or she does not own without the prior approval of the owner of the manufactured home, except in instances of emergency where the manufactured home, a person and/or adjacent property may be damaged.

(d) The park management is hereby forbidden to enter into or upon a rented lot without the prior approval of the lessee, the manufactured home occupying it and/or adjacent property, or at reasonable times for necessary repairs.

(E) *Procedures and approval.* Section 155.274 shall apply to this section. (Prior Code, § 1002.15) (Ord. 02-04, passed 3-1-2004)

§ 155.276 PROCEDURE FOR HEARING.

Prior to any recommendation being submitted by the Planning Commission to the City Council regarding proposed and planned community unit development or a manufactured housing park, the hearing and notice provisions of § 155.271 shall be complied with by the Commission.

(Prior Code, § 1002.15)

ENFORCEMENT

§ 155.290 BUILDING INSPECTOR.

It shall be the duty of the Building Inspector to enforce this chapter. In no case shall a permit be granted for the construction or alteration of any building if the building as proposed to be constructed or altered would be in violation of any of the provisions of this chapter. It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the Building Inspector stating that the proposed use of the building or land conforms to the requirements of this chapter. Appeal from a decision of the Building Inspector may be made to the Board of Adjustment as provided by this chapter. Electrical installations shall be inspected by the City Electrical Inspector under the direction of the Building Inspector. Water, sewer and other plumbing connections shall be inspected by the City Plumbing Inspector. Appeals

from decisions of the Electrical Inspector or the Plumbing Inspector shall be as set forth in the applicable specialty codes or state law. The Building Inspector, Electrical Inspector and Plumbing Inspector shall be appointed annually by majority vote of the City Council members present at the first regular meeting of each year.
(Prior Code, § 1002.16)

BOARD OF ADJUSTMENT

§ 155.305 BOARD ESTABLISHED.

A Board of Adjustment is hereby established and vested with administrative authority as is hereinafter provided. The Board shall consist of three citizens of the city serving as Planning Commission members, selected by the Chairperson thereof as set forth at § 150.01(E).
(Prior Code, § 1002.17)

§ 155.306 PROCEEDINGS OF BOARD OF ADJUSTMENT.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at those other times as the Board may determine. The Chairperson or, in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.
(Prior Code, § 1002.17)

§ 155.307 HEARINGS, APPEALS AND NOTICE.

Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the city affected by the decision of the administrative official. The appeals shall be taken within a reasonable time, not to exceed 60 days or a lesser period as may be provided by the rules of the Board, by filing with the administrative official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeal,

give public notice thereof as well as due notices to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

(Prior Code, § 1002.17)

§ 155.308 STAY OF PROCEEDINGS.

An appeal stays all proceedings in furtherance of the action appealed from unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life and property. In that case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the administrative official from whom the appeal is taken, and on due cause shown.

(Prior Code, § 1002.17)

§ 155.309 POWERS AND DUTIES.

The Board of Adjustment shall have powers and duties:

(A) *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of this chapter; and

(B) *Special exceptions.* To hear and decide only special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide those questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

(1) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested;

(2) Notice shall be given at least 15 days in advance of public hearing. The owner of the property for which special exception is sought or his or her agent shall be notified by mail. Notice of the hearings shall be posted on the property for which special exceptions is sought, at the City Hall and in one other public place at least 15 days prior to the public hearing.

(3) The public hearing shall be held. Any party may appear in person, by agent or by attorney;

(4) The Board of Adjustment shall make a finding that is empowered under the section of this chapter described in the application to grant the special exception and that the granting of the special exception will not adversely affect the public welfare; and

(5) Before any special exception shall issue, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following where applicable:

(a) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

(b) Off-street parking and loading areas where required, with particular attention to the items in division (B)(5)(a) above and the economic, noise, glare or odor effects of the special exception of adjoining properties and properties generally in the district;

(c) Refuse and service areas, with particular reference to the items in divisions (B)(5)(a) and (B)(5)(b) above;

(d) Utilities, with reference to locations, availability and compatibility;

(e) Screening and buffering, with reference to type, dimensions and character;

(f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;

(g) Required yards and other open space; and

(h) General compatibility with adjacent properties and other property in the district.

(Prior Code, § 1002.17)

§ 155.310 VARIANCES.

(A) To authorize upon appeal in specific cases the variance from the terms of this chapter as will not be contrary to the public interest where, owing to special condition, a literal enforcement of the provisions of this chapter would result in unnecessary hardship.

(B) A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

(1) A written application for a variance is submitted demonstrating:

(a) The special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

(b) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(c) The special conditions and circumstances do not result from the actions of the applicant; and

(d) 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. No nonconforming use of neighboring lands, structures or

buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

(2) Notice of public hearing shall be given as in § 155.355;

(3) The public hearing shall be held. Any party may appear in person, by agent or by attorney;

(4) The Board of Adjustment shall make findings that the requirements of this section have been met by the applicant for variance;

(5) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and

(6) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of the conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in the district.

(Prior Code, § 1002.17)

§ 155.311 REVERSING DECISION OF ADMINISTRATIVE OFFICIAL.

In exercising the above-mentioned powers, the Board of Adjustment may, so long as the action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end, shall have the powers of the administrative official from whom the appeal is taken. A majority vote of the full Board shall be necessary to reverse any order or requirement, decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to affect any variation in the application of this chapter.

(Prior Code, § 1002.17)

§ 155.312 INTENT.

It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative official and that the questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative official and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law. It is further the intent of this chapter that the

duties of the Council in connection with this chapter shall not include hearing and deciding questions or interpretation and enforcement that may arise.
(Prior Code, § 1002.17)

FEES, CHARGES AND EXPENSES

§ 155.325 SCHEDULE OF FEES, CHARGES AND EXPENSES.

The Council shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the administrative official and may be altered or amended only by the Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. See § 150.01 for a listing of fees; see also Chapter 37 of this code of ordinances.
(Prior Code, § 1002.18)

APPEAL OF PLANNING COMMISSION

§ 155.340 PROCEDURE WITH RESPECT TO DECISIONS CONCERNING “R-2” AND HIGHER ZONES.

In those situations where the administrative decision of the city has been accomplished through a hearing and decision of the Planning Commission, to include decisions reached under § 155.371(C)(2) (review of building permits for “R-2” and higher zones), the City Council shall constitute the proper authority for purposes of an appeal under this chapter, the Planning Commission having been empowered to function as the Building Official in those instances. All of the procedures and policies applicable to appeals to the Board of Adjustment shall apply to any hearing held before the City Council.
(Prior Code, § 1002.18A)

AMENDMENTS

§ 155.355 NOTICE.

(A) No amendment to this chapter shall be adopted until a public hearing has been held thereon by the Planning Commission. A notice of the time, place and purpose of the hearing shall be published in the official newspaper at least ten days prior to the

day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings; provided, a bona fide attempt to comply with this subdivision has been made.

(B) Following the hearing, the Planning Commission shall issue its recommendation to the City Council for Council action thereon. This chapter may be amended only by a two-thirds vote of all Council members.
(Prior Code, § 1002.19)

§ 155.356 PLANNING COMMISSION REVIEW.

An amendment to this chapter may be initiated by the Council, the Planning Commission or by petition of affected property owners. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for public hearing and study and report and may not be acted upon by the Council until it has received the recommendation of the Planning Commission on the proposed amendment.

(Prior Code, § 1002.19)

PLANNING COMMISSION

§ 155.370 PLANNING COMMISSION ESTABLISHED.

(A) A Planning Commission is hereby established and vested with the administrative authority as is hereinafter provided. The Planning Commission will be advisory except as to its other powers and duties as are imposed on it by this chapter and by the laws of the state. The Commission shall be composed of five members, only one of whom may be an elected official of the city, member of the Public Utilities Commission or employee of the city or its Utilities Commission.

(Prior Code, § 1002.22)

(B) All members of the Commission shall be residents of the city, except that a building official of the city may be appointed to the Commission even if he or she is not a resident of the city.

(Ord. 05-20, passed 3-16-2020)

§ 155.371 PLANNING COMMISSION DUTIES AND PURPOSE.

(A) *Comprehensive plan.* The Planning Commission may adopt and amend from time to time the comprehensive plan of the city and recommend the same to the City Council.

(1) Prior to adoption, the Commission shall hold a public hearing regarding the proposed comprehensive plan of the city. A notice shall be published once within the official newspaper of the city at least ten days prior to the hearing.

(2) Additionally, prior to the notice being published, the proposed plan or amendment shall be submitted by the Commission to the City Council.

(3) Any plan or amendment adopted by the Commission shall be approved by the Commission by resolution. Upon adoption, any plan or amendment shall be certified and submitted to the City Council for approval. The Council may propose amendments to the plan and shall submit the same to the Commission by resolution of the Council for deliberation and/or vote by the Commission.

(B) *General planning and zoning functions.* The Planning Commission shall conduct monthly or more frequent meetings as required to discuss and consider any issues relating to or concerning planning and zoning matters. In this regard, the Commission shall:

(1) Conduct public hearings for changes or amendments to this zoning chapter;

(2) Serve as members of the following bodies or review and appeal:

(a) Building Code Board of Appeals;

(b) Board of Adjustment; and

(c) Design Review Board.

(3) Indirectly supervise the duties and job performance of the City Building Official as it relates to Chapter 154 and this chapter, the Building Code of Appeals and Board of Adjustment; provided that direct supervision of the Building Official will be performed by the City Administrator;

(4) Make recommendations to the City Council regarding amendments to the city zoning map, this chapter or related documents;

(5) Perform those duties set forth in Chapter 154 and this chapter; and

(6) Complete all other matters assigned to it by the various chapters and sections of the city code not otherwise set forth herein.

(C) *Specific duties and functions.*

(1) *Special projects.* The Commission shall be provided detailed information by the City Building Official, wherever practicable, regarding any planning and zoning matters, to include proposed construction projects, including the design review, special use permit or community unit development provisions of Chapter 154 and this chapter.

(2) *Construction involving "R-2" Zones and above.* In each instance involving the construction of a new primary structure other than a single-family residence zoned "R-2" or "R-3", requiring a permit of any type, the Building Official will present a report to the Planning Commission for review and approval prior to the issuance of any permit. In each instance involving building construction, substantial alteration, modification or addition to property zoned commercial, or industrial requiring

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a permit of any type, the Building Official will present a report to the Planning Commission for review and approval prior to the issuance of any permit. In all other instances involving building construction, substantial alteration, modification or addition to property in the zones, the Building Official or his or her designee may issue a building permit.

(Prior Code, § 1002.22)