

TITLE XV: LAND USAGE

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GENERAL PROVISIONS

' 150.001 TITLE.

This chapter shall hereafter be known as the Zoning Ordinance of the City of Mantorville, Minnesota, and may be referred to herein and cited as the Zoning Ordinance.
(Ord. 153, ' 1.1, passed 3-24-2003)

' 150.002 PURPOSE AND LEGAL AUTHORITY.

The general purpose of the Zoning Ordinance is to carry out the intent of the City of Mantorville=s plans and policies and to promote and protect the public health, safety, order, convenience, and general welfare. This chapter is adopted pursuant to authority granted by Minnesota Statutes.
(Ord. 153, ' 1.2, passed 3-24-2003)

' 150.003 INTERPRETATION OF STANDARDS.

In their interpretation and application, the provisions of the Zoning Ordinance shall be held to be minimum requirements. Where the Zoning Ordinance imposes a greater restriction or standard than is imposed or required by other provisions of law or by other rules, regulations, or ordinances, the provisions of the Zoning Ordinance shall govern. When the provisions of state or federal law or other city regulations or ordinances set higher standards than those of the Zoning Ordinance, the provisions of the laws, regulations, or ordinances shall apply.
(Ord. 153, ' 1.3, passed 3-24-2003)

' 150.004 JURISDICTION.

This Zoning Ordinance shall apply to all lands, as defined herein, located within the corporate limits of the City of Mantorville, Minnesota.

(Ord. 153, ' 1.40, passed 3-24-2003)

' 150.005 ENFORCEMENT AND VIOLATIONS.

(A) *Generally.* In case of any violation of the Zoning Ordinance or any amendment or supplement thereto, any person aggrieved by the action may request the City Council to act in his or her behalf to prevent the unlawful location, erection, construction, reconstruction, alteration, conversion, maintenance, or use; to restrain, correct, or abate the violation; to prevent the occupancy of a building, structure, or land; or to prevent the occupancy of a building, structure, or in or about the premises. The procedures shall not limit taking action in a court of law.

(B) *Violations.* Any person, firm, or corporation violating any of the provisions of this Zoning Ordinance or any amendment or supplement thereto shall be guilty of a misdemeanor and upon conviction thereof shall be punishable in accordance with Minnesota law. Each and every day during which the violation continues shall be deemed to be a separate offense.

(C) *Relief from personal responsibility.* Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter and any claim based upon the performance or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused, are hereby enumerated as exceptions to M.S. ' 466.02, as it may be amended from time to time, and the section does not apply. The City of Mantorville shall defend, save harmless any of the officers or employees, whether elected or appointed, against any tort claim or demand, whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this Zoning Ordinance, except as provided in M.S. ' 466.07, as it may be amended from time to time.

(Ord. 153, ' 1.42, passed 3-24-2003) Penalty, see ' 10.99

' 150.006 RULES OF CONSTRUCTION.

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

(B) *Specifically.*

(1) The singular number includes the plural, and plural the singular.

(2) The present tense includes the past and the future tenses, and the future the present.

(3) The word *shall* is mandatory while the word *may* is permissive.

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

(5) The word *herein* means *these regulations*.

(6) The word *building* shall include the word *structure*.

(7) The word *used* shall include *arranged, designed, constructed, altered, converted, rented, leased, or intended to be used*.
(Ord. 153, ' 2.1, passed 3-24-2003)

' 150.007 DEFINITIONS.

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

ACCESSORY BUILDING OR STRUCTURE. A structure detached from the principal structure located on the same lot and customarily incidental and subordinate to the principal building or use.

ACCESSORY USE. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

ALTER or ALTERATION. Any change, addition, or modification in construction or occupancy.

AMENITY. A natural or created feature that enhances the aesthetic quality, visual appeal, or makes more attractive or satisfying a particular property, place, or area (such as flowers, trees, architecture, cleanliness, or paint).

ANNEXATION. The incorporation of a land area into an existing community with a resulting change in the boundaries of that community.

APPLICANT. The owner of land proposing change of land use or his or her representative, according to this chapter. Consent shall be required from the legal owner of the premises.

APPURTENANCES. The visible, functional, or ornamental objects accessory to and part of the buildings.

AUTOMOBILE REPAIR, MAJOR. General repair, rebuilding, or reconditioning engines, motor vehicles or trailers, collision service, including body, frame, or fender straightening or repair, overall painting or paint job; vehicle steam cleaning.

AUTOMOBILE REPAIR, MINOR. Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding 9,000-pound gross weight, but not including any operation specified under ***AUTOMOBILE REPAIR, MAJOR.***

AUTOMOBILE SERVICE STATION. The retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

AVERAGE SETBACK. The mean setback from a street right-of-way of buildings on both sides of a lot.

BAR. Premises used primarily for the sale and dispensing of liquor by the drink for on-site consumption and where may be available for consumption on the premises as accessory to the principal use.

BASEMENT. The portion of a building, which is wholly, or 1/2 or more below the average grade of the ground level adjoining the building. A ***BASEMENT*** shall be counted as a story if used or intended to be used for dwelling or business purposes. No structure, which consists solely of a basement, shall for any period of time, be used as a dwelling.

BED AND BREAKFAST, GUEST HOUSE, or TOURIST HOME. Any dwelling providing certain rooms in excess of those used by members of the family, as herein provided, which are rented primarily to the traveling public, on a short-term basis, customarily overnight or for a weekend.

BLOCK. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

BOARD OF ADJUSTMENTS AND APPEALS. The Board of Adjustments and Appeals shall be composed of the members of the Mantorville City Council as authorized by M.S. ' 462.354, Subdivision 2, as it may be amended from time to time.

BOARDING HOUSE. A dwelling unit or part thereof in which, for compensation, lodging, and meals are provided. Personal and financial services may be offered as well.

BOARDING KENNEL. A commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold all for a fee or compensation.

BUFFERYARD. Open spaces, landscaped areas, fences, walls, berms, or a combination thereof used to physically separate or screen 1 use of property from another so as to visually shield or block noise, lights, or other nuisances.

BUILDABLE AREA. The portion of a lot remaining after the minimum yard and open space requirements of this Zoning Ordinance have been met.

BUILDING. Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal or chattel of property of any kind. Any portion completely separated from every other part of a building by division walls from the ground up and without openings, shall be deemed as a separate building.

BUILDING COVERAGE. The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area.

BUILDING LINE. A line parallel to the street line touching that part of a building closest to the street.

BUILDING OFFICIAL. The authorized representative of the city, licensed by the State of Minnesota, to enforce the Minnesota State Building Code.

BUILDING SETBACK LINE. The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be erected or placed.

BUSINESS SERVICES. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis. Such as advertising and mailing, building maintenance; employment services; management and consulting services; protective services, equipment rental and leasing; commercial research; development and testing, photo finishing; and personal supply services.

CARPORT. A structure permanently attached to a dwelling having a roof supported by columns, but not otherwise enclosed, for the purpose of storage of motor vehicles.

CELLAR. A space with less than 1/2 of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than 62 feet. A **CELLAR** shall not be counted as a story for purposes of height measurement. No structure, which consists solely of a **CELLAR**, shall for any period of time be used as a dwelling.

CHILD. An individual 12 years of age or younger.

CHILD CARE FACILITY. A place or building other than the child=s dwelling in which care, supervision, and guidance of a child unaccompanied by parents, guardian, or custodian is provided on a regular basis for a period of less than 24 hours a day, whether operated for profit or nonprofit.

CHURCH. A building with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CITY. The incorporated City of Mantorville, Dodge County, State of Minnesota.

COLUMBARIUM. A vault with niches for urns containing ashes of cremated bodies.

COMMERCIAL USE. Activity involving the sale of goods or services for profit.

COMPREHENSIVE PLAN or **MASTER PLAN.**

(1) A compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following:

- (a) Statements of policies, goals, standards;
- (b) A land use plan;
- (c) A community facilities plan;
- (d) A transportation plan; and
- (e) Recommendations for plan execution.

(2) A **COMPREHENSIVE PLAN** represents the city=s recommendations for the future development of the municipality.

CONDITIONAL USE. A use permitted in a particular zoning district upon showing that the use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in this Zoning Ordinance and authorized by the approving agency.

CONDITIONAL USE PERMIT. A document signed by the City Clerk-Treasurer specifying the requirements under which a conditional use may be permitted within a zoning district.

CONDOMINIUM. A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

CONTIGUOUS. Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous.

CONVENIENCE STORE. Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

COUNCIL. The City Council of the City of Mantorville, Minnesota.

COURT. An open unoccupied space on a lot bounded on 2 or more sides by the exterior walls of a dwelling or other building or buildings.

DAY CARE HOME. Restricted to a family dwelling in which foster care, supervision, and training for children of school or pre-school age out of their own home is provided during part of the day, which is less than 24 hours with no overnight accommodations or facilities and children are delivered and removed daily and for which all licenses shall be obtained.

DISTRIBUTION CENTER. An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

DOUBLE FRONTAGE LOT. A lot fronting more than 1 public street right-of-way.

DWELLING. Any building or portion thereof designed or used exclusively as the residence or sleeping place of 1 or more persons, but not including a tent, cabin, trailer, or other temporary or portable housing.

DWELLING, ATTACHED. A 1-family dwelling attached to 1 other 1-family dwelling by a common vertical wall, with each dwelling located on a separate lot, sometimes referred to as zero lot line development.

DWELLING, DETACHED. A dwelling that is not attached to any other dwelling by any means.

DWELLING, MULTI-FAMILY. A building containing 3 or more dwelling units, including units that are located 1 over the other.

DWELLING, QUADRA-PLEX. Four attached dwellings in 1 building in which each unit has 2 open space exposures and shares 1 or 2 walls with adjoining units.

DWELLING, SINGLE-FAMILY. A building designed or used exclusively for residence purposes by 1 family.

DWELLING, TOWNHOUSE. A 1-family dwelling in a row of at least 3 units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by 1 or more vertical common fire-resistant walls.

DWELLING, TRIPLEX. A building containing 3 dwelling units, each of which has direct access to the outside or to a common hall.

DWELLING, 2-FAMILY. A building designed or used exclusively for residence purposes for 2 families. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

DWELLING UNIT. One or more rooms designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

EARTH SHELTER STRUCTURE. A building or structure, which by the nature of its design utilizes a soil material as an insulating source or as an integral part of its design. The uses in the structure shall be governed by the provisions of the zoning district in which it is located.

EASEMENT. A grant of 1 or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

EGRESS. An exit.

ERECTED. Assembled, raised, built, constructed, reconstructed, moved upon, or any physical operation on the premises required for a building, excavation, fill, drainage, and the like.

ESSENTIAL SERVICES. Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, steam, water, sewerage, communications and including generating switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves and other utilities and the equipment, buildings, structures, and appurtenances necessary for the systems to furnish an adequate level of service for the area in which it is located including cable television.

EXISTING BUILDING OR STRUCTURE. A building or structure erected prior to the adoption of this chapter, or 1 for which a legal building permit has been issued.

EXTENDED CARE FACILITY. A long-term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

FAMILY. Any number of persons inhabiting a dwelling unit comprising a single housekeeping unit and related by blood, marriage, adoption, or any unrelated person who resides therein as though a member of the family including the domestic employees.

FARM. A parcel of land, which is used for agricultural activities, including cropping, pasture, and raising of livestock or fowl for commercial purposes.

FILLING STATION. Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations.

FLOOR AREA, GROUND. The area within the exterior walls of the principal building as measured from the outside walls at the ground floor level, not including garages or enclosed or unenclosed porches and not including attached utility or accessory rooms having 3 or more exterior sides.

FOOTING. The portion of the foundation of a structure, which spreads and transmits loads directly to the soil or the piles.

FRONTAGE. The side of a lot abutting on a street; the front lot line.

GARAGE, MUNICIPAL. A structure owned or operated by a municipality and used primarily for the parking and storing of vehicles owned by the municipality.

GARAGE, PRIVATE RESIDENTIAL. A detached accessory building or a portion of the principal building used for the storage of self-propelled passenger vehicles, non-commercial trailers and household equipment.

GARAGE, PUBLIC. A structure or portion thereof, other than a private residential garage used primarily for the parking and storage of vehicles, trailers, and available to the general public.

GARAGE, REPAIR. Any building, premises, and land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of vehicles is conducted or rendered.

GOVERNING BODY. The body of the local government having the power to adopt ordinances.

GRADE.

(1) The average elevation of the land around a building.

(2) The percent of rise or descent of a sloping surface.

GREENBELT. An open area that may be cultivated or maintained in a natural state surrounding development or used as a buffer between land uses or to mark the edge of an urban or developed area.

GREENHOUSE. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

GROUP HOMES; SUPERVISED LIVING FACILITY. A facility in which there is provided supervision, lodging, meals, and in accordance with the provisions of rules of the Department of Public Welfare, counseling and developmental habilitative or rehabilitative services to five or more persons who are mentally retarded, chemically dependent, adult mentally ill, or physically handicapped.

(1) **CLASS A SUPERVISED LIVING FACILITY.** A supervised living facility for ambulatory and mobile persons who are capable of taking appropriate action for self-preservation under emergency conditions as determined by program licensure provisions.

(2) **CLASS A-1 SUPERVISED LIVING FACILITY.** Shall include homes providing boarding and lodging for 6 or fewer ambulatory or mobile disabled persons.

(3) **CLASS A-2 SUPERVISED LIVING FACILITY.** Shall include homes providing boarding and lodging for more than 6 ambulatory or mobile disabled persons.

(4) **CLASS B SUPERVISED LIVING FACILITY.** A supervised living facility for ambulatory, non-ambulatory, mobile or non-mobile persons who are not mentally or physically capable of taking appropriate action for self-preservation under emergency conditions as determined by program licensure provisions.

HEIGHT. The vertical distance of a structure or building which for the purpose of this chapter will be measured from the lowest elevation of the finished grade surrounding the structure or building to the highest point of the structure or building.

HISTORIC SITE. A structure or place of outstanding cultural significance and designated as such by state or federal government or agency.

HOME BUSINESS. A home occupation or profession within the dwelling unit or an existing accessory structure, solely by the residents of the dwelling, which is detectable from off of the premises and is usually characterized by activity not normally present within a residential parcel or neighborhood. A **HOME BUSINESS** shall require a conditional use permit. (Example: home businesses may involve the storage of trade inventory incidental to the service, equipment, repair, or assembly service requiring equipment other than customarily found in a dwelling or accessory structure.)

HOME OCCUPATION.

(1) Any occupation, profession, or enterprise conducted in a dwelling unit by a member of the immediate family residing on the premises and carried out for gain;

(2) No more than 1 person is employed other than members of the immediate family residing on the premises;

(3) The use is incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the area of 1 floor is used in the conduct of the home occupation;

(4) No structural alterations or construction involving features not customarily found in dwellings are required except that 1 nonilluminated sign not exceeding 1 square foot in area may be mounted flat against the wall of the main building;

(5) If the home occupation use consists of a barbershop or beauty parlor, there shall be a maximum usage of 2 chairs at any 1 time; and

(6) Adequate off-street parking is available for conducting the home occupation.

HOTEL. A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

INCIDENTAL. Subordinate and minor in significance and bearing a reasonable relationship with the primary use.

INFRASTRUCTURE. Facilities and services needed to sustain industry, residential, commercial, and all other land use activities.

INGRESS. Access or entry.

INSPECTION. A procedure of determining if the locations of buildings and structures and the general construction or erection utilized meet, the intent of this chapter.

INTERMEDIATE CARE FACILITY. A facility that provides, on a regular basis, personal care, including dressing and eating and health related care and services, to individuals who require the assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.

JUNK. Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

JUNKYARD. Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

LANDSCAPE.

(1) An expanse of natural scenery.

(2) Lawns, trees, plants, and other natural materials, such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains, and pools.

LIGHT MANUFACTURING. Uses where products are assembled or produced that include no discharge of any form of emissions to the air, or water environment, or to the public utilities of the city other than wastes from restroom facilities. The uses shall create no audible noise beyond property lot lines.

LOADING SPACE. An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access. Required loading space is not to be included as off-street parking space in computation of required off-street parking space.

LONG-TERM CARE FACILITY. An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to 2 or more patients who are not related to the governing authority or its members by marriage, blood, or adoption.

LOT. A piece or parcel of land occupied or intended to be occupied by a principal building or a group of the buildings and accessory buildings, or utilized for a principal use, or by other activity permitted thereon and including the open spaces required under this chapter and having frontage on a public street or approved private street.

LOT AREA. The total area within the lot lines of a lot, excluding any street rights-of-way.

LOT, CORNER. A lot or parcel of land abutting upon 2 or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines in the corner.

LOT COVERAGE. The portion of the lot that is covered by buildings.

LOT DEPTH. The average distance measured from the front lot line to the rear lot line.

LOT, DOUBLE FRONTAGE. A lot that fronts upon 2 parallel streets or that fronts upon 2 streets that do not intersect at the boundaries of the lot.

LOT FRONTAGE. The length of the front lot line measured at the street right-of-way line.

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

LOT LINE. A line of record bounding a lot that divides 1 lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT. The lot line separating a lot from a street right-of-way.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a **CORNER SIDE LOT LINE**. A side lot line separating a lot from another lot or lots is called an interior side lot line.

LOT OF RECORD. A lot that exists as shown or described on a plat or deed in the records of the local registry of deeds (Dodge County Recorder=s Office).

LOT, SUBSTANDARD. A parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

LOT, THROUGH. A lot having frontage on 2 parallel or approximately parallel streets.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

MANUFACTURED HOME and **MANUFACTURED BUILDING.** The general term meaning a structure, transportable in 1 or more sections, which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and including the plumbing, heating, air conditioning, and electrical systems contained therein, except that the term includes any structure which meets all of the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development or the authorized agent or successor thereof, and complies with the standards established in the Minnesota Statutes, as amended. This general definition includes structures commonly known as mobile homes as well as manufactured buildings built without a chassis and designed only for erection on permanent foundation and which possess roof lines such as conventional on the site constructed homes and buildings.

MANUFACTURED HOME PARK. Any lot or part thereof, or any parcel of land which is used or offered as a location for 2 or more manufactured homes used for any purpose set forth in the definition of manufactured home and manufactured building.

MANUFACTURED HOME SPACE or **MANUFACTURED HOME LOT.** A parcel of ground within a manufactured home park designed for the accommodation of 1 manufactured home.

MANUFACTURED HOUSING. Factory-built single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. ' 5401, as it may be amended from time to time), commonly known as the H.U.D. (U.S. Department of Housing and Urban Development) code. This general definition includes structures heretofore commonly known as mobile homes as well as manufactured building built without chassis and designed only for erection on a permanent frost-free foundation and which possess rooflines such as conventional on the site constructed homes and buildings.

MANUFACTURING. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

MAUSOLEUM. A tomb or a building with vaults for the entombment of a number of bodies.

MOTEL. An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MUNICIPAL ATTORNEY. The licensed attorney designated by the governing body to furnish legal assistance for the administration and enforcement of these regulations and also known as the City Attorney.

NONCONFORMING LOT. A lot, which does not comply with the minimum lot area or frontage requirements of the district in which it is located.

NONCONFORMING SIGN. Any sign lawfully existing prior to the effective date of this chapter, or amendment thereto, that does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING STRUCTURE OR BUILDING. A structure or building which does not comply with the bulk, yard, setback, or height regulations of the district in which it is located.

NONCONFORMING USE. A use which does not conform to the applicable use regulations of the district in which it is located.

NUISANCE. An unreasonable interference with the enjoyment and use of property.

NURSERY. Land or greenhouses used to raise flowers, shrubs, and plants for sale.

NURSING HOME. See group homes, extended care facility, intermediate care facility, and/or long-term care facility.

OFFICE. A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment.

OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, and child-care facilities.

OFFICIAL MAP. An ordinance in map form adopted by the governing body that conclusively shows the location and width of proposed streets, public facilities, public areas, and drainage rights-of-way.

OPEN SALES LOT. Any open land used or occupied for the purpose of buying, selling, and/or renting merchandise and for the storing of same prior to sale.

OPEN SPACE. An area of land preserved from building development and reserved for the use of the general public or a homeowner=s association for the purpose of active and passive recreation and certain necessary community facilities.

OUTDOOR ADVERTISING BUSINESS. Provisions of outdoor displays or display space on a lease or rental basis only.

OUTDOOR STORAGE. The keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 continuous hours.

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having title to or sufficient proprietary interest in the land subject to these regulations.

PARCEL. A contiguous lot or tract of land and recorded as the property of the same persons or controlled by a single entity.

PARK. Area of public land developed and maintained primarily as pleasurable landscaped area providing for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play field, and special purpose areas.

PARKING AREA. Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets.

PARKING, OFF-SITE. Parking provided for a specific use but located on a site other than the 1 on which the specific use is located.

PARKING, ON-STREET. A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

PARKING, SHARED. Joint use of a parking area for more than 1 use.

PARKING SPACE. A space for the parking of a motor vehicle within a public or private parking area.

PARKING SPACE, OFF-STREET. A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

PARTY WALL. A common shared wall between 2 separate structures, buildings, or dwelling units.

PERMIT. Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without the authorization.

PERMITTED USE. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSON. A corporation company, association, society, firm, partnership, or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof.

PLANNED UNIT DEVELOPMENT (P.U.D.). An area of a minimum contiguous size, as specified by ordinance, to be planned, developed, operated, and maintained according to plan as a single entity and containing 1 or more structures with appurtenant common areas.

PLAT.

(1) A map representing a tract of land showing the boundaries and location of individual properties and streets.

(2) A map of a subdivision or site plan.

PLAT, FINAL. A map of all or a portion of a subdivision or site plan that is presented to the approving authority for final approval.

PLAT, PRELIMINARY. A map indicating the proposed layout of the subdivision or site plan that is submitted to the approving authority for preliminary approval.

PLAT SKETCH. A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

PORCH. A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building.

PRELIMINARY APPROVAL. The conferral of certain rights, prior to final approval, after specific elements of a development have been approved by the approving authority and agreed to by the applicant.

PRINCIPAL BUILDING. The primary building in which the main principal permitted use of the lot is conducted or accomplished.

PRINCIPAL USE. The primary or predominant use of any lot or parcel.

PROHIBITED USE. A use that is not permitted in a zoning district.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

PUBLIC NOTICE. The advertisement of a public hearing in a paper of general circulation, and through other media sources, indicating the time, place, and nature of the public hearing and where the application and pertinent documents may be inspected.

PUBLIC UTILITY. A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

QUORUM. A majority of the full authorized membership of a board or agency.

RECREATIONAL FACILITY. A place designed and equipped for the conduct of sports and leisure-time activities.

RECREATIONAL VEHICLE. A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

RECREATIONAL VEHICLE PARK. Any lot or part thereof, or any parcel of land which is used or offered as a location for 2 or more recreational vehicles for any purpose set forth in the definition of recreational vehicle.

RECREATIONAL VEHICLE SPACE OR LOT. A parcel of ground within a recreation vehicle park designed for the accommodation of 1 recreation vehicle.

REPAIR. The reconstruction or renewal of a part of an existing building for the purpose of its maintenance. The word **REPAIR** shall not apply to any structural or spatial modifications.

RESIDENTIAL HEALTH CARE FACILITY. Residences usually occupied by the frail elderly that provide rooms, meals, personal care, and health monitoring services under the supervision of a professional nurse and that may provide other services, such as residential, social, and cultural activities, financial services, and transportation.

RESTAURANT An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

RETAIL SALES. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of the goods.

RETAIL SERVICES. Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal service, motion pictures, amusement and recreation services, health, educational and social services, museums, and galleries.

REZONE. To change the zoning classification of particular lots or parcels of land.

RIGHT-OF-WAY.

(1) A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

(2) Generally, the right of one to pass over the property of another.

ROOF The outside top covering of a building.

ROOF, FLAT. A roof that is not pitched and the surface of which is generally parallel to the ground.

ROOF, GABLE. A ridged roof forming a gable at both ends of the building.

ROOF, GAMBREL. A gabled roof with 2 slopes on each side, the lower steeper than the upper.

ROOF, HIP. A roof with sloping ends and sides.

ROOF MANSARD. A roof with 2 slopes on each of 4 sides, the lower steeper than the upper.

ROOF SHED. A roof with 1 slope.

SALVAGE YARD. Any area, lot, parcel, building or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of scrap, waste, reclaimable material, or debris.

SCREENING. See **BUFFERYARD.**

SETBACK. The distance between the building and any lot line.

SETBACK LINE. The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be erected or placed.

SIGN. A publicly displayed message using words, letters, symbols, or pictures, bearing information warning, advertising, or other. However, the following shall not be included in the application of the regulations herein:

(1) Signs not exceeding 1 square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;

(2) Flags and insignia of any government except when displayed in connection with commercial promotion;

(3) Legal notices: identification, information, or directional signs erected or required by governmental bodies;

(4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or moving lights; and

(5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

SIGN, FREE STANDING. A self-supporting sign resting on or supported by means of poles, standards, or any other type of base anchored to the ground.

SIGN, GRAPHICS. A sign, which is an integral part of the building facade. The sign is painted directly on, carved in, or otherwise permanently imbedded in the facade. Signs in shop windows are included unless they qualify as auxiliary signs.

SIGN, MARQUEE. A structure attached to and projecting from a wall of a building, located above an entrance, which is designed to identify a business or use located on the premises or to advertise present or scheduled events on the premises.

SIGN, NUMBER AND SURFACE AREA. For the purpose of determining number of signs, a sign shall be considered to be a simple display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is a reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign.

SIGN, OFFICIAL. A sign placed by an authorized government body including, but not limited to, street, traffic and highway signs, posted legal notices, or parking signs.

SIGN, OFF-SITE. A sign other than an on-site sign.

SIGN, ON-SITE. A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of outdoor advertising business.

SIGN, PORTABLE. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels, signs converted to A- or T-frames, menu and sandwich board signs, balloons used as signs, umbrellas used for advertising except that advertising umbrellas may be used in conjunction with the operation of a restaurant, and signs attached to or painted on vehicles parked and visible from the public right-of-way unless the vehicle is used for normal day-to-day operations of a business.

SIGN, ROOF. A sign mounted on the roof of a building or which depends upon a parapet wall for support.

SIGN, WALL. A sign mounted parallel to a building facade or other vertical building surface (which should not be mounted more than 18 inches from the wall surface they are attached to).

SIMILAR USE. A use that has the same characteristics and the specifically cited uses in terms of the following: trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs, and clientele.

SITE PLAN. The development plan for 1 or more lots on which is showing the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that may be required in order that an informed decision can be made by the approving authority.

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

STREET. A public or private right-of-way approved or accepted by public authority or user, which provides a primary means of public access to abutting property. The term **STREET** shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any similar term.

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

SUBDIVIDER. Any person having an interest in land that is the subject of an application for subdivision.

SUBDIVISION. The division of a lot, tract, or parcel of land into 2 or more lots, tracts, parcels, or other divisions of land for sale, development, or lease.

SWIMMING POOL. Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs, portable and non-portable spas, and fixed-inplace pools.

USE. The purpose for which land or a building or structure is arranged, designed, or intended, or for which either land or a building or structure is, or may be, occupied or maintained.

USE, CONDITIONAL. A use, which is permitted in a district only if a permit is expressly authorized by the governing body in accordance with ' 150.110.

UTILITY EASEMENT. The right-of-way acquired by a utility or governmental agency to locate utilities, including all types of pipelines, telephone and electric cables, and towers.

VARIANCE. Permission to depart from the literal requirements of this Zoning Ordinance.

WAREHOUSE. A building used primarily for the storage of goods and materials.

YARD. An open space that lies between the principal building(s) and the nearest lot line. The minimum required yard as set forth in this chapter is unoccupied and unobstructed from the ground upward except as may be specifically provided in this Zoning Ordinance.

YARD AREA. The total square footage of the property.

YARD DEPTH. The shortest distance between a lot line and a yard line.

YARD, FRONT. A space extending the full width of a lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yard shall be provided on all frontages. Where 1 of the yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the governing body may waive the requirement for the normal front yard and substitute a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

YARD, REAR. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

YARD, REQUIRED. The open space between a lot line and the yard line within which no structure shall be located except as provided in this Zoning Ordinance.

YARD, SIDE. A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after front yards have been established shall be considered side yards.

ZERO LOT LINE. The location of a building on a lot in such a manner that 1 or more of the building=s sides rests directly on a lot line.

ZONE. A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

ZONING. The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

ZONING ADMINISTRATOR. The designated zoning administrator of the City of Mantorville, Minnesota, or his/her authorized representative.

ZONING CERTIFICATE. A document signed by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this Zoning Ordinance and for the purpose of carrying out and enforcing its provisions.

ZONING DISTRICT. A part, zone, or geographic area within the municipality within which certain zoning or development regulations apply.

ZONING MAP. The map or maps that are a part of this Zoning Ordinance and delineates the boundaries of zoning districts.
(Ord. 153, ' 2.2, passed 3-24-2003)

' 150.008 EFFECTIVE DATE.

This Zoning Ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.
(Ord. 153, ' 6.1, passed 3-24-2003)

GENERAL REGULATIONS**' 150.020 COMPLIANCE REQUIRED.**

No land, building, or structure or part thereof shall hereafter be erected, altered, constructed, reconstructed, maintained, used, moved, or occupied except in conformity with the provisions of this Zoning Ordinance.

(Ord. 153, ' 1.4, passed 3-24-2003) Penalty, see ' 10.99

' 150.021 NONCONFORMING USES AND STRUCTURES.

(A) *Generally.* Where the districts established by the Zoning Ordinance contain structures and uses of land and structures which were lawful before the Zoning Ordinance was passed or amended, but which would be prohibited, it is the intent of the Zoning Ordinance to permit these nonconformities to continue until they are removed as provided below, but not to encourage their survival.

(B) *Nonconforming uses of land.*

(1) No nonconforming uses of land shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of the Zoning Ordinance. No nonconforming use of land shall continue if it ceases for any reason (except where governmental action impedes access to the premises) for a period of more than 12 consecutive months or for 18 months during any 3-year period. No nonconforming use of land shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the effective. date of the provisions of the Zoning Ordinance.

(2) No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations herein prescribed, nor shall the area of any lot be reduced below the minimum requirements herein established.

(C) *Nonconforming uses of structure.* No nonconforming use of any structure may extend to any part of the structure, which was not manifestly arranged or designed for the use at the time of adoption of the Zoning Ordinance; and no use shall be extended to occupy any land outside the structure. Moreover, the structure shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except for a permitted use.

(1) *Forfeiture by non-use.* No nonconforming use of structure shall continue if it is discontinued for 12 consecutive months or for 18 months during any 3-year period.

(2) *Change in use.* If no structural alterations are made, any nonconforming use of structure, or structure and premises in combination, may be changed to another nonconforming use of the same nature, or to a more restricted use, or to a conforming use; provided, however, that change to a more restricted use or to another nonconforming use that may be made only if the relation of structure to surrounding property is such that adverse effects on occupants and neighboring property will not be greater than if the original nonconforming use continued and a conditional use permit is secured.

(3) *Repairs and maintenance.* On any buildings devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of the effective date of the Zoning Ordinance shall not be increased.

(D) *Nonconforming structure.* A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) *Enlargement or alteration.* No nonconforming structure may be enlarged or altered in any way, which increases its nonconformity.

(2) *Damage or destruction.* If a nonconforming structure is destroyed by any means to an extent of more than 50% of its current replacement cost (including materials and labor) at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Zoning Ordinance. If destroyed to less than 50% of its replacement costs the restoration shall begin within 12 months or the structure shall be made conforming.

(E) *Nonconforming lots of record.* A lot of record existing upon the effective date of this chapter in a Residential District, which does not meet the requirements of this chapter as to area or width may be utilized for single-family detached dwelling purposes or 2-family, duplex dwelling purposes, provided the measurements of the area or width are within 75% of the requirements of this chapter.

(F) *Permanent dwellings.* No cellar, garage, tent, trailer, recreational vehicles, or accessory building shall be used as a permanent dwelling. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes provided it is in compliance with the Minnesota State Building Code.

(G) *Temporary dwellings.* It shall not be lawful for any person to erect or occupy a temporary dwelling on any lot or parcel of land in the City of Mantorville, except that travel trailers and motor home coaches can be used for the purpose for a period not exceeding 2 consecutive weeks. Residing in basement or foundations structures before completion of the total structure shall not be permitted.

(H) *Lot area; reducing.* No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations herein prescribed, nor shall the area of any lot be reduced below the minimum herein established.

(I) Pursuant to authority granted by M.S. ' 462.3593, Subd. 9, the city opts-out of the requirements of M.S. ' 462.3593, which defines and regulates temporary family health care dwellings.
(Ord. 153, ' 1.5, passed 3-24-2003; Am. Ord. 04-2016, passed 8-22-2016) Penalty, see ' 10.99

' 150.022 ERECTION OF MORE THAN 1 PRINCIPAL BUILDING.

The erection of more than 1 principal building on a lot shall not be permitted except as provided for in this chapter.

(Ord. 153, ' 1.6, passed 3-24-2003) Penalty, see ' 10.99

' 150.023 YARD ENCROACHMENTS.

The following shall not be considered as encroachments into required yard setback areas:

(A) Chimneys, flues, belt courses, headers, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, steps, stoops, bay windows and the like, provided they do not project from the structure more than 4 feet;

(B) On grade terraces, decks, patios, and similar appurtenances;

(C) Front yard exception - where a structure will be developed adjacent to properties with existing structures, the front yard setback shall be the average setback of existing structures on that block; and

(D) Fences as specified in this chapter.

(Ord. 153, ' 1.7, passed 3-24-2003)

' 150.024 MANUFACTURED/MOBILE HOMES.

Manufactured homes shall be permitted in all residential districts, provided they meet the following standards:

(A) Exceed 20 feet in width at the narrowest side; and

(B) The dwelling is placed on a permanent frost-free foundation constructed in compliance with the Minnesota State Building Code.

(Ord. 153, ' 1.8, passed 3-24-2003) Penalty, see ' 10.99

' 150.025 ACCESSORY BUILDINGS OR STRUCTURES.

(A) *Permit requirements.* No accessory building shall be placed, erected or constructed on a lot where a permitted principal structure has not been constructed. This section shall not be construed to

govern the sequencing of a construction project in which both the principal and accessory structures are to be built simultaneously. No accessory building shall be constructed or erected which does not comply with the Minnesota State Building Code.

(B) *Size and flooring.* Accessory buildings 200 square feet or more shall require placement on a non-porous flooring such as concrete or bituminous. Accessory buildings not requiring non-porous flooring shall be secured by being tied or anchored to the ground. Accessory buildings 200 square feet or less shall not require a building permit but must still abide by all pertinent sections of the Minnesota State Building Code.

(C) *Attached accessory structure.* An accessory building, including but not limited to car ports and breezeways attached to the principal structure on a lot, shall be made structurally a part thereof, shall be considered a part thereof and shall comply in all respects with the requirements of this chapter applicable to the principal building.

(D) *Detached.* Detached accessory buildings shall not exceed 1,400 square feet in total area. The maximum total square footage of all detached accessory structures on any single lot shall not exceed 1,400 square feet. In all districts, all detached accessory buildings shall be located in the side or rear yards. Accessory buildings shall maintain a side yard setback as required by the district regulations. No accessory building shall be placed closer than 6 feet from the rear lot line or 6 feet from the principal structure.

(E) *Residential.* Detached accessory buildings in the residential districts shall not exceed 16 feet in height or exceed the height of the principal structure on the same lot, whichever is greater. The height is measured from the peak of the building to the ground directly below the peak.

(F) *Maximum.* Each lot shall have no more than 2 accessory buildings.

(G) *Maximum lot coverage.* The percentage of the lot area covered by a main building and accessory buildings shall not exceed the percentage as defined in the requirements of the current zoning district the property is located in.

(H) *Exterior appearance.* The exterior of the accessory structure shall have the same architectural style, siding and roofing compatible with the principal building. ACompatible@ means that the exterior appearance of the accessory building is similar in design, exterior finish material and color palette as the primary structure.

(Ord. 153, ' 1.9, passed 3-24-2003; Am. Ord. 01-2016, passed 9-26-2016) Penalty, see ' 10.99

' 150.026 RELOCATING STRUCTURES.

(A) No structure, except for accessory buildings less than 250 square feet and temporary construction sheds or temporary construction sheds or construction offices located on the lot for 6 months or less during a construction project, shall be raised or moved prior to obtaining a conditional use permit. An application for the permit shall indicate the origin and destination of the building, the

route over which it is to be moved and shall state the time in which the moving of the building is to occur. The permit shall also indicate the location of the structure on the lot along with setback distances. No permit to move a building shall be issued unless and until the following conditions are fully complied with and approved by the City Council.

(B) The building to be moved must comply in all respects with the Minnesota State Building Code and other pertinent state rules and city code provisions.

(C) The lot on which the building is to be located must meet all of the minimum dimensional requirements of the zoning district in which it is located.

(D) The building must be placed on the lot so as to meet all the front, side, and rear yard requirements as set forth in this chapter.

(E) In every case in which a permit shall be issued as herein provided, for the removal required or the displacement of any overhead electrical or other wires, it shall be the duty of the person, association, or corporation owning, operating, or controlling the wires to remove or displace the same, so far as the same may be necessary to effect the removal thereof, shall be authorized by the permit. The person to whom the permit shall have been issued shall notify the person, association, or corporation, owning, operating, or controlling the wires to remove or displace the same to facilitate the removal of the wires sufficiently to allow the passage of the building along the street over which the wires are suspended. Any expenses incurred or to be incurred in the moving, removing, or displacing of the wires shall be paid for by the person who makes the application for the permit.

(F) The City Clerk-Treasurer shall submit the application to the City Council to determine if the application meets the necessary conditions. After a public hearing, the Council shall take action to approve or disapprove the permit within 30 days after the hearing. No structure shall be moved by anyone other than a licensed and bonded mover.

(Ord. 153, ' 1.10, passed 3-24-2003) Penalty, see ' 10.99

' 150.027 BUFFERYARDS AND SCREENING.

Bufferyards when required shall include plantings of coniferous trees and other evergreens not less than 3 feet in height and spaced not less than 8 feet apart, the remaining shall be planted in grass and maintained and kept free of debris. Alternative bufferyard plantings may be submitted to the city for consideration, and upon approval shall be considered an acceptable alternative. Berming or additional plantings may be required in addition when deemed necessary by the city. Fencing may be required in addition to or in lieu of plantings.

(Ord. 153, ' 1.11, passed 3-24-2003) Penalty, see ' 10.99

' 150.028 FENCES AND LANDSCAPING.

(A) Fences, hedges, walls, and other landscaping shall be located entirely upon the property, which they serve.

(B) Barbed wire or above ground electric fences shall not be permitted, used, or constructed except in districts where livestock is permitted.

(C) As a good neighbor policy, fences should be placed with the good side facing adjacent properties.

(D) No fence, wall, or hedge shall exceed 6 feet in height, as measured from the finished grade, unless required by the city for screening, buffering or safety.

(E) No obstructing portion of a fence, wall, or hedge projecting into the front yard of a property shall exceed 30 inches in height. No portion of a fence, wall, or hedge projecting into the front yard of a property, which is above 30 inches in height as measured from the finished grade, shall be constructed with an opening to material ratio of less than 10 to 1. (Example: 10 inches of opening is required between each 1 inch of material).

(F) The fence and the area between a fence and property line shall be maintained in an attractive condition at all times.

(Ord. 153, ' 1.12, passed 3-24-2003) Penalty, see ' 10.99

' 150.029 OUTSIDE STORAGE.

In all residential districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following in good order: laundry drying, clothes lines, recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of licensed operating passenger vehicles, fire wood kept neat and orderly for use in the principal residence for heating shall be permissible.

(Ord. 153, ' 1.13, passed 3-24-2003) Penalty, see ' 10.99

' 150.030 VISUAL OBSTRUCTION TO VEHICULAR TRAFFIC.

(A) *Intersections with traffic controls.* On any corner lot as a street intersection which has some form of traffic control (stop or yield signs), there shall be no obstruction to traffic visibility within the clear sight triangle which is formed by the intersection of the center line of 2 intersecting streets and a straight line joining the 2 center lines at points 80 feet distant from their point of intersection.

(B) *Intersections without traffic controls.* On any corner lot, in all districts, at a street intersection which does not have any form of traffic control, there shall be no obstruction to the traffic visibility within the clear sight triangle which is formed by the intersection of the center line of 2 intersecting streets and a straight line joining the 2 center lines at points 88 feet distant from their point of intersection. All objects within this area not exceeding 30 inches in height as measured from the centerline elevation of the street shall not be considered as an obstruction to vision.

(Ord. 153, ' 1.14, passed 3-24-2003) Penalty, see ' 10.99

' 150.031 VACATED STREETS.

Whenever any street, alley, easement, or public way is vacated by official action, the zoning district abutting the centerline of the vacated area shall not be affected by the procedure.

(Ord. 153, ' 1.15, passed 3-24-2003)

' 150.032 ACCESS DRIVES AND ACCESS.

(A) The number and types of access drives onto major streets may be controlled and limited by the Council in the interests of public safety and efficient traffic flow.

(B) Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size, and design of the access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

(C) Access drives to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Council shall review all access drives (driveways) for compliance with accepted community access drive standards. All driveways shall have a minimum of 10 feet with a road strength capable of supporting emergency and fire vehicles.

(D) All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the Council.

(Ord. 153, ' 1.16, passed 3-24-2003) Penalty, see ' 10.99

' 150.033 ESSENTIAL SERVICES.

Essential services shall be permitted in all zoning districts within the city.

(Ord. 153, ' 1.17, passed 3-24-2003)

' 150.034 OUTDOOR FURNACE SYSTEMS.

(A) *Generally.* The following standards shall be complied with.

(B) *Standards.*

(1) *Permit required.* No outdoor furnace system shall be constructed prior to the issuance of a building permit and zoning certificate.

(2) *Accessory structure.* Outdoor furnace systems shall be considered an accessory structure and shall meet the setbacks for accessory structures in the zoning district in which it is located.

(3) *Approved system.* The system shall be approved by the building official and shall meet all applicable U.B.C. Fire, Plumbing, and Building Codes.

(4) *Other regulations.* The outdoor furnace system shall be in compliance with local, state, and federal laws.

(5) *Outdoor storage.* Outdoor storage of wood for fuel shall be kept neat and orderly within a confined area and shall be maintained so as to avoid rodents from creating nests.

(6) *Burning materials.* Burning materials used in the furnace shall be limited to untreated wood products or organic fuels. Garbage, tires, and other materials shall not be considered acceptable fuel for burning.

(7) *Locate on property.* The outdoor furnace system shall be located entirely on the property, which it is intended to serve.

(Ord. 153, ' 1.18, passed 3-24-2003) Penalty, see ' 10.99

' 150.035 WIND ENERGY CONVERSION SYSTEM (WECS).

(A) *Conditional use permit.* Each Wind Energy Conversion System shall require a conditional use permit.

(B) *Plans.* Each application for a conditional use permit shall be accompanied by a dimensional representation of the tower including the conversion system, base, and footings and an accurate plan containing the following information:

- (1) Property lines;
- (2) Proposed location of tower on site;
- (3) Location of all existing structures on site;

- (4) All above ground utility lines;
- (5) All underground utility lines within a radius equal to the proposed WECS height; and
- (6) Boundaries of all adjacent utility easements or reversed areas

(C) *WECS height.* The total height of the tower (including any portion of the rotor or axis extending above the tower) shall not exceed the horizontal distance between the base of the tower and the nearest lot line or building line except that the horizontal distance may extend beyond the nearest lot line or building line provided there are not overhead utility lines or easements therefor or if the abutting area is a public alleyway. Furthermore, the Council may allow the height requirement to be exceeded provided it is satisfied that the proposed structure will withstand the wind loads in the area. As evidence of this, the Council shall require the following information:

(1) Dimensional representation of the various structural components of the tower construction including the base and footings;

(2) Design data which shall indicate basis of design, including manufacturer=s dimensional drawings, installation, and operation instructions; and

(3) Certification by an independent Registered Professional Engineer or sufficient, that the proposed structure will withstand wind loads in the area.

(D) *Tower access.* Climbing access to the WECS tower shall be limited either by means of a fence 6 feet high around the tower base with a locking portal, or by limiting tower climbing apparatus to no lower than 12 feet from the ground.

(E) *Wind access.* Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than 1 single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted for approval.

(F) *Noise.* A WECS operation shall not produce noise in excess of the limits established by state standards.

(G) *Limited use.* WECS installed in accordance with the requirements of this chapter shall not generate power as a commercial enterprise as defined by the public utilities.

(H) *Electromagnetic interference.* A WECS shall not be installed in any location along the major axis of an existing microwave communications link where the level of electromagnetic interference with the possible effect on the microwave communications link of which is at a level satisfactory to the City Council.

(I) *Airspace.* A WECS shall be located or installed in compliance with the regulations of the airport approach zones and federal aviation regulations for clearance around VOR and DVOR stations.

(J) *Interconnect.* A WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company. In any case, the interconnect shall include a manual disconnect which complies with the National Electric Code.

(K) *Codes.* Construction and installation of a WECS shall comply with all city code provisions, and State and National Electric Codes in effect at the time of installation.

(L) *Liability.* No building permit shall be issued for the construction of a WECS until and unless the applicant for the building permit deposits with the City Clerk-Treasurer a policy of liability insurance indemnifying applicant from the liability for personal injury or property damage in the sum of at least \$500,000. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least 30-days= written notice to the city before cancellation thereof, the building permit to be automatically revoked upon the lapse or termination of the policy.

(Ord. 153, ' 1.19, passed 3-24-2003) Penalty, see ' 10.99

' 150.036 SEWAGE DISPOSAL.

It shall be unlawful for any owner of any premises which has access to the sanitary sewer system to permit the existence of outdoor toilets, or to construct, improve, or repair any individual on-site sewer treatment facility. All developed properties having access to the sanitary sewer system shall be connected to the sanitary sewer system. This provision shall not apply to temporary construction sites or portable units used in farming operations.

(Ord. 153, ' 1.20, passed 3-24-2003) Penalty, see ' 10.99

' 150.037 FLOOD PLAIN CLASSIFICATION.

The flood plain classification applies to all zoning districts. The limits of the flood plain shall be established by the State of Minnesota,, Department of Natural Resources. Flood Plain Ordinance for the City of Mantorville shall be referred to for any activities in the flood plain.

(Ord. 153, ' 1.21, passed 3-24-2003) Penalty, see ' 10.99

' 150.038 FROST DEPTH FOOTINGS.

In all zoning districts and in planned unit developments, all structures to be used for human occupation shall be built with continuous frost depth footings built in compliance with the standards set forth in the Minnesota State Building Code, except as permitted in an approved mobile home park.

(Ord. 153, ' 1.22, passed 3-24-2003) Penalty, see ' 10.99

' 150.039 SOIL EROSION AND SEDIMENTATION CONTROL.

(A) *Generally.* Where the provisions of state law or other city regulation or ordinance set higher standards than those of this chapter, the provisions of the laws, regulations, or ordinances shall apply.

(B) *Specifically.*

(1) *General standards.* The following management practices shall be applied to all development and earth moving activities.

(a) All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.

(b) Best management practices for erosion control and sediment control shall be applied to each development/construction site.

(c) Slopes over 18% in grade shall not be developed.

(d) Development on slopes with a grade between 12% and 18% shall be carefully reviewed to insure that adequate measures have been taken to prevent erosion, sedimentation, and structural damage.

(e) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(f) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of lands shall be exposed at any 1 period of time and no exposure shall exceed 60 days unless extended by the Council.

(g) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the platted area. The topsoil shall be restored to a depth of 4 inches and shall be of a quality at least equal to the soil quality prior to development.

(h) The natural drainage system shall be used, as far as feasible for storage and flow of runoff except that no storm water drainage shall be discharged to marshlands, swamps, or wetlands. Storm water drainage shall be discharged to retention basins or other treatment facilities. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage, and construction cost.

(i) Public and private properties adjacent to the development site shall be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the city within 5 days of receiving notification of such. If the violation is not remedied within the time period specified, the city may correct the problem and assess the costs incurred to the property owner.

(2) *Exposed slopes.* The following control measures shall be taken to control erosion during construction.

(a) No exposed slopes should be steeper in grade than 4 feet horizontal to 1 foot vertical.

(b) At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin, or silt trap) before being allowed to enter the natural drainage system.

(c) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind the berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. The measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipater should be installed to prevent erosion at the discharge end.

(d) Exposed slopes shall be protected by means, which will effectively prevent erosion considering the degree of the slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedlings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark, or other protective material. Mulch should be anchored to slopes with liquid asphalt or stakes and netting, or should be worked into soil to achieve additional slope stability.

(e) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.
(Ord. 153, ' 1.23, passed 3-24-2003) Penalty, see ' 10.99

' 150.040 PRESERVATION OF NATURAL DRAINAGEWAYS.

(A) *Waterways.*

(1) Every effort shall be made to retain the natural drainage systems in the city including existing wetlands and ponds. The natural drainage system shall be maintained by the city. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.

(2) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a 10-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.

(3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.

(4) The banks of the waterway shall be protected with permanent vegetation.

(5) The banks of the waterway should not exceed 4 feet horizontal to 1 foot vertical in gradient.

(6) The gradient of the waterway bed should not exceed a grad that will result in a velocity that will cause erosion of the banks of the waterway.

(7) The bend of the waterway should be protected with turf, sod, or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, fieldstone (if random rip rap is used) or construction materials of concrete. The rip rap shall be no smaller than 2 inches square nor no larger than 2 feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.

(8) If the flow velocity in the waterway is such that erosion of the turf side wall will occur and the velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.

(B) *Sediment control of waterways.*

(1) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.

(2) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. The structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 25-year storm.

(3) Permanent impervious sediment control structures consist of sediment basins (debris basins, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

(Ord. 153, ' 1.24, passed 3-24-2003) Penalty, see ' 10.99

' 150.041 APARTMENTS, TOWNHOUSES, AND OTHER MULTI-FAMILY STRUCTURES.

(A) *Generally.* All multi-family structures with 3 or more units shall be subject to the following standards.

(B) *Standards.*

(1) *Requests for zoning certificate or conditional use permits.* All requests for zoning certificate or conditional use permits shall be accompanied by a series of site plans and data showing:

(a) Building locations, dimensions and elevations, all signs, structures, entry areas, storage sites and other structural improvements to the site;

(b) Circulation plans for both pedestrian and vehicular traffic;

(c) Fences and screening devices;

(d) Solid waste disposal provisions and facilities;

(e) Storm drainage plans;

(f) Firefighting and other public safety facilities and provisions such as hydrant locations and fire lanes;

(g) Data pertaining to numbers of dwelling units, size, lot area, ratio, and the like;

(h) Exterior wall materials and design information;

(i) A minimum of a 2-foot contour topographical map of the existing site;

(j) A grading plan illustrating the proposed grade changes from the original topographical map. All site areas, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, storm water and groundwater in such a manner as to preclude large scale erosion, unwanted ponding, and surface chemical runoff;

(k) A recreation plan illustrating in detail all recreational facilities and structures;

(l) A landscape plan. The site, when fully developed, shall be landscaped according to a plan approved by the city. The landscaping plan shall specify the size, type, and location of all trees and shrubbery and the location of all seeded and sodded areas; and

(m) A solid erosion control plan for the construction period. Areas within the construction zone shall be fenced with construction limit fencing as per the plan to prohibit heavy machinery and/or materials from being placed on areas not to be disturbed during construction. This shall, at a minimum, include all slopes in excess of 18%.

(2) *Parking requirements.*

- (a) Two off-street parking spaces per dwelling unit shall be provided on the site.
- (b) Parking spaces shall not be located within 10 feet of the side or rear lot line.
- (c) Bituminous or concrete driveways and parking areas with concrete curbing shall be required.

(3) *Screening.*

- (a) Screening shall be required where any off-street parking area contains more than 6 parking spaces.
- (b) All exterior storage shall be screened. The exterior storage screening required shall consist of a solid fence or wall not less than 5 feet in height, but shall not extend within 15 feet of any street, driveway, or lot line.
- (c) Sidewalks shall be provided from the parking areas, loading zones, and recreation areas to the entrance of the building.
- (d) Outdoor swimming pools or other intensive recreation shall observe setbacks required for the principal structure.

(4) *General building or structural requirements.*

- (a) Requirements for exterior wall surfacing and covering shall be as follows.
 - 1. All multiple-family dwelling buildings shall be designed and constructed to have the equivalence of a front appearance on each exterior surface.
 - 2. All accessory or ancillary buildings, including garages, shall be designed and constructed with the same facing materials as the principal building. The materials shall be used in the same or better proportions as used on the principal building.
- (b) Each multiple-family dwelling development containing more than 4 dwelling units shall include a play area.

(c) Any blighting or deteriorating aspects of the multiple-family dwelling development shall be placed and absorbed by the site itself, rather than by neighboring residential uses. This provision particularly applies to the location of parking areas.

(d) Except with townhouses and multiple-family dwellings of 4 or less units, no exterior trash or garbage disposal or storage shall be permitted. In the case of row housing and multiple-family dwellings of 4 units or more, all storage shall be completely enclosed by walls.
(Ord. 153, ' 1.25, passed 3-24-2003)

' 150.042 FUEL AND AUTO SERVICE STATION STANDARDS.

(A) *Setbacks.* When adjacent to residential districts, the service station, outdoor displays, tanks, pumps, and other structures shall be a minimum of 25 feet from adjoining property.

(B) *Curb and gutter.* Concrete curb and gutter shall be installed on all streets giving access to the station.

(C) *Fencing and screening.* When adjacent to residential property, there shall be a screening fence on the property line abutting residential property. When adjacent to commercial or industrial property, there shall be a bumper-type fence approximately 18 inches high between the station and the adjacent commercial or industrial property.

(D) *Vehicles.* No vehicles shall be parked on the premises other than those utilized by employees or those awaiting service. No vehicle shall be parked or be waiting service longer than 15 days.

(E) *Exterior storage and outdoor display.* Exterior storage besides vehicles shall be limited to service equipment and items offered for sale. Exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise.

(F) *Screening.* All areas utilized for the storage or disposal of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean, and safe manner.

(G) *Lighting.* Lights shall be designed and placed in such a manner as to direct the light away from residential areas.

(Ord. 153, ' 1.26, passed 3-24-2003) Penalty, see ' 10.99

' 150.043 DRIVE-IN BUSINESS STANDARDS.

(A) *Generally.* The following standards shall apply to drive-in business in all districts.

(B) *Standards.*

(1) *Design standards.*

(a) The entire area of any drive-in business shall have a drainage plan approved by the City Engineer.

(b) All areas not occupied by the structure or plantings shall be surfaced with a hard material, which will control dust and drainage.

(c) A fence or screen, of acceptable design to provide a buffer, not over 6 feet in height or less than 4 feet shall be constructed along the property line abutting a residential district and the fence or screen shall be adequately maintained.

(2) *General standards.*

(a) Electronic devices such as loudspeakers, automobile service devices, drive-in theater car speakers and similar instruments shall not be located within 300 feet of any residential district.

(b) No drive-in business shall be located within 200 feet of a public or parochial school or church.

(c) Landscaping shall be required.

(d) Exterior storage of trash and garbage disposal shall be screened by a wall not more than 6 feet in height and not less than 4 feet in height.

(3) *Site plan.*

(a) The site plan shall clearly indicate suitable storage containers for all waste material. Location and screening for exterior storage of trash and garbage disposal shall be identified.

(b) A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.

(c) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.

(d) The design of any structure shall be compatible with other structures in the surrounding area.

(Ord. 153, ' 1.27, passed 3-24-2003) Penalty, see ' 10.99

' 150.044 BED AND BREAKFASTS, GUEST HOUSE OR TOURISM HOME.

(A) *Generally.* A bed and breakfast, guest house or tourism home establishment is allowed in residential zones by conditional use permit when the conditions listed in division (B) below are met.

(B) *Conditions.*

(1) The owner or operator shall reside on the property;

(2) The establishment shall conform with State Health and Building Code requirements;

(3) A minimum of 1 off-street parking space for each guest room and 2 additional off-street spaces for the owner or operator shall be provided;

(4) On-premises advertising for any bed and breakfast establishment located in any residential zone shall be limited to either 1 wall sign or 1 free standing sign not more than 2 square feet in area per sign face. No sign shall be internally illuminated;

(5) No cooking or cooking facilities shall be allowed or provided in the guest rooms; and

(6) The number of rentable rooms shall not exceed 5.

(Ord. 153, ' 1.28, passed 3-24-2003; Am. Ord. 02-2016, passed 9-12-2016) Penalty, see ' 10.99

' 150.045 ANIMAL HOSPITALS.

Animal hospitals shall be located no closer than 100 feet to any residential district, restaurant, hotel, or motel in any district, and shall show that adequate measures and controls will be taken to prevent offensive noise and odor. No incineration of refuse shall be permitted on the premises.

(Ord. 153, ' 1.29, passed 3-24-2003) Penalty, see ' 10.99

' 150.046 COUNTRY CLUB OR GOLF COURSE.

(A) No building shall be located within 100 feet of any property line.

(B) Facilities such as restaurants and bars may be permitted when conducted and entered from within the building.

(C) Swimming pools, tennis courts, and the like shall be located not less than 25 feet from any property line and adjoining property in any residential or commercial district shall be effectively protected by a wall, hedge, and/or screen planting.

(Ord. 153, ' 1.30, passed 3-24-2003) Penalty, see ' 10.99

' 150.047 GOLF DRIVING RANGE AND AMUSEMENT PARKS.

(A) These uses and structures shall be located on major or secondary thoroughfares or nonresidential streets.

(B) Lights used to illuminate the premises shall be so directed and shielded as not to be an annoyance to traffic or developed residential property.

(C) Golf driving platforms shall be not less than 200 feet from any adjacent residential district or existing dwelling.

(Ord. 153, ' 1.31, passed 3-24-2003) Penalty, see ' 10.99

' 150.048 NURSING HOMES.

Approval must be obtained from the proper agencies concerning health and safety conditions and the home must be licensed by the agencies.

(Ord. 153, ' 1.32, passed 3-24-2003)

' 150.049 HOSPITAL, CHURCH, OR OTHER RELIGIOUS OR ELEEMOSYNARY INSTITUTIONS.

These buildings shall be located on a major street on a minimum parcel of 1/2 acre and shall maintain a 10-foot wide minimum landscaped strip on all property lines abutting any residential district or residential streets.

(Ord. 153, ' 1.33, passed 3-24-2003) Penalty, see ' 10.99

' 150.050 FERTILIZER PLANTS AND YARDS.

(A) The uses shall be located no closer than 200 feet to any residential districts.

(B) Adequate parking and loading areas shall be provided.

(C) Adequate ingress and egress shall be provided and shall be designed to minimize traffic hazard and congestion.

(D) Proponents shall show that odor, noise, and drainage shall not constitute a nuisance to surrounding areas.

(Ord. 153, ' 1.34, passed 3-24-2003) Penalty, see ' 10.99

' 150.051 CEMETERIES, CREMATORIES, MAUSOLEUMS, AND COLUMBARIA.

(A) An adequate number of off street parking spaces shall be provided.

(B) Landscaping and screening shall be required and shall include a permanently maintained planting strip on all property lines abutting any residential district or residential street.

(C) No burial sites or structures shall be located closer than 50 feet from any property line.

(Ord. 153, ' 1.35, passed 3-24-2003) Penalty, see ' 10.99

' 150.052 EXTRACTION OF MATERIALS AND MINERALS, OPEN PITS, AND IMPOUNDING OF WATER.

(A) *Generally.* All excavations, extraction of materials and minerals, open pits and impounding of waters hereafter established or enlarged shall conform with the provisions of this chapter and any other regulations of the City of Mantorville.

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

EXCAVATIONS. Any artificial excavation of the earth, dug, excavated or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth. Excavating ancillary to other construction or any installation erected or to be erected, built, or placed thereon contemporaneously with or immediately following the excavation and covering or to cover the excavation when completed are excepted, if a permit has been issued for the construction or installation. Excavation not exceeding 50 square feet of surface area or 2 feet in depth and excavation including impounding of water for agricultural purposes are exempted.

(C) *Permit required.* No person shall hereafter dig, excavate, enlarge, make, maintain, or allow to be maintained, upon property owned or used, any open pit or excavation or any impounded water, without first making an application for and obtaining from the City of Mantorville a conditional use permit therefore.

(D) *Exhibits required.*

(1) Completed application form;

(2) A full description and map of the location of the land where the pit or excavation is or is to be, where the impounded waters are or are to be maintained and also a full description of the location on the land of the pit, excavation, or impounded waters;

(3) When required by the state, an approval by the state to impound the waters or to make the excavation as described in the application;

(4) The purpose of the pit or excavation or the quantity of water impounded;

(5) The highways, roads, or other public ways in the city upon and along which any material for removal is to be hauled or carried;

(6) The estimated time when building or removing will begin and be completed;

(7) An operations and reclamation plan; and

(8) Other maps or items as may be required by the city.

(E) *Conditions of permit.* In addition to items listed in ' 150.110, the city may require the applicant to:

(1) Properly fence any pit or excavation;

(2) Slope the banks and otherwise properly guard and keep any pit or excavation in the condition as not to be dangerous from caving or sliding banks;

(3) Properly drain, fill, or level any pit or excavation, after created, so as to make the same safe and healthful;

(4) Keep any pit, excavation, or impounded waters within the limits for which the particular permit is granted;

(5) Remove excavated material from any pit or excavation, away from the premises, upon and along the highways, streets or other public ways as the city shall order and direct; and/or

(6) The city may require either the applicant or the owner or user of the property on which the open pit, excavation, or impounded waters is located to post a bond, in the form and sum as the city shall determine, with sufficient surety running to the city, conditioned to pay city extraordinary cost and expense or repairing, from time to time, any highways, streets, or other public ways where the repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any pit, excavation or impounded waters, the amount of the cost shall pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.
(Ord. 153, ' 1.36, passed 3-24-2003) Penalty, see ' 10.99

' 150.053 SWIMMING POOLS.

(A) *Permit required.* A building permit shall be required for any swimming pool, whether above or below grade, in which the depth of water exceeds 24 inches. Any application for a building permit to construct or erect a swimming pool shall be accompanied by plans of sufficient detail to show:

(1) The proposed location and its relationship to the other principal buildings on the lot and adjacent lots;

(2) The size of the pool;

(3) The location of natural features, utilities, and utility and drainage easements;

(4) The location, size, and a statement as to the types of equipment to be used in connection with the pool including but not limited to, filter unit, pump, wiring, heating unit, back-flush, and drainage outlet, fencing, and the pool itself; and

(5) Grading plans and finished elevations.

(B) *Location.* All pools shall meet the setback requirements for accessory structures and recreational appurtenances in the district in which they are located. Furthermore, pool locations must conform with requirements of National Electric Code and may not be within any private or public utility, walkway, drainage, or other easements.

(C) *Lot coverage.* Pools shall not occupy more than 5% of the lot area.

(D) *Design.* The pool shall be designed and constructed in such a manner so as not to endanger the health and safety of its users and to not unduly interfere with the use and enjoyment of adjacent property.

(E) *Drainage.* To the extent feasible, back flush water or water from pool drainage shall be directed onto the owners property or onto approved public drainage ways, and shall not drain onto adjacent private land. Drainage onto public streets or other public drainage ways shall require permission of the appropriate local city officials. Pools may not be drained into the city=s sanitary sewer system.

(F) *Other codes.* The construction, plumbing, and electrical work connected with any pool shall conform to all other applicable codes of the City of Mantorville.

(G) *Safeguards.* Fencing shall be provided in strict compliance with the Minnesota State Building Code.

(H) *Application.* This chapter shall apply to all privately owned swimming pools constructed in the City of Mantorville and to all private swimming pools constructed in the future as specified herein. However, owners of pools constructed shall have a reasonable time to comply herewith after notification of the provisions of this chapter.

(Ord. 153, ' 1.37, passed 3-24-2003) Penalty, see ' 10.99

' 150.054 ZONE CHANGES.

The provisions relative to nonconforming uses shall apply to structures, buildings, land, and uses which hereafter become nonconforming due to classification or reclassification of districts under this chapter.

(Ord. 153, ' 1.38, passed 3-24-2003)

ZONING DISTRICTS

' 150.065 ESTABLISHED.

(A) The following zoning districts are provided in order to promote and encourage the orderly and efficient development and use of land, buildings, and structures.

(B) The incorporated area of the City of Mantorville, Minnesota, is hereby divided into the following districts, which shall be known by the following respective symbols and names:

(1) R-1 District - Single-Family Residential District;

(2) R-2 District - Multi-Family Residential District;

(3) Transitional - Transitional District;

(4) Commercial - Commercial District; and

(5) Historic - Historic District.

(Ord. 153, ' 3.1, passed 3-24-2003)

' 150.066 OFFICIAL ZONING MAP.

The areas comprising these zoning districts and the boundaries of the districts are shown upon a map, which is a part of this chapter and which is on display in the City Clerk-Treasurer's Office, being designated as the Official Zoning Map of the City of Mantorville, with all proper notations, references, and other information shown thereon.

(Ord. 153, ' 3.2, passed 3-24-2003)

' 150.067 INTERPRETATION OF BOUNDARIES.

(A) Except where referenced on the Zoning Map to lot lines or other designated lines by dimensions shown on the map, the district boundary lines follow the centerline of streets, alleys, lakes, or rivers as they existed at the time of the adoption of this chapter.

(B) Questions concerning district boundary lines as shown on the Zoning Map shall be decided by the City Council.

(Ord. 153, ' 3.3, passed 3-24-2003)

' 150.068 CLASSIFICATION OF ANNEXED TERRITORY.

Areas hereafter annexed to the city are hereby declared to be in the R-1 Low Density Residential Zoning District.

(Ord. 153, ' 3.4, passed 3-24-2003)

' 150.069 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose and intent.* The purpose of the R-1 Single-Family Residential District is to provide for low to moderate density dwellings and directly related, complementary uses and to protect the integrity of the neighborhoods.

(B) *Permitted uses.* The following shall be permitted uses in the R-1 Low Density Residential District:

(1) Single-family detached dwellings including manufactured homes, provided manufactured homes permitted in this District shall be minimally 20 feet in width, shall have a roof line such as used on conventional on-site construction homes and buildings, meet all building code regulations, and be built or erected on a continuous frost-free foundation;

(2) Public recreation including parks and playgrounds and hiking and/or biking trails;

(3) Wildlife, forest, and wetland preserves or management areas, and game refuges;

- (4) Child care facilities serving 12 or fewer persons;
- (5) Residential programs (as defined by state statutes) with a licensed capacity of 6 or fewer persons;
- (6) Historic sites;
- (7) Essential services; and
- (8) Accessory buildings or structures customarily incidental to the permitted principal use when located on the same property.

(C) *Conditional uses.* The following shall be conditional uses in the R-1 Low Density Residential District:

- (1) Home occupations;
- (2) Schools, churches, and other similar educational and institutional uses;
- (3) Single-family attached dwellings (zero lot line) as specified in ' 150.007;
- (4) Two-family dwellings (duplex);
- (5) Planned unit developments;
- (6) Public and semi-public utilities and facilities such as substations, transformer stations and regulator stations without service or storage yards;
- (7) Community buildings;
- (8) Child care facilities serving 13 or more persons;
- (9) Gardens and nurseries;
- (10) Cemeteries, mausoleums, columbaria, including animal cemeteries;
- (11) Hospitals, mental institutions, sanitariums and funeral homes;
- (12) Intermediate, extended and long-term care facilities;
- (13) Bed and breakfast facilities with up to 4 guest rooms;
- (14) Home businesses; and

(15) Satellite dishes more than 36 inches in diameter.

(D) *Lot area, frontage, and setback regulations.*

(1) The following minimum requirements shall apply in the R-1 District:

	<i>Single-Family Detached</i>	<i>Single-Family Attached</i>	<i>Duplex</i>	<i>Other Uses</i>
Lot Width:				
at street line	45 feet	30 feet per unit	50 feet	100 feet
at building line	66 feet	40 feet per unit	80 feet	100 feet
Lot Area:	7,920 sq. feet	4,000 sq. feet/unit	8,000/unit	16,000 sq. feet
Setbacks:				
front	25 feet	25 feet	25 feet	25 feet
side	5 feet	5 feet	5 feet	5 feet
rear	25 feet	25 feet	25 feet	45 feet

(2) All buildings, accessory buildings, parking areas, or other structures shall comply with the minimum setback outlined herein, except that no accessory buildings shall be located nearer than 6 feet from any side or rear lot line. There shall be a minimum clearance of 6 feet between any accessory building and the principal structure. Detached garages constructed with a vehicular entry door located in the garage wall adjacent to an alley, shall be a distance of at least 15 feet from the alley line.

(E) *Lots fronting more than 1 street.* Lots fronting more than 1 street shall maintain a yard on those streets conforming to the requirements for front yard setbacks, side yard setbacks shall be maintained from the remaining lot lines except when a lot line is adjacent to an alley from which rear yard setbacks shall be maintained.

(F) *Maximum lot coverage.* The percentage of lot area covered by a main building and accessory buildings shall not exceed 25% in the R-1 District.

(G) *Height regulations.* No structure, hereafter erected or altered, shall exceed 35 feet or 22 stories in height, except as otherwise provided by this chapter.

(H) *Height limit exceptions.*

(1) Established building height limits shall not apply to barns, silos, belfries, cupolas, spires, monuments, radio or television antennae, flag poles, chimneys or flues, water towers, or to poles, towers and other structures for essential services, nor to similar structures or necessary mechanical appurtenances extending from a roof upward and not occupying more than 25% of the area of the roof as projected onto a horizontal plane.

(2) When permitted in this district, public buildings, community buildings, schools, churches, hospitals, and other institutions, public utility and public service buildings and those for essential services, may be erected to a height not exceeding 75 feet, provided the side yard width and the rear yard depth be each increased 1 foot over and above the district requirement for each 2 feet of building height above the height limit.

(Ord. 153, ' 3.5, passed 3-24-2003) Penalty, see ' 10.99

' 150.070 R-2 MULTI-FAMILY RESIDENTIAL DISTRICT.

(A) *Purpose and intent.* It is the purpose and intent of the R-2 Medium to High Density Residential District to establish areas within the city for primarily multiple family dwellings and uses to serve the neighborhoods.

(B) *Permitted uses.* The following shall be permitted uses in the R-2 Medium to High Density Residential District:

- (1) Single-family dwellings and manufactured homes as defined in ' 150.069;
- (2) Two-family dwellings (duplex);
- (3) Multi-family dwellings including townhouses, garden apartments, tri-plexes and quadru-plexes in groups of not more than 24 dwelling units in any 1 building;
- (4) Child care facilities serving 16 or fewer persons;
- (5) Residential programs (as defined by state statutes) with a licensed capacity of 6 or fewer persons;
- (6) Public recreation including parks, playgrounds and hiking and/or biking trails;
- (7) Wildlife, forest, and wetland preserves or management areas, and game refuge areas;
- (8) Historic sites;
- (9) Essential services;

(10) Satellite dishes not more than 36 inches in diameter; and

(11) Accessory buildings or structures customarily incidental to the permitted principal use when located on the same property.

(C) *Conditional uses.* The following shall be conditional uses in the R-2 Medium to High Density Residential District:

(1) Home occupations or home businesses;

(2) Schools, churches, and other similar educational and institutional uses;

(3) Hotels, motels, rooming and boarding houses;

(4) Bed and breakfast facilities with up to 6 guest rooms;

(5) Hospitals, mental institutions, sanitariums, funeral homes, mortuaries, cemeteries, mausoleums, columbaria, including animal cemeteries;

(6) Convalescent (rest) homes designed and licensed to provide care for the aged or infirm persons;

(7) Planned Unit Developments (P.U.D.);

(8) Single-family detached or attached dwellings (zero lot line);

(9) Mobile home parks, subject to standards in ' 150.089;

(10) Child care facilities serving 17 or more persons;

(11) Satellite dishes more than 36 inches in diameter; and

(12) Neighborhood oriented commercial uses such as retail grocery stores, beauty parlors, residential services, accessory uses, and retail sales directly associated with a historic site and located on the same property as the historic site.

(D) *Lot area, frontage, and setback regulations.* The following requirements shall apply in the R-2 District:

	<i>1 or 2 Families</i>	<i>3-6 Units</i>	<i>7-12 Units</i>	<i>13+ Units</i>	<i>Other Uses</i>
Lot Width:					
at street line	50 feet	70 feet	70 feet	70 feet	100 feet
at building line	80 feet	90 feet	100 feet	100 feet	100 feet
Lot Area:					
3-6 units	8,000 sq. feet plus 1,750 sq. feet per unit over 2				
7-12 units	15,000 sq. feet plus 1,500 sq. feet per unit over 6				
13+ units	24,000 sq. feet plus 1,250 sq. feet per unit over 12				
Setbacks:					
front	25 feet	25 feet	25 feet	25 feet	25 feet
side	6.5 feet	8 feet	8 feet	8 feet	12 feet
rear	25 feet	25 feet	25 feet	25 feet	45 feet

(E) *Lots fronting more than 1 street.* Lots fronting more than 1 street shall maintain a yard on those streets conforming to the requirements for front yard setbacks; side yard setbacks shall be maintained from the remaining lot lines except when a lot line is adjacent to an alley from which rear yard setbacks shall be maintained.

(F) *Maximum lot coverage.* Lot coverage shall not exceed 40% in the R-2 Districts.

(G) *Height regulations.*

(1) No structure, hereafter erected or altered, shall exceed 40 feet or 4 stories in height, except as otherwise provided by this chapter.

(2) Provided, however, public and semi-public buildings, churches, cathedrals, temples, hospitals, and schools may be erected to a height of 75 feet when set back from all lot lines not less than 1 foot for each 2 feet of building height over the height limit.

(Ord. 153, ' 3.6, passed 3-24-2003) Penalty, see ' 10.99

' 150.071 TRANSITIONAL DISTRICT.

(A) *Purpose and intent.* It is the purpose and intent of the Transitional District to provide a buffering or transitional area between dissimilar districts and to accommodate an area undergoing a change from 1 predominate form of use to another.

(B) *Permitted uses.* Permitted uses shall be any use permitted in the most restrictive district, not including a P.U.D., adjoining the Transitional District. For purposes of determining the most restrictive district, the following order is established:

- (1) R-1 - Low Density Residential District is most restrictive;
- (2) R-2 - Medium to High Density Residential District; and
- (3) C - Commercial is least restrictive.

(C) *Conditional uses.* Conditional uses shall be any use permitted in an adjoining district, not including a P.U.D., and those defined as permitted uses in this Transitional District, and any use that is a conditional use in an adjoining district.

(Ord. 153, ' 3.7, passed 3-24-2003) Penalty, see ' 10.99

' 150.072 COMMERCIAL DISTRICT.

(A) *Purpose and intent.* It is the purpose of the Commercial District to establish areas within the city for primarily commercial and related uses. The primary function of the Commercial District is to provide convenient and accessible locations for businesses that require such. The businesses and sales or display areas that are customarily incidental and traditionally carried out within a building shall be confined within that building.

(B) *Permitted uses.*

- (1) Professional offices and services such as medical, dental clinics and eye clinics, architects and attorneys, surveyors, and engineer offices;
- (2) Banks, financial institutions, insurance and real estate services;
- (3) Lodging services such as hotels and motels;
- (4) Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, cafes, supper clubs, delicatessens, candy shops and bakeries whose products are sold primarily at retail on the premises;
- (5) Filling stations and convenience stores;

(6) Business services including banks, offices, postal stations, photocopy centers, and office or school supplies;

(7) Personal services including barber/beauty shops, reducing salons, photographic and camera shops/supplies, and funeral homes;

(8) Retail clothing services including dry cleaning/laundry establishments, laundromats, dressmaking/tailor shops, shoe sales/repair shops;

(9) Department, variety, clothing, furniture, antique, gift, drug, hardware and book stores, news shops, flower shops, show rooms for articles to be sold at retail;

(10) Automobile, truck, boat/trailer/implement sales and service establishments including equipment sales, washing services, commercial garages and repair shops (outdoor sales or storage subject to conditional use);

(11) Auto supply and parts (indoor display and sales only);

(12) Equipment services including radio and television shops, appliance sales and small appliance repair;

(13) Residence when included as an integral part of the principal building to be occupied by the owner or his or her employee;

(14) Retail sales of art, art supplies, school and office supplies, books and stationary, art galleries, art studios, picture framing;

(15) Plumbing, heating, and electrical sales and show rooms;

(16) News and communications offices and studios;

(17) Paint, wallpaper, and home decorating supplies;

(18) Government and utility buildings including vehicle and equipment garages;

(19) Public recreation including parks/playgrounds and hiking/biking trails;

(20) Recreational services including theaters, bowling alleys, pool/billiard rooms, dance halls, roller/ice skating rinks, coin operated amusements and similar commercial recreation facilities when contained within a building;

(21) Wildlife, forest, and wetland preserves or management areas and game refuge areas;

(22) Historic sites;

(23) Satellite dishes not more than 36 inches in diameter;

(24) Accessory uses customarily necessary to the permitted principal use; the use shall not be detrimental by reason of odor, smoke, noise, dust, or vibration;

(25) Schools, churches, assembly halls, and other educational and institutional uses; and

(26) Light manufacturing where all processing, fabricating, assembly, or disassembly of items takes place wholly within an enclosed building. Typical items for processing, fabricating, assembly, or disassembly include but are not limited to apparel, home accessories, food, drapes, clothing accessories, bedspreads, decorations, artificial plants, jewelry, instruments, computers, and electronic devices.

(C) *Conditional uses.*

(1) Multi-family dwellings and planned unit developments;

(2) Warehouses, distribution centers, and wholesaling merchandisers;

(3) Trucking and repair terminals;

(4) Bars, taverns, night clubs, private clubs, lodges, wholesale establishments, on and off sale liquor stores, trade schools, commercial/municipal parking garages and ramps;

(5) Drive-in or drive-through facilities associated with banks, restaurants, liquor stores, and the like;

(6) Veterinary clinics for small animals only (dogs, cats, and the like) with no outdoor cages, boarding, or storage;

(7) Child care facilities or group day care centers (including adult);

(8) Accessory buildings and uses customarily incidental to the permitted principal use when located on the same property and which will not be detrimental to the surrounding neighborhood by reason of odor, smoke, noise, dust, or vibration;

(9) Printing establishments, including newspaper and publishing houses;

(10) Apartments, provided they are located above the first floor level, the first level of which is occupied by a use permitted in the district;

(11) Underground bulk fuel storage facilities;

(12) Satellite dishes more than 36 inches in diameter;

(13) Public transportation terminals, public utility buildings, short wave/radio/television and other communications towers and transformer stations without storage yards;

(14) Adult uses as defined in ' 150.090;

(15) Outdoor sales and/or storage of motorized vehicles, trucks, trailers, watercraft, recreation vehicles, and the like;

(16) Offsite parking lots; and

(17) Open air display areas for the sale of manufactured products such as outdoor furniture, hardware items, flower shops, and nursery stock.

(D) *Lot area, frontage, and setback requirements.*

(1) The following requirements shall apply in the Commercial District:

(a) Lot width - 50 feet at street line; and

(b) Lot area - 5,000 square feet.

(2) Except that in any district where public water or sanitary sewer services are not accessible, the minimum lot areas shall be increased as follows and any development of the lot shall be subject to the approval of the Council.

(3) Where both public sewer and public water supply are not accessible, the minimum lot area shall be 1 acre. (1 acre = 43,560 sq. feet or 4,840 sq. yards)

(4) Where a public water supply is accessible and private connections will be made to this supply system, but public sewer is not accessible, the minimum shall be 25,000 sq. feet. The minimum lot sizes may also be increased based upon plans for the proposed individual disposal system, including percolation tests and soil borings, which shall be submitted to the City Engineer for review prior to Council approval.

(5) Setbacks:

(a) Front - 0 feet;

(b) Rear - 15 feet; and

(c) Side - 0 feet.

(d) Thirty feet shall be required on that side of the property abutting any Residential District which shall include the required buffer yards and screening.

(E) *Height regulations.*

(1) No structure, hereafter erected or altered shall exceed 35 feet or 2 stories in height, except as otherwise permitted by this chapter.

(2) Provided, however, public and semi-public buildings, churches, cathedrals, temples, hospitals or schools may be erected to a height of 55 feet when set back from all lot lines not less than 1 foot, in addition to required setback dimensions, for each foot the building exceeds 35 feet in height.

(F) *Height limit exceptions.*

(1) Established building height limits shall not apply to barns, silos, belfries, cupolas, spires, monuments, radio or television antennae, flag poles, chimneys or flues, water towers, or to poles, towers and other structures for essential services, nor to similar structures or necessary mechanical appurtenances extending from a roof upward and not occupying more than 25% of the area of the roof as projected onto a horizontal plane.

(2) When permitted in a district, public buildings, community buildings, schools, churches, hospitals, and other institutions, public utility and public service buildings and those for essential services, may be erected to height not exceeding 75 feet, provided the side yard width and the rear yard depth be each increased 1 foot over and above the district requirement for each 2 feet of building height above the height limit.

(G) *Lots fronting on more than 1 street.* Lots fronting more than 1 street shall maintain a setback on those streets conforming to the requirements for front yard setbacks; side yard setbacks shall be maintained from the remaining lot lines except when a lot line is adjacent to an alley from which rear yard setbacks shall be maintained.

(H) *Lots of record.* Where existing lots fail to comply with the provisions of this chapter, the Council may after application for a conditional use permit as set forth in ' 150.110 allow the minimum lot area to be reduced in conformity with the existing neighborhood, provided however, that lots of record in the R-1 District shall be deemed to comply with this section without provisional use permit provided the width of the lots is not less than 50 feet.

(I) *Buffer yards and screening.* All development in the Commercial District adjacent to or abutting any R-1, R-2, or residential use in the Commercial District and not separated therefrom by a street or alley, shall provide a buffer yard along the adjoining property line. See ' 150.027.

(Ord. 153, ' 3.8, passed 3-24-2003; Am. Ord. --, passed 9-10-2012) Penalty, see ' 10.99

' 150.073 HISTORIC DISTRICT.

(A) *Purpose and intent.* It is the purpose and intent of the Historic District to preserve the environmental values of the City of Mantorville and its identity derived through its established Historic District by:

(1) Protecting against destruction of or encroachment upon historic areas, structures, and premises;

(2) Encouraging uses, which will lead to their continuance, conservation and improvement in a manner appropriate to the preservation of the cultural, social, economic, political, and architectural heritage of the City of Mantorville;

(3) Preventing creation of environmental influences adverse to the purposes; and

(4) Assuring that new structures and uses within the districts will be in keeping with the character to be preserved and enhanced.

(B) *Establishment of Historic District.* The Historic District contains a set of regulations superimposed upon the existing zoning use districts, superceding existing underlying regulations only to the extent expressed in the Historic District provisions, leaving in effect, in all other respects, the regulations applicable to the underlying use district in which the land is situated. An HD postfixed to a use district code letter designates the Historic District. Within this district, all uses not allowed as permitted uses are prohibited.

(C) *Establishment of the Restoration Association.* The Mantorville Restoration Association (MRA) is hereby appointed the responsibility of giving counsel to the governing body regarding the advisability of issuing a permit for construction, reconstruction, exterior alteration, razing, or relocation of any building or structure within the Historic District. For this purpose, the Mantorville Restoration Association may make and alter rules and regulations for its own organization and procedure.

(D) *Applicability.* No building or structure, including signs, shall be erected, constructed, reconstructed, substantially altered or restored, or razed within the Historic District unless the same is first approved by the governing body, acting upon the advice of the Mantorville Restoration Association, and making a finding that the proposal is architecturally compatible with the historical and/or architectural aspects of the area. If any proposed construction, reconstruction, exterior alteration, or relocation of a building would otherwise require the approval of a variance in accordance with the procedures set forth in ' 150.111, the City Engineer shall notify the governing body of the facts and at the next regularly scheduled meeting, the governing body shall have the power, in its discretion, to waive any standards required by this Zoning Ordinance and to grant approval without the necessity of the applicant obtaining a variance as required by ' 150.111. Before granting the approval, and waiver, the governing body shall make a finding that the waiver is deemed necessary in furtherance of the purpose and intent of the Historic District.

(E) *Standard for review.* The Restoration Association and governing body shall consider the following in review and action upon any proposal subject to the provisions of this section.

(1) Exterior architectural features including all signs, which are subject to public view from a public street or public place.

(2) General design, arrangement, texture, material, color, and fenestration of the proposed building or structure and the relation of the factors to similar features of buildings or structures of the period between 1854 and 1900.

(3) The extent to which the building or structure would be architecturally harmonious or compatible with the period between 1854 and 1900.

(4) The extent to which the building or structure will promote the general welfare of the city and all citizens by the preservation and protection of historic places and areas of historic interest in the city.

(5) The extent to which the preservation and protection will promote the general welfare by maintaining and increasing real estate values; generating business, attracting tourists, students, writers, historians, artists, and artisans; attracting new residents; encouraging study and interest in American history; stimulating interest and study in architecture and design; educating citizens in American culture and heritage; and making the city a more attractive and desirable place in which to live.

(6) The Restoration Association or governing body shall not consider interior arrangement, relative size of the building or structure, detailed design or features not subject to any public view, and shall not make any requirements except for the purpose of preventing developments architecturally incompatible with the historic aspects of the Historic District.

(Ord. 153, ' 3.9, passed 3-24-2003) Penalty, see ' 10.99

SUPPLEMENTAL REGULATIONS

' 150.085 SIGN REGULATIONS.

(A) *Purpose.* The purpose of this section is to protect and promote the health, safety and welfare of the people of Mantorville through the establishment of standard regulations and procedures governing the erection, use, location, and display of signs.

(B) *Permit required.* No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a permit from the city except that signs permitted under division (C) of this section shall not need a permit from the city. The following 2 operations shall not be considered creating a new sign and therefore, shall not require a permit:

(1) *Replacing copy.* The changing of the advertising or message on an approved sign which is specifically designed for the use of a replaceable copy.

(2) *Maintenance.* Painting, cleaning and other normal maintenance and repair of a sign or a sign structure, unless a structural change is made or there is a change in the message.

(C) *Permitted, all districts.* The following shall be permitted in all zoning districts without a building permit as long as they do not meet the standards set for a building permit: Note; special situations exist for the Historic District - see division (H).

(1) *Any temporary sign.* Any temporary sign such as (real estate signs) located on the property being advertised for sale, rent or lease, not exceeding 8 square feet in area.

(2) *Governmental signs.* Governmental signs, such as traffic control, parking restrictions, information, notices, flags and insignia.

(3) *Bulletin boards.* For public, charitable or religious institutions and not exceeding 24 square feet in area.

(4) Historic markers, memorial signs, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

(5) *Warning and identification signs.* Not exceeding 1 square foot in area and bearing only property numbers, post office box numbers, names of occupants of the premises, or other identification of premises not having commercial connotations.

(6) An electronic indication of time or temperature.

(7) Election signs as allowed by M.S. ' 211B.045.

(8) *Banners.* Advertising banners that are for no more than 14 days.

(9) Integral decorative or architectural features of buildings, moving parts, or moving lights.

(10) *Private parking signs.* Signs directing or guiding traffic and parking on private property, but bearing no advertising matter.

(D) *Prohibited: all districts.* The following shall be prohibited in all zoning districts:

(1) Any permanent sign located in the public right-of-way or easement;

(2) Any sign which resembles the size, shape, form, and color of official traffic-control signs, emergency vehicle lights, or official markers;

(3) Any sign which obstructs any door, fire escape, stairway, or access to any building or structure; or

(4) Any sign which causes a safety hazard by interfering with driver's vision, sight lines and traffic visibility.

(E) *Construction/building permit.* All permanent signs over 6 feet tall and all permanent signs not located flush with the building shall require a building permit and shall be constructed to meet Building Code standards for wind resistance and wind loads. Signs with any electrical devices shall conform to the electrical code. In addition to the required items for a building permit, the following items must also be included in the permit application:

(1) Copies of stress sheets and calculations, if deemed necessary by the Building Inspector, showing the structure as designed for dead load and wind pressure;

(2) Name, address, phone, and if available, fax and e-mail of the person who has or will be erecting the sign; and

(3) The seal or certificate of a registered structural or civil engineer when required by the city Building Inspector.

(F) *Residential districts.*

(1) No flashing, moving, or intermittently lighted sign shall be permitted in any residential zoning district.

(2) There shall be no more than 2 illuminated name plates per residence measuring not more than 1 square foot in area.

(G) *Non-residential districts.* Signs shall be permitted in non-residential districts subject to the following:

(1) Wall signs placed against the exterior wall of a building shall not extend more than 6 inches outside of a building's wall surface, shall not exceed 500 square feet in area for any 1 premise, and shall not exceed 20 feet in height above the mean centerline street grade.

(2) Projecting signs fastened to, suspended from, or supported by structures shall not exceed 100 square feet in area for any 1 premises, shall not extend more than 6 feet from the structure, shall not project into the public right-of-way, shall not exceed a height of 20 feet above the mean centerline street grade, and shall not be less than 10 feet above the sidewalk nor 15 feet above the driveway or an alley. No projecting sign shall be permitted to use the public right-of-way for support apparatuses. Support shall be located entirely on private property.

(3) Ground signs shall not exceed 20 feet in height above the mean centerline street grade, shall meet all setback requirements for the district in which they are located, and shall not exceed 100 feet in total perimeter measurement for any 1 premises.

(4) Roof signs shall not exceed 10 feet in height above the roof, shall meet all the setback and height requirements for the district in which they are located, shall not exceed 300 total feet in total perimeter measurement on any 1 premises.

(5) Flashing, moving, or intermittently lighted signs shall not be permitted on any non-residential lot abutting directly to or across any street from a residential district.

(6) Portable signs (trailer mounted signs) shall be permitted for a cumulative period of 90 days in any 1 year. They shall be no larger than 32 square feet (8 x 4) and shall comply with other applicable provisions herein (i.e. for residential districts). No permits are required for portable signs. Each entity is allowed 1 portable sign.

(7) Sandwich board/A-frame signs - Shall be permitted based on the following criteria:

(a) Sandwich boards may be used within the Commercial District;

(b) No more than 1 sandwich board/A-frame sign per owner shall be allowed;

(c) Sandwich boards/A-frame signs shall be placed on the sidewalk directly abutting the owner's building, or another location with permission from the owner of the property;

(d) Sandwich boards/A-Frame signs shall not exceed 10 square feet per side;

(e) Sandwich boards/A-frame signs shall be displayed only during the period from sunrise to sunset;

(f) Sandwich boards/A-frame signs shall not use any form of electricity or display lights or moving parts;

(g) Sandwich boards/A-frame signs shall not be affixed to the sidewalk, other signage or temporary or permanent structures; and

(h) Sandwich boards/A-frame signs shall not block driveways, entryways or pedestrian accesses, shall not significantly obstruct the sidewalk, and shall not impact sightline/view at street intersections.

(H) *Historic District.* The applicant shall submit proposed non-temporary signs in the Historic District to the MRA for comment. The MRA shall submit any comments to the city within 30 business days.

(I) *Measuring area.* The following shall determine the sign area:

(1) Support structures or bracing shall not be considered part of the sign area unless used as a part of the sign message.

(2) In the case of 2 identical display faces back to back, the area of only 1 face shall be considered the sign area. If a sign has more than 1 display face and the faces are not identical and back to back, each face shall be considered a separate sign.

(3) The entire surface area of free standing, projecting, roof and marquee signs shall be considered the sign area.

(4) When a message is applied to a translucent background that provides no border or frame, the sign area shall be the smallest rectangle which can encompass all words, letters, figures, emblems, and other elements of the sign message.

(J) *Measuring height.*

(1) A free standing sign shall be measured from the finished elevation at the base of the sign to the top of the sign face.

(2) Projecting signs and wall signs shall be measured from the finished elevation below the sign to the top of the sign face.

(3) Roof signs shall be measured from the top of the outside building wall to the top of the sign area.

(K) *Sign appearance.* The owner, lessee, or manager of the property on which a sign is located is responsible for the appearance of the sign, including the reasonable area around the base of the sign. Signs which have become a nuisance are subject to the requirements and remedies of Ch. 90 of the city code.

(L) No sign whether permanent or temporary, shall be placed on private property without the consent of the property owner.

(M) All signs are subject to regulation under Minnesota Rules, Ch. 8810 and M.S. Ch. 173 regarding advertising devices on property adjacent to highways; and M.S. ' 211B.045 regarding noncommercial signs exemption.

(N) M.S. ' 211B.045 states "In any municipality with an ordinance that regulates the size of noncommercial signs, notwithstanding the provisions of that ordinance, all noncommercial signs of any size may be posted from August 1 in a state general election year until 10 days following the state general election."

(Ord. 153, ' 4.1, passed 3-24-2003; Am. Ord. --, passed 12-14-2009) Penalty, see ' 10.99

' 150.086 PARKING.

(A) *Parking; residential.* Two parking stalls shall be provided for each dwelling unit.

(B) *Parking; nonresidential.* Adequate off-street parking spaces shall be provided, but in no case shall fewer be provided than the ratio of 1 parking stall for:

(1) Each sleeping accommodation in any automobile court, motel, or tourist home, and each camp unit in any automobile camp;

(2) Each 3 sleeping accommodations in any hotel, boarding house, fraternity or sorority house, or dormitory;

(3) Each 3 beds in any hospital;

(4) Each 6 beds in any sanitarium, convalescent home, or similar establishment;

(5) Each doctor in any medical or dental clinic, plus 1 parking stall for each 2 employees and 1 for each 2 patients of the total patients in the clinic at any 1 time;

(6) Each 4 seats or other accommodations for customers and those in attendance in any restaurant, theater, auditorium, stadium, church, entertainment or recreation use, hall for meeting, dancing, social, or athletic events, and other places where the accommodations may be used by 12 or more persons at the same time, provided that for any public or private school the number of parking spaces shall not be less than 1 space for each 8 classroom seats, plus those required for employees;

(7) Each 300 feet of ground floor area in business or commercial use, each 1,000 square feet of upper floor area and each 1,000 square feet of basement floor area in the use, provided that for such establishments as drive-in markets and for similar and other businesses and uses catering to drive-in patronage, the required ratio shall be 1 parking stall for each 250 square feet of total area in business or commercial use within buildings and outside. When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space any fraction up to and including 2 shall be disregarded and fractions over 1/2 shall require 1 parking space. For the purpose of this section, **FLOOR AREA**, in the case of offices, merchandising, or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients, or tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise; and

(8) Each 2 persons, including proprietors, or maximum employment on the main shift and those on any immediately preceding or following shift, whichever is larger in any institutional, or public, business, or industrial use.

(C) *Parking standards.* Each parking stall shall not be less than 162 square feet in area exclusive of aisles, driveways, and walks.

(1) Access driveways to a single stall or parking lot shall be no less than 12 feet nor more than 30 feet in width where crossing the front property line from a street or road, except that driveways serving parking spaces for residential uses shall be not less than 9 nor more than 20 feet in width.

(2) Required parking stalls for dwellings, trailer coaches, mobile homes, motels, auto courts, and auto camps and similar uses shall be located on the same premises as the use they serve. For other uses they shall be located on the premises or within a 500-foot distance.

(3) The number of parking stalls required for serving several uses is the sum of the separate requirements, provided that upon application to the City Council for a conditional use permit showing that the parking demands of different uses may approve a reduction in the number of stalls required to that which will serve the maximum demand at any 1 time.

(4) Required parking spaces provided on a lot or in a building shall be kept available for parking during the times of parking demand and shall not be reduced in number.

(5) Parking stalls, truck loading spaces, aisles and access driveways shall be so graded and surfaced as to be smooth and to be free of dust, dirt, or mud.

(6) Truck loading spaces and truck parking and storage spaces off the street shall be provided as needed in connection with all buildings and uses delivering and receiving goods, materials, and supplies by trucks.

(7) Drives within parking areas shall meet the following minimum width:

<i>Angle of Parking</i>	<i>Width</i>
90 degrees	24 feet
60 degrees	17 feet
45 degrees	13 feet
30 degrees	12 feet

(8) All parking lots shall have areas reserved for snow storage that will not reduce the number of spaces available below the number of spaces required for this chapter.

(D) *Uses and required parking space.* The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified in this chapter, shall be determined in accordance with the following table and space so required and shall be irrevocably reserved for the use:

Residential	2 spaces per dwelling unit
Bed and breakfast facilities, motels, boarding and rooming houses	1 space per guest or sleeping room, plus 2 for employees/managers
Hospitals, sanitariums, convalescent homes, homes for the aged, or dormitories	1 per 3 beds plus 1 space for each 2 employees
Child care facilities	1 space per employee, plus 1 per seven children
Theaters, auditoriums, sports arenas, and churches	1 per 4 seats in the main assembly unit
Elementary schools	1 per 2 employees
Jr. or Sr. high schools	1 per 2 employees, plus 1 10 students
Dance hall, pool, billiard rooms, assembly halls and exhibition halls without fixed seats; community centers, civic clubs, fraternal orders; union halls and similar uses	1 per 4 people allowed within the maximum occupancy load as established by the State Fire Marshall
Bowling alleys	5 per alley, plus additional spaces as may be required for related uses in the same building

Mortuaries or funeral homes	1 for each 50 square feet of floor space in the slumber rooms, parlors, or individual service rooms
Restaurants, cafes, private clubs serving food and/or drinks, bars, taverns, and nightclubs	1 per 40 square feet of gross floor area of dining and bar area and 1 space per 80 square feet of kitchen area
Drive-in establishments and convenience foods; drive-in only	1 space for each 40 square feet of gross floor area of dining, and 1 space for each 80 square feet of kitchen area
Convenience food establishments with indoor seating	1 space for each 15 feet of gross floor area, but not less than 15 spaces
Medical or dental clinics, banks, business or professional offices	1 space for each 200 feet of floor area
Drive-in banks	4 for each teller window plus 1 for each 200 feet of floor area
Beauty parlors and barber shops	2 for each barber and/or beauty shop chair
Service garages, automobile repair body shops, and automobile sales	1 for each employee on duty at any 1 time, plus 2 for each stall in a body shop, plus 1 for each stall or service area or wash rack in a servicing or repair shop
Gasoline service station	1 for each employee, plus 1 for the owner/manager plus 2 for each stall receiving service
Gasoline-convenience store	6 off-street parking spaces plus 3 off-street parking spaces for each fuel pump
Retail and repair shops such as: furniture, appliance, clothing, thrift, accessory, and shoe stores and related repair shops	1 for each employee plus 1 for each 250 square feet of gross floor area
Industrial and manufacturing establishments	1 space for each employee on maximum shift or 1 space for each 2,000 square feet of gross floor area, whichever is more
Uses not specifically noted	Requirements for similar uses as determined by the city

(E) *Design standards.* In all districts where off-street parking lots are permitted or where required, the off-street parking lots shall be constructed and maintained subject to the following requirements.

(1) Adequate ingress and egress shall be provided.

(2) The parking lots shall be maintained in a useable dust-proof condition and condition, and shall be kept graded and drained to dispose of surface water in accordance with existing state, federal, and local regulations.

(3) Whenever the parking lot boundary adjoins property zoned for residential use, a set back of 8 feet from the lot line shall be required.

(4) Necessary curbs or other projections against damage to adjoining properties, streets, and sidewalks shall be provided and maintained.

(5) The above information shall be included in the plans submitted to the city. Plans for the construction of any such parking lot must be approved by the city before construction is started. No land shall be used for parking until given final approval by the city.

(F) *Loading spaces.* On the premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, commercial, retail, and related uses involving receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services in order to avoid undue interference with public use of the streets or alleys. The space, unless otherwise adequately provided for, shall be at minimum 10 feet by 25 feet loading space, with 14 feet height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of building floor use or land use for the above mentioned purposes.

(Ord. 153, ' 4.2, passed 3-24-2003) Penalty, see ' 10.99

' 150.087 HOME OCCUPATIONS.

(A) *Purpose.* A home occupation is any occupation for gain or support and can be beneficial to the community in that they provide services to its residents, as well as supplemental income and personal satisfaction to the residents.

(B) *Standards.* No home occupation shall be allowed which does not meet the following standards.

(1) The home occupation shall be conducted entirely within the home by resident occupants only.

(2) The home occupation shall not require more than 1/4 of the area of any floor for the purpose excluding day care centers.

(3) The home occupation shall not require any structural alterations or constructions involving features not customarily found in dwellings.

(4) The home occupation shall be consistent with and shall not detract from the residential character of the district in which the home is located.

(5) There shall be no outside storage of material or equipment or display of merchandise. (Ord. 153, ' 4.3, passed 3-24-2003) Penalty, see ' 10.99

' 150.088 HOME BUSINESSES.

(A) *Purpose.* A home business is any occupation for gain or support and can be beneficial to the community in that they provide services to its residents, as well as supplemental income and personal satisfaction to the residents. However, a home business may result in activities that may have a negative impact upon the residential character of the community and surrounding neighborhood. It is for this reason that a conditional use permit shall be required for all home businesses, to ensure their compatibility with the neighborhood in which they are located.

(B) *Permit required.* A conditional use permit shall be required for all home businesses. Criteria in this section shall be in addition to criteria identified in ' 150.110.

(C) *Standards.* No home business shall be allowed which does not meet the following standards.

(1) The home business shall be conducted entirely on the same parcel as the home by resident occupants only.

(2) The home business shall not require more than 25% of the area of any floor of the dwelling for the purpose, excluding day care centers, and shall not occupy more than 50% of the floor area of any existing accessory structure.

(3) The home business shall not require any structural alterations or construction involving features not customarily found in dwellings or accessory structures.

(4) The home business shall be consistent with and shall not detract from the residential character of the district in which the home is located.

(5) There shall be no outside storage of material or equipment or display of merchandise.

(6) There shall be no more than 1 unilluminated name plat advertising the business, measuring not more than 12 square feet in area attached on the principal building near the building entrance.

(D) *Additional conditions.* In determining whether a particular home business is consistent with the residential character of a district, the city shall, in addition to those items listed in ' 150.110, consider the following:

- (1) Noise, odors, water, and air pollution;
- (2) Vehicular and pedestrian traffic;
- (3) Outside storage of stock or inventory;
- (4) The use of flammable, explosive, or highly volatile materials;
- (5) Excessive lights or noise at night; and
- (6) Litter.

(Ord. 153, ' 4.4, passed 3-24-2003) Penalty, see ' 10.99

' 150.089 MANUFACTURED HOME PARKS.

(A) *Generally.* All regulations prescribed by the State Board of Health or other authority having jurisdiction and the regulations of the Zoning Ordinance of the City of Mantorville shall be complied with.

(B) *Size.* Any manufactured home park established after the effective date of this chapter shall contain not less than 20 manufactured home lots and shall be at least 3 acres in area.

(C) *Access.*

(1) Each manufactured home park shall abut upon a public street and shall have no less than 2 ingress and egress locations abutting the public street.

(2) No vehicular entrance to, or exit from, any manufactured home park shall be located within 200 feet of any school, public playground, church, hospital, library, or institution for children except where the property is in another block or another street which the premises in question do not abut.

(D) *Setback requirements.* Structures in manufactured home parks shall be setback 20 feet from front and rear property lines and 12 feet from side property lines.

(E) *Building height.* No building or structure hereafter erected or altered in a manufactured home park shall exceed 25 feet or 12 stories in height.

(F) *Interior requirements.* The following requirements shall apply to the interior of the manufactured home park.

(1) *Interior streets.* The minimum roadway width of interior 1-way streets with parking permitted on 1 side shall be 21 feet. The minimum roadway width of 2-way streets with parking permitted on 1 side shall be 30 feet. The minimum width of 2-way streets without parking shall be 20 feet. The streets shall be paved according to city specifications for residential streets, maintained in good condition, and lighted at night.

(2) *Lot area.* The minimum lot area per manufactured home site shall be 5,000 square feet.

(3) *Utilities.* Each manufactured home shall be equipped with 1 electric outlet and hookups for municipal water and sewer. Fire hydrants shall be located in accordance with generally accepted practices as determined by the City Fire Marshal and City Engineer.

(4) *Distance between manufactured homes.* The minimum distance between neighboring manufactured homes shall be 12 feet.

(5) *Setback from interior streets.* No manufactured home shall be located closer than 10 feet to the traveled portion of an interior street.

(6) *Off-street parking.* Off-street parking shall be provided at the ratio of 2 spaces for each manufactured home lot.

(G) *Required improvements.* In order that a manufactured home park or may be harmonious within itself and with the surrounding area, the following requirements shall be required.

(1) Adequate provisions for the control of surface drainage, approved by the City Engineer must be incorporated on the site.

(2) All areas not used for access, parking, circulation, buildings, and service shall be completely and permanently landscaped and the entire area maintained in good condition.

(3) A 12-foot bufferyard shall be located and maintained along all exterior boundary lot lines not bordering a street according to the bufferyard requirements in ' 150.027.

(4) Skirting for manufactured homes is required. Skirting shall be a permanent exterior material color coordinated to match the decor of the manufactured home. All skirting shall be firmly attached and in good repair. No other buildings or structures shall be attached to a manufactured home, as specified by the building code. Accessory buildings allowed shall be 1 utility building per lot no larger than 120 square feet and 1 automobile storage garage no larger than 8% of the lot or 300 square feet, whichever is greater. No accessory building shall be places less than 2 feet from any lot line, less than 6 feet from the main structure and/or closer to the street than the front of the main structure.

Automobile storage garages shall be constructed in strict compliance with the Minnesota State Building Code and must be approved by the City Building Official and the owner, or his or her authorized agent, of the manufactured home park. This shall not prevent the use of an awning of aluminum, canvas, or fiberglass which may be enclosed by mesh screen and which shall not be larger than 120 square feet in floor area.

(5) There shall be provided within each manufactured home park, a recreation site, or sites, for the exclusive use of the park occupants. The recreation site shall have a minimum area of 10,000 square feet for each 50 units or fraction thereof. Where possible, the area shall be configured so it is no longer than 2 times its width. The recreational sites shall be provided with the appropriate equipment.

(H) *Commercial operations restricted.*

(1) No commercial operation shall be conducted within the manufactured home park other than those necessary for the operation thereof. A common laundering facility is an allowed use. Commercial sales lots for manufactured homes are prohibited.

(2) A conditional use permit shall be required for any home business, according to ' 150.088.

(I) *Parking restrictions.* Except as may be authorized by general traffic and parking regulations or ordinances, no person shall park or occupy any recreational vehicle in a manufactured home park. The parking or storage of a recreational camping vehicle in an accessory private garage building or in a rear yard in any district shall be permitted provided no permanent living quarters shall be maintained or any business conducted in the vehicle while so parked and stored.

(J) *Conditional use permit required.*

(1) It shall be unlawful for any person to establish, maintain, or operate a manufactured home park or recreational camping area, or the facilities therein, unless the person shall first procure a conditional use permit from the City of Mantorville. The procedures for obtaining a conditional use permit in ' 150.110 shall apply.

(2) An application for a conditional use permit for a manufactured home park shall include the following, in addition to items identified in ' 150.110:

(a) Name and address of applicant;

(b) Location and legal description of the park; and

(c) A plan showing complete compliance with this chapter, the plan shall be certified by a registered engineer and shall contain the following information:

1. A plan of the park showing its relationship to the surrounding area. The plan shall show locations of entrances and exits and bufferyards and screening along all exterior boundary lot lines not bordering a street in accordance with ' 150.110;
2. A site plan showing the unit parking spaces, roads, and open spaces and the location of all permanent buildings located within the manufactured home park;
3. Plans for the installation and location of all utilities to serve the occupants;
4. Topographic information to adequately show surface drainage patterns; and
5. The other information as may be requested by the city to enable the city to determine if the proposed park will comply with all legal requirements.

(3) Any enlargement or extension to any existing manufactured home park or transfer of an existing permit shall require a new application for a conditional use permit as if it were a new establishment.

(K) *Storm shelter facilities.* There shall be provided within each manufactured home park that has 10 or more, except a park for travel trailers, suitable storm shelter facilities constructed to withstand a free field of wind of 200 mph, a 1.2.PSJ drop in 4 seconds, or any type of missile projections. Storm shelter facilities shall comply with the most recent Minnesota State Building Code requirements and Minnesota State Health Department standards. The area of the shelter facilities shall be equal to 7.5 square feet per manufactured home lot.

(L) *Anchoring.* All manufactured homes located in manufactured home parks shall be anchored to withstand high winds.

(M) *Promulgation of additional regulations.* In addition to the foregoing, the city may impose the other conditions, requirements, or limitations concerning the design, development, and operation of the manufactured home park it may deem necessary for the protection of adjacent properties and the public interest.

(Ord. 153, ' 4.5, passed 3-24-2003)

' 150.090 ADULT USES.

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

ADULT BOOKSTORE. A building or portion of a building used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, or motion picture film if a substantial or significant portion of the items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas or the barter, rental or sale of instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. ***SUBSTANTIAL OR SIGNIFICANT PORTION OF ITEMS***, for purposes of this section, shall mean more than 15% of useable floor area.

ADULT CABARET. A building or portion of a building used for providing dancing or other live entertainment, if the building or portion of a building excludes minors by virtue of age, or if the dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas.

ADULT CONVERSATION/RAP PARLOR. A conversation/rap parlor which excludes minors by reason by age, or which provides the service of engaging in or listening to conversation, talk or discussion, if the service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT HEALTH/SPORTS CLUB. A health/sports club that excludes minors by reason of age, or if the club is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT MASSAGE PARLOR. A massage parlor which restricts minors by reason of age, or which provides the service of massage if the service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT MINI-MOTION PICTURE THEATER. A building or portion of a building with a capacity for less than 50 persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION PICTURE THEATER. A building or portion of a building with a capacity of 50 or more persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT STEAM ROOM/BATHHOUSE FACILITY. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing agent, if the building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT USES. Adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public.

SPECIFIED ANATOMICAL AREAS. Less than completely and opaquely covered:

- (a) Human genitals;
- (b) Pubic region;
- (c) Buttocks; and
- (d) Female breast below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES.

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse, or sodomy; and
- (c) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

(B) *Location requirements.*

(1) Adult uses shall only be permitted with a conditional use permit in the Commercial District provided that no adult use shall be located within 500 feet of:

- (a) Any area zoned R-1 or R-2;
- (b) Any land that has been or is approved for development for residential purposes, which shall include farm residences, rural residences, and non-farm residences;
- (c) Any school, as defined in M.S. ' 120A.05, as it may be amended from time to time;
- (d) Any church or house of worship;

(e) Any child day care facility, as defined in this chapter, or any residential or non-residential program, as defined in M.S. ' 245A.02, as it may be amended from time to time;

(f) Any hotel or motel; and/or

(g) Any public park.

(2) Adult uses shall not be established or maintained as a conditional or accessory use in any area other than those described in division (B)(1) above.

(Ord. 153, ' 4.6, passed 3-24-2003) Penalty, see ' 10.99

' 150.091 PLANNED UNIT DEVELOPMENT (P.U.D.).

(A) *Purpose and intent.* The P.U.D. or Planned Unit Development District is intended to encourage a more efficient use of land and public services and greater amenity by allowing under certain circumstances, a more flexible means of land development or redevelopment than is otherwise afforded through the strict enforcement of the zoning requirements of other use districts by lot-by-lot development. Although P.U.D. developments may appear to deviate in certain aspects from a literal interpretation of the zoning and subdivision ordinances, the Planned Unit Development District and its accompanying guidelines are intended to allow freedom of design in order to promote developments which will be an asset to the city by equaling or surpassing the quality of developments resulting from the application of more conventional zoning regulations.

(B) *Conditional use permit required.* Each Planned Unit Development shall require a conditional use permit.

(C) *Land ownership.* The tract of land to be developed as a P.U.D. shall be under the control of:

(1) A single owner; or

(2) A group of landowners, acting through a corporation, where each owner agrees in advance to be bound by the conditions and regulations which will be effective within the district and to record the covenants, easements, and other provisions in the County Recorder's office.

(D) *General provisions.*

(1) The city may approve the Planned Unit Development only if it finds that the development satisfies all of the following standards in addition to meeting the requirements of conditional use permit provisions.

(a) The Planned Unit Development is consistent with the Comprehensive Plan of the city.

(b) The Planned Unit Development is an effective and unified treatment of the development plan and provides for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.

(c) The Planned Unit Development will be developed to harmonize with any existing or proposed development in the areas surrounding the project site.

(d) The proposed primary uses are listed as either permitted or conditional uses in the zoning district in which the proposed development is located.

(e) Financing is available to the applicant on conditions and in an amount, which is sufficient to assure completion of the Planned Unit Development.

(2) The primary uses in a P.U.D. shall conform to the permitted or conditional uses of the underlying zoning district or districts in which the land for the development is located and may be a combination of uses when by design, use, and restriction, the development will not result in undue adverse effects on surrounding areas and will be compatible with adjacent uses and consistent with the intent of this section and the proposed P.U.D.

(3) A primary function of the P.U.D. provision is to encourage development which will preserve and enhance the natural terrain characteristics and not force intense development to utilize all portions of a given site in order to arrive at the maximum density allowed. In evaluation each individual proposal, the recognition of this objective will be a basic consideration in approving or denying the application.

(4) Architectural style of buildings shall not solely be a basis for denial or approval of a plan. However, the overall appearance and compatibility of individual buildings to other site elements, or to surrounding developments, will be a primary consideration in the review stage by the Planning Commission and the City Council.

(E) *Types and restrictions.* The following restrictions shall apply.

(1) A P.U.D. in which more than 50% of the development is residential in nature shall be known as a P.U.D. Residential Development and shall be subject to the following in addition to other regulations of this chapter which apply:

(a) In open land areas or areas surrounded to a major extent by developed land, no P.U.D. Residential Development project area shall be less than the minimum lot size required in the zoning district in which the land is located; and

(b) A minimum of 30% of the P.U.D. Residential Development is recommended to be maintained as green space consisting of vegetative plantings such as grass, trees, shrubs, or flowers. No portion of sidewalks, boulevards, or paved areas should be considered in calculating the green space.

(2) A P.U.D. in which more than 50% of the development is commercial in nature shall be known as a P.U.D. Commercial Development and shall be subject to the following in addition to other regulations of this chapter shall apply:

(a) In open land areas or areas surrounded to a major extent by developed land, no P.U.D. Commercial Development shall be less than the minimum lot size required in the zoning district in which the land is located; and

(b) A minimum of 15% of the P.U.D. Commercial Development is recommended to be maintained as green space consisting of vegetative plantings such as grass, trees, shrubs, or flowers. No portion of sidewalks, boulevards, or paved areas shall be included in calculating the green space.

(F) *Bulk regulations.* The following minimum regulations shall be followed.

(1) The maximum residential density allowed in a P.U.D. shall conform to the general character of the neighborhood but in no case shall exceed the following:

<i>Dwellings per Acre</i>	<i>Original Zoning District</i>
10	R-1
18	R-2
18	Commercial
18	Transitional

(2) The amount of nonresidential floor area shall no exceed the following ratio to lot area:

<i>Ratio</i>	<i>Original Zoning District</i>
.15	R-1
.25	R-2
1.00	Commercial
Least restrictive adjoining district	Transitional

(3) The above bulk regulations, when met, do not automatically constitute approval of the submitted plan. The City Council reserves the right to approve or reject any plans submitted that are not in conformance with the City=s Comprehensive Plan, are not properly related to adequate traffic arteries, are not compatible with surrounding land uses or are not otherwise in the best interest of the City of Mantorville.

(G) *Procedure.* The procedures and requirements to establish a P.U.D. district shall be as herein specified.

(1) *Pre-application meeting.* The applicant shall meet with the City Council to discuss the contemplated project relative to community development objectives for the area in question and learn the procedural steps for a conditional use permit. The applicant shall submit a sketch plan at this stage for informal review and discussion. The applicant is urged to avail himself or herself of the advice and assistance to facilitate the review of the sketch plan and development procedure.

(2) *Preliminary development plan.*

(a) Following the pre-application meeting, the applicant shall submit a preliminary plan, official application, and all required information to the city.

(b) The City Clerk-Treasurer shall review the application and within 10 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

(c) The City Council shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the City Council may extend the timeline for taking action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.

(d) The preliminary plan shall be reviewed by the City Council to address concerns and make recommendations, if necessary, to make the development more compatible or desirable.

(e) The preliminary plan submitted for review shall include:

1. A certified survey of the land to be included in the P.U.D.;
2. Existing zoning and land use;
3. Location of any existing structures, easements, streets, parking, public or private drives, and natural features;
4. Existing topography illustrating existing and proposed drainage;
5. Existing and proposed private and public ownership boundaries including proposed private lots for sale as well as common ownership areas;
6. Proposed land use as identified on the Comprehensive Plan;

7. A plan with locations of all structures including placement, size, and type with topography showing 2-foot contour intervals;
8. All common open spaces shall be labeled as such and their intent or design and functions;
9. Proposed street locations, names, and the location of other public or private drives and generalized parking areas;
10. Approximate density, number, types, location of structures, open spaces, and parking areas;
11. Proposed use of land and buildings;
12. Proposed design of buildings, locations of signs, and lighting;
13. Generalized landscaping; and
14. Form of organization proposed to own and maintain public or private open space.

(3) *Final development plan.*

(a) Following review and tentative approval of the plan, the applicant shall prepare and submit a final development plan to the City Council within 1 year of tentative approval. The final plan shall be reviewed by the City Council to either approve, approve with conditions, or deny the application. The City Council shall then take action on the application and inform the applicant in writing. If conditional approval is granted, the applicant shall be notified in writing of the conditions attached to the approval.

(b) The following information shall be submitted with the final development plan:

1. The final development plan shall conform to the preliminary development plan and include information required for a final plan and any required changes to the preliminary development plan;
2. Detailed grading and drainage plan at 2-foot contour intervals;
3. Landscape plan;
4. Deed restrictions, covenants, agreements, bylaws of proposed homeowner=s association, and other documents controlling the use of property, type of construction, or development or the activities of future residents;

5. If land is being platted or required to be platted as a condition of the conditional use permit, a public hearing for the preliminary plat may be held in conjunction with the public hearing for the conditional use permit (at final development stage). Preliminary plat requirements shall be as identified in the City of Mantorville's Subdivision Ordinance. If the petitioner chooses to hold the hearings at the same time, the preliminary plat must be submitted to the city at least 15 days prior to the date of the public hearing; and

6. At the public hearing, the City Council shall take action to either approve, approve with conditions, or deny the petition.

(4) *Amendments.* To amend a final plan which was approved, the applicant shall submit to the city an application and plans showing all proposed changes. A public hearing shall be held following proper notice procedures for public hearings. At the public hearing, the City Council shall take action to either approve, approve with conditions, or deny the request to amend the final plan. Any changes approved by the City Council shall be by resolution as an amendment to the final plan.

(Ord. 153, ' 4.7, passed 3-24-2003) Penalty, see ' 10.99

ADMINISTRATION AND ENFORCEMENT

' 150.105 ENFORCING AGENT.

The provisions of this chapter shall be administered and enforced by the City Council of Mantorville or its authorized representative.

(Ord. 153, ' 5.1, passed 3-24-2003)

' 150.106 COMPLIANCE REQUIRED.

It shall be the duty of all architects, contractors, sub-contractors, builders, and other persons having charge of the erecting, altering, changing, or remodeling of any building or structure, including tents and trailer coaches, before beginning or undertaking any such work to see that the work does not conflict with and is not in violation of the terms of this chapter; and any such architect, builder, contractor, or other person doing or performing any such work of erecting, repairing, altering, changing or remodeling in violation of, or in conflict with, the terms of this chapter shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the person or persons for whom the buildings are erected, repaired, altered, changed, or remodeled in violation hereof, and shall be held accountable for the violation.

(Ord. 153, ' 5.2, passed 3-24-2003) Penalty, see ' 10.99

' 150.107 VIOLATIONS.

Any building or structure being erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or sign hereafter erected or maintained, or land use made or permitted in violation of this chapter, is hereby declared unlawful. In the event of a violation, or threatened violation of this chapter, the City Council may institute appropriate actions or proceedings to prevent, restrain, correct, or abate the violation, or threatened violation.

(Ord. 153, ' 5.3, passed 3-24-2003) Penalty, see ' 10.99

' 150.108 ANNUAL REVIEW.

The City Clerk-Treasurer shall at least once a year prepare and file with the City Council a report on the operations of the Zoning Ordinance as amended, including, when necessary, recommendations as to the enactment of amendments or supplements thereto.

(Ord. 153, ' 5.4, passed 3-24-2003)

' 150.109 AMENDMENTS.

(A) *Generally.* The Council may adopt amendments to this chapter and the Zoning Map in relation both to land uses within a particular district or to the location of a district line. The amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the Comprehensive Plan or changes in conditions in the city.

(B) *Kinds of amendments.*

- (1) A change in a district=s boundary (rezoning);
- (2) A change in a district=s regulations; and
- (3) A change in any other provision of this chapter.

(C) *Initiation of proceedings.* Proceedings for amending this chapter shall be initiated by at least 1 of the following methods:

- (1) By petition of an owner of owners of property which is proposed to be rezoned, or for which district regulation changes are proposed; and/or
- (2) By action of the Council.

(D) *Required exhibits.* The following exhibits shall be required for rezoning or district regulation changes initiated by property owners:

- (1) A completed application form;
- (2) A preliminary building and site development plan, and if necessary, the Council may also require a boundary survey of the property;
- (3) Evidence of ownership or enforceable option on the property; and
- (4) Other items as may be required by the city.

(E) *Procedure.* The procedure for a property owner to initiate a rezoning district or district regulation change applying to this property is as follows.

(1) The property owner or his or her agent shall meet with the City Clerk-Treasurer to explain the situation, learn the procedures, and obtain an application form.

(2) The applicant shall file the completed form together with required exhibits with the City Clerk-Treasurer and shall pay a filing fee as established by the Council.

(3) The City Clerk-Treasurer shall review the application and within 10 business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.

(4) When the City Clerk-Treasurer determines the application to be complete, the City Clerk-Treasurer shall set the date for a public hearing and shall have notices of the hearing published in the legal newspaper at least once, not less than 10 days and not more than 30 days prior to the hearing.

(5) The City Clerk-Treasurer shall notify all property owners within 350 feet of the outer boundaries of the property in question, however failure of any property owner to receive the notification shall not invalidate the proceedings. 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 City Clerk-Treasurer and shall be made a part of the records of the proceedings.

(6) Within 30 days of the public hearing, the Council shall make a determination by either approving or denying the change.

(7) No application of a property owner for an amendment to the text of this chapter or the Zoning Map shall be considered by the Council within the 1-year period following a denial of the request, except the Council may permit a new application, if in their opinion, new evidence or a change of circumstances warrant it.

(Ord. 153, ' 5.5, passed 3-24-2003)

' 150.110 CONDITIONAL USE PERMIT.

(A) *Purpose.* The purpose of a conditional use permit is to permit a use that would not be appropriate generally but may be allowed with appropriate restrictions upon finding that:

- (1) Certain conditions as detailed in this chapter exist;
- (2) The use or development conforms to the Comprehensive Plan; and
- (3) Is compatible with the existing area.

(B) *Standards for granting a conditional use permit.*

(1) In making the determination, whether or not the conditional use is to be allowed, the city shall consider:

(a) The effects of the proposed use on the Comprehensive Plan; and

(b) The effects of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands.

(2) Among other things, the Council shall make the following findings where applicable.

(a) The use will not create an excessive burden on existing parks, schools, streets, and other public facilities which serve or are proposed to serve the area.

(b) The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

(c) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

(d) The use, in the opinion of the city, is reasonably related to the overall needs of the city and to the existing land use.

(e) The use is consistent with the purpose of this chapter and the purposes of the Zoning District in which the applicant intends to locate the proposed use.

(f) The use is not in conflict with the Comprehensive Plan of the city.

(g) The use will not cause traffic hazards or congestion.

(h) The traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the city in order to handle the additional traffic generated by the use.

(i) Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration, or lighting which would otherwise disturb the use of neighboring property.

(j) Adequate utilities, parking, drainage, and other necessary facilities will be provided.

(k) The proposed use will not impede the normal and orderly development or improvements of the surrounding property.

(l) The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or repair the values of the property.

(m) The use will not disrupt the character of the neighborhood.

(C) *Additional conditions.* In permitting a new conditional use or in the alternative of an existing conditional use, the city may impose, in addition to the standards and requirements expressly specified by this chapter, additional conditions which the city considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

- (1) Increasing the required lot size or yard dimension;
- (2) Limiting the height, size, or location of the buildings;
- (3) Controlling the location and number of vehicle access points;
- (4) Increasing the street width;
- (5) Increasing the number of required off-street parking spaces;
- (6) Limiting the number, size, location, or lighting of signs;
- (7) Requiring diking, fencing, screening, berming, landscaping, or other facilities to protect adjacent or nearby property;
- (8) Designating sites for open space; and
- (9) Limit the hours of operation.

(D) *Required exhibits for conditional use permits.* The following items shall be required:

- (1) A completed application form;
- (2) An accurate boundary description of the property;
- (3) Evidence of ownership or enforceable option on the property;
- (4) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces, and/or signs;
- (5) Landscaping and screening plans; and
- (6) Any additional information deemed necessary by the city to determine the suitability of the particular site for the proposed use.

(E) *Procedure.* The procedure for obtaining a conditional use permit is as follows.

- (1) The applicant shall file the completed application form together with required exhibits with the City Clerk-Treasurer and shall pay a filing fee, as established by the Council for processing the conditional use procedures.
- (2) The City Clerk-Treasurer shall review the application and within 10 business days after receiving the application shall notify the applicant, in writing, if the application is not complete and what additional information is required.
- (3) When the City Clerk-Treasurer determines the application to be complete, the City Clerk-Treasurer shall set the date for a public hearing to be held during a Council meeting and shall have notice of the hearing published at least once in the legal newspaper, not less than 10 days and not more than 30 days prior to the hearing.
- (4) The City Clerk-Treasurer shall also notify each owner of affected property or property situated wholly or partly within 350 feet of the outer boundaries of the property in question of the date, time, and place of the public hearing; however failure of any property owner to receive the notification shall not invalidate the proceedings.
- (5) After reviewing the submitted information and holding a public hearing, the Council may:
 - (a) Approve the conditional use permit;
 - (b) Approve the requested conditional use permit with conditions;
 - (c) Deny the requested conditional use permit, having found it not to be in conformity with the intent of the District and/or this chapter;

(d) The Council may extend the timeline for taking action before the end of a 60-day extension by providing written notice to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing;

(e) In making its final determination, the Council shall make findings of fact which is the basis for its ultimate decision; and/or

(f) No application of a property owner for a conditional use permit shall be considered by the city within a 1 year period following a denial for the request unless, in the opinion of the Council, new evidence or a change in circumstances warrant it.

(F) *Record keeping.* The city shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the city, time limits, review dates, and the other information as may be appropriate. A record of applications which were not approved shall also be maintained for record keeping purposes.

(G) *Revocation of conditional use permits.*

(1) The Council may call a public hearing to revoke a conditional use permit when it finds that at least 1 of the following circumstances exist:

(a) Where a conditional use permit has been issued and no work thereon has commenced within 9 months of the date of granting the conditional use permit;

(b) In the event that the applicant violates any of the conditions set forth in the conditional use permit; and/or

(c) Upon receipt of 3 written complaints from property owners within 350 feet of the property issued a conditional use permit.

(2) Proper notice shall be mailed to the party or individual to which the conditional use permit was issued and to property owners within 350 feet of the outer boundaries of the property in question, not less than 10 days and not more than 30 days prior to the hearing. Notice of the hearing shall also be published in the legal newspaper, not less than 10 days and not more than 30 days prior to the hearing.

(3) The City Council shall make their decision within 30 days after the public hearing. The City Clerk-Treasurer shall, in writing, inform the individual or party in question of the decision and shall then take action to enforce the decision.

(Ord. 153, ' 5.6, passed 3-24-2003)

150.111 VARIANCES.

(A) *Purpose.* Variances are intended to provide a means of departure from the literal requirements of the zoning ordinance where strict adherence would cause practical difficulties because of unique circumstances related to the property. Practical difficulties include, but are not limited to inadequate access to direct sunlight for solar energy systems. It is not the intent of this section to allow a variance for a use that is not permitted within a particular zoning district.

(B) *Application.* Any person having a legal or equitable interest in a property may file an application for a variance. An application for a variance shall be filed with the City Clerk-Treasurer on an approved form and shall be accompanied by a site plan with a certificate of survey at a scale large enough to show the following information clearly:

- (1) Location and dimensions of the lot, buildings, driveways, and off-street parking spaces;
- (2) The distance between the building and front, side, and rear lot lines, the principal building and accessory buildings, the principal building and principal buildings on adjacent lots;
- (3) The location of signs, easements, underground utilities, and related facilities; and
- (4) Any additional information deemed necessary by the city to facilitate review.

(C) *Hearing and action.* The City Council shall hold a public hearing on each valid and complete application. After the close of the hearing on a proposed variance the City Council shall make findings pursuant to this section. The City Council shall make the final decision regarding all applications for a variance. Approval shall require a majority vote of the City Council.

(D) *Required findings.* The City Council shall not vary the requirements of the zoning ordinance unless it makes each of the following findings based upon the evidence presented to it in each specific application:

- (1) The variance is in harmony with the general purposes and intent of the city code;
- (2) The variance is consistent with the comprehensive plan;
- (3) The applicant proposes to use the property in a reasonable manner not permitted by the city code;
- (4) Unique circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has not had control. The unique circumstances do not result from the actions of the applicant;
- (5) The variance does not alter the essential character of the neighborhood;

(6) The variance requested is the minimum variance which would alleviate the practical difficulties; and

(7) Economic conditions alone do not constitute practical difficulties.

(E) *Conditions and guarantees.* The City Council may impose such conditions upon the premises benefitted by the variance as may be necessary to comply with the standards established by the city code, to reduce or minimize the effect of such variance upon other properties in the neighborhood, or to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(F) *Expiration.* If substantial development or construction has not taken place within 1 year of the date of approval of a variance, such variance shall be considered void unless a petition for a time extension has been granted by the City Council. Such extension request shall be submitted in writing at least 30 days prior to expiration of the variance and shall state facts showing a good faith effort to complete work permitted under the original approval.

(Ord. 153, ' 5.7, passed 3-24-2003; Am. Ord. --, passed 3-28-2016)

' 150.112 WHEN DECISIONS ARE EFFECTIVE.

A decision of the Council shall not become effective until the expiration of 5 days from the date of the making of the decision, unless the Council makes a specific finding that its decision shall be immediately effective, and in cases where the Council at its discretion determines that it is necessary for the preservation of property or personal rights, the findings shall be certified by the Council on record.

(Ord. 153, ' 5.8, passed 3-24-2003)

' 150.113 APPEALS.

The City Council shall serve as a Board of Adjustment and Appeals to hear appeals where it is alleged that there is an error in any order, requirements, decision, or determination made in enforcement of the Zoning Ordinance. The Board of Adjustments and Appeals shall have the power to vary or adapt the strict application of any of the requirements of this chapter in exceptional cases where strict application would result in practical difficulty or unnecessary hardship depriving the owner of the reasonable use of his or her land or building involved, but in no other uses except as specifically described. The reason for the Board=s decision shall be stated in writing. The decision of the Board of Adjustments shall not be final and any person having an interest affected by the decision shall have the right to appeal to the District Court for Dodge County.

(Ord. 153, ' 5.9, passed 3-24-2003)

' 150.114 VOTE REQUIRED FOR PASSAGE.

Amendments to this chapter shall be by passage upon a 2/3 majority vote of the City Council.

(Ord. 153, ' 5.10, passed 3-24-2003)

' 150.115 FEES.

(A) A fee established by resolution of the City Council, shall be paid with each petition presented for a change or amendment to the zoning ordinance, or for a variance or conditional use permit. The fee shall assist covering the costs associated with a change, amendment, or application which shall be paid to the city.

(B) If an Environmental Assessment Worksheet (EAW) is necessary for land use, the proposer of the project shall submit an application for environmental review along with the completed portions of the EAW. The applicant shall agree in writing, as part of the application, to reimburse the city prior to the issuance of any permits for all reasonable costs, including legal and consultants fees, incurred in preparation and review of the EAW.

(Ord. 153, ' 5.11, passed 3-24-2003; Am. Ord. 2008-07, passed 7-14-2008)

' 150.116 ADMINISTRATIVE STANDARDS AND PROCEDURES.

Consistent with the provisions of this section of the Zoning Ordinance, and other laws and regulations applicable, the Board of Adjustments and Appeals may adopt specific rules and regulations from time to time and place them on public record in the office of the City Clerk-Treasurer.

(Ord. 153, ' 5.12, passed 3-24-2003)

Section

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GENERAL PROVISIONS**' 151.001 TITLE.**

These regulations shall hereafter be known, cited, and referred to as the Subdivision Regulations of the City of Mantorville, Minnesota, and may be referred to herein as the Subdivision Ordinance.
(Ord. 100, passed 6-12-1979)

' 151.002 POLICY.

(A) It is hereby declared to be the policy of the City of Mantorville to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the official Comprehensive Plan of the city for the orderly, planned, efficient, and economical development of the City of Mantorville.

(B) Land to be subdivided shall be of the character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and improvements.

(C) The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Comprehensive Plan, and the capital budget program of the city, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the public improvement policies, the building codes, zoning ordinances, land use plan, and capital budget of the City of Mantorville.

(Ord. 100, passed 6-12-1979)

' 151.003 PURPOSES.

(A) This Subdivision Ordinance sets forth the minimum requirements deemed necessary to ensure and protect the health, safety, and welfare of the public.

(B) More specifically, the provisions of this chapter are designed to:

(1) Assure that, to the minimum extent possible, all lands will be developed for the best possible use with adequate protection against deterioration and obsolescence;

(2) Assure that effective protection is given to the natural resources of the community, especially groundwater and surface waters;

(3) Encourage well planned subdivisions through the establishment of adequate design standards;

(4) Discourage inferior developments that might adversely affect the local tax base;

(5) Create neighborhoods that will be of lasting credit to the community;

(6) Facilitate adequate provisions for transportation and other public facilities;

(7) Secure the rights of the public with respect to public lands and waters;

(8) Improve land records by the establishment of standards for surveys and plats;

(9) Safeguard the interest of the public, the homeowner, the subdivider, and units of local government;

(10) Provide a common ground for understanding between developers and local units of government; and

(11) Prevent, where possible, excessive governmental operating and maintenance costs.
(Ord. 100, passed 6-12-1979)

' 151.004 JURISDICTION.

(A) These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the City of Mantorville or within 2 miles of the corporate limits of the city and not within a town which itself requires the approval of plats.

(B) No land shall be subdivided until:

(1) The subdivider or his or her agent shall submit a General Development Plan of the parcel;

(2) Obtain approval of the General Development Plan and preliminary and final approval of the plat itself by the City Council; and

(3) The approved plat is filed with the County Recorder, Dodge County, Minnesota.
(Ord. 100, passed 6-12-1979) Penalty, see ' 10.99

' 151.005 ENACTMENT.

This chapter is enacted pursuant to M.S. ' 462.358, as it may be amended from time to time.
(Ord. 100, passed 6-12-1979)

' 151.006 INTERPRETATION; CONFLICTS.

(A) *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

(B) *Conflict with public and private provisions.*

(1) *Public provisions.* These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provisions of law. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(2) *Private provisions.* These regulations are not intended to abrogate any easement, covenants, or any other private agreement or restrictions, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than the easement, covenant, or other private agreement or restrictions, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the City Council in approving a subdivision or in enforcing these regulations, and the private provisions are not inconsistent with these regulations or determinations thereunder, then the private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

(Ord. 100, passed 6-12-1979)

' 151.007 SAVING PROVISION.

These regulations shall not construed as abating any action now pending under, or by virtue of, prior existing subdivisions regulations or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City of Mantorville under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City of Mantorville except as shall be expressly provided for in these regulations.

(Ord. 100, passed 6-12-1979)

' 151.008 AMENDMENTS.

The City Council may cause to be prepared amendments supplementing or changing regulations herein established. This action requires a public hearing with notice given in the official newspaper at least 10 days prior to the hearing. If no action is taken by the City Council within 60 days of the public hearing, another hearing shall be held with the same procedures.

(Ord. 100, passed 6-12-1979)

' 151.009 CONDITIONS.

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to the City of Mantorville. The developer has the duty of compliance with reasonable conditions laid down by the City Council for design, dedication, improvement, and restrictive use of the land so as to conform to the physical and economical development of the city and to the safety and general welfare of the future plot owners in the subdivision and of the community at large.

(Ord. 100, passed 6-12-1979)

' 151.010 RESUBDIVISION OF LAND; PROCEDURE.

For any change in a map of an approved or recorded subdivision plat, if the change affects any street layout shown on the map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any regulations controlling subdivisions, the parcel shall be approved by the City Council by the same procedure, rules, and regulations as for a subdivision.
(Ord. 100, passed 6-12-1979)

' 151.011 VACATION OF PLATS.

(A) Any plat or any part of any plat may be vacated in accordance with the provisions of this Subdivision Ordinance and state statute in force at the time of the vacation.

(B) The vacation shall be approved by the City Council in like manner as plats of subdivisions. The City Council may reject any such instrument, which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.

(C) The vacation shall be executed, acknowledged, or approved and recorded or filed in like manner as plats of subdivisions and, being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in the streets, alleys, and public grounds and all dedications laid out or described in the plat.
(Ord. 100, passed 6-12-1979)

' 151.012 VARIANCES.

(A) *Generally.* The City Council, upon request of the applicant, may grant a variance from strict compliance with the subdivision regulations contained in this chapter when it finds that each of the following conditions exists:

(1) That application of the subdivision regulations to the land will create an unusual and exceptional hardship not experienced by any other property of similar intended use and condition;

(2) That the variance is necessary for the preservation and enjoyment of substantial property rights;

(3) That the authoring of the variance will not be of substantial detriment to the community and will not materially impair the purposes of the subdivision regulations or the public interest; and

(4) That the intended use and conditions of the property forming the basis for granting a variance are not of so general or recurrent a nature as to cause the formulation and adoption of a general subdivision regulation for similar uses and conditions.

(B) *Conditions.* In approving variances, the City Council may require the conditions as will, in its judgement, secure substantially the objectives of the standards or requirements of these regulations.

(C) *Procedures.* A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the City Council. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.
(Ord. 100, passed 6-12-1979)

' 151.013 ENFORCEMENT AND VIOLATIONS.

(A) *Generally.*

(1) It shall be the duty of the City Council to enforce these regulations and to bring to the City Attorney any violations or lack of compliance herewith.

(2) No owner or agent of the owner or any parcel of land located in a proposed subdivision.

(B) *Violations.* Any person, firm, or corporation who fails to comply with, or violates, any of these regulations shall be subject to the provisions of M.S. ' 462.358, as it may be amended from time to time, of the Municipal Planning Statutes of the State of Minnesota, as it may be amended from time to time.

(C) *Civil enforcement.* Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building structure or premises, and these remedies shall be in addition to the penalties described above.

(D) *Relief from person responsibility.* Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter and any claim based upon the performance or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused, are hereby enumerated as exceptions to M.S. ' 466.02, as it may be amended from time to time, and the section does not apply. The City of Mantorville shall defend, save harmless, and indemnify any of its officers or employees, whether elective or appointed, against any tort claim or demand, whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of the subdivision ordinance, except as provided in M.S. ' 466.07, as it may be amended from time to time.
(Ord. 100, passed 6-12-1979) Penalty, see ' 10.99

' 151.014 LANGUAGE USAGE.

(A) For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this chapter.

(B) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word *A*herein@ means *A*in these regulations@; the word *A*regulations@ means *A*these regulations.@
(Ord. 100, passed 6-12-1979)

' 151.015 DEFINITIONS.

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

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

APPLICANT. The owner of land proposed to be subdivided or his or her representative. Consent shall be required from the legal owner of the premises.

BLOCK. Any combination of land ownership bounded by streets, roads, or highways or a combination thereof or by a combination of streets, roads, or highways and public parks, cemeteries, railroad rights-of-way, streams, lakes, or similar manmade or natural physical barriers.

BOND. Any form of security, including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council. All bonds shall be approved by the City Council wherever a bond is required by these regulations.

BUILDABLE AREA. The part of the lot not included within the open areas required by the Zoning Ordinance, Official Map, or other official control.

BUILDING. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, including any structure.

CITY ATTORNEY. The licensed attorney designated by the City Council to furnish legal assistance for the administration of these regulations.

CITY ENGINEER. The licensed engineer designated by the City Council to furnish engineering assistance for the administration of these regulations.

COMPREHENSIVE DEVELOPMENT PLAN (MASTER PLAN). A compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution. A comprehensive plan represents the City Council=s recommendations for the future development of the municipality.

CONSTRUCTION PLAN. The maps or drawings showing the specific location and design of improvements to be installed in the subdivision prepared in accordance with the requirements of the City Council.

CROSS WALKWAY. A right-of-way or easement dedicated to public use, which cuts across or into a block to facilitate pedestrian access to adjacent streets and properties.

CUL-DE-SAC (COURT). A short street having 1 end open to traffic and being permanently terminated by a circular turn-a-round for vehicles.

DEVELOPER. The owner of land proposed to be subdivided or his or her representative. Consent shall be required from the legal owner of the premises.

DEVELOPMENT AGREEMENT. Any contract or written understanding between the city and the proponent of any project, including but not limited to a manmade change to improved or unimproved real estate, such as buildings, or other structures, mining, drudging, filling, grading, paving, excavation or drilling.

EASEMENT. A grant by the property owner of the use of a designated portion of land by the public, individuals, groups, or corporations for specific purposes.

ESCROW. A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. The escrow funds shall be deposited by the City Clerk-Treasurer in a separate account.

FINAL PLAT. The final plat shall mean all required maps, information, and documents as set forth in the subdivision regulations and as required by the City Council.

FRONTAGE. The side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

FRONTAGE STREET. Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

GENERAL DEVELOPMENT PLAN. A sketch preparatory to the preparation of the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the City Council as to the form of the plat and the objectives of these regulations.

GOVERNING BODY. The body of the local government having the power to adopt ordinances.

GRADE. The slope of a road, street, or other public way, specified in percentage (%) terms.

IMPROVEMENTS. See **LOT IMPROVEMENTS** or **PUBLIC IMPROVEMENTS**.

LOT. A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

LOT, CORNER. A lot situated at the intersection of 2 streets, the interior angle of the intersection not exceeding 135 degrees.

LOT IMPROVEMENT. Any building, structure, place, work of art or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of the betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

MONUMENT. Concrete and/or metal markers utilized to establish survey points and lot boundaries.

NONRESIDENTIAL SUBDIVISION. A subdivision whose intended use is other than residential, such as commercial or industrial. The subdivision shall comply with the applicable provisions of these regulations.

OFFICIAL MAP. A map of the municipality and/or any portion thereof lying within the incorporated limits, which shows the exact alignment, gradients, dimensions, and other pertinent data for highways and major streets and including specific controls for setbacks from the right-of-way of buildings or other physical structures or facilities.

ORDINANCE. Any legislative action, however denominated, of a local government, which has the force of law, including any amendment or repeal of any ordinance.

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

OPEN SPACE. An area of land preserved from building development and reserved for the use of the general public or a homeowner=s association for the purpose of active and passive recreation and certain necessary community facilities.

PARK AND RECREATION IMPROVEMENT FUND. A special fund established by the City Council to retain monies contributed by developers in accordance with the money in lieu of land provisions of these regulations within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

PARKS. Area of public land developed and maintained primarily as pleasurable landscaped areas providing for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play fields, and special purpose areas.

PLANNING COMMISSION. The Planning Commission is a governmental agency appointed by the City Council according to M.S. ' ' 462.351 through 562.363, as they may be amended from time to time, or in the event a Planning Commission is nonexistent, the City Council shall assume all the responsibility assigned to the Planning Commission by this chapter.

PRELIMINARY PLAT. The preliminary plat shall mean all required maps, information, and documents as set forth in these regulations and as required by the Planning Commission for approval.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. All the improvements shall be properly bonded.

RESUBDIVISION. A change in a map of an approved or recorded subdivision plat if the change affects any street layout on the map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term **RIGHT-OF-WAY** for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining the right-of-way and not included within the dimensions or areas of the lots or parcels.

RIGHT-OF-WAY intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by the maker of the plat on which the right-of-way is established.

RIGHT-OF-WAY WIDTH. The distance between property lines measured at right angles to the center line of the street.

STREETS.

(1) **ARTERIAL.** Four-lane streets which provide service for intra-urban trips at a somewhat lower level of travel mobility than the expressway. The at-grade intersections should be fully or partially regulated by traffic-control devices to ensure safe and efficient conditions for the arterial traffic. Direct private access onto the street will be permitted but regulated. Under certain circumstances, a frontage road may be needed. Additional right-of-way would be required for the frontage road.

(2) **COLLECTOR.** Streets that serve local traffic and provide for direct private access to abutting land uses. This system channels the local traffic to and from the arterial system and is capable of serving a minimum amount of through traffic.

(3) **EXPRESSWAYS.** Are divided roadways, which are designed for through traffic and also to serve intra-urban travel between major centers of activity in the metropolitan area. The at-grade intersections are usually spaced at infrequent intervals and are fully or partially regulated by traffic control devices. No direct private access onto the street should be permitted so as to minimize the number of vehicle-vehicle conflicts. If no alternative forms of access are available and frontage roads are warranted, additional right-of-way will be required.

(4) **FREEWAYS.** Are designed for the safe and efficient movement of high volumes of through traffic, at relatively high speeds. A standard design feature of a freeway is a divided roadway with full control of access by the use of ramps.

(5) **FRONTAGE ROADS.** Are adjacent to a major thoroughfare. Its primary function is to preserve the safety and capacity of the thoroughfare by controlling access to the major street while still providing direct private access to the adjoining properties. The roadway of the frontage road abuts the thoroughfare=s right-of-way.

(6) **LOCAL.** Streets that offer the lowest level of mobility because service to through traffic is deliberately discouraged. Direct private access to abutting land uses is provided.

SUBDIVIDER. Any person who:

- (1) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision;
- (2) Directly, or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or advertises for sale, lease, or development any interest, lot, parcel, site, unit, or plat in a subdivision;
- (3) Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel, site, unit or plat in a subdivision; or
- (4) Is directly or indirectly controlled by, or under direct or indirect, common control with any of the foregoing.

SUBDIVISION. Any land, vacant or improved , which is divided or proposed to be divided into 2 or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision. **SUBDIVISION** includes the division or development of residential and non-residential zoned land, whether by deed, metes and bounds description, lease, map, plat, or other recorded instrument.

SUBDIVISION AGENT. Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney at law whose representation of another person consists solely of rendering legal services.

SUBDIVISION BY METES AND BOUNDS. Any subdivision containing not more than 3 lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Ordinance, or these regulations.

SUBDIVISION PLAT. The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented.

VARIANCE. Any departure from the requirements of these regulations that is granted by the governing body.

ZONING ADMINISTRATOR. The officer as appointed by the City Council to administer these regulations and to assist administratively other boards and commissions.
(Ord. 100, passed 6-12-1979)

' 151.016 EFFECTIVE DATE.

This chapter becomes effective from and after its passage and publication.
(Ord. 100, passed 6-12-1979)

PROCEDURE FOR SUBMISSION OF PLATS

' 151.030 PREPLAT INVESTIGATION.

Prior to the filing of an application for conditional approval of a preliminary plat, the applicant shall submit copies of a general development plan to the Zoning Administrator. The Zoning Administrator shall send copies of the proposal to the City Engineer and other appropriate reviewing agencies who shall make comments and re-comment actions to be prepared for a regular meeting of the Planning Commission. The Zoning Administrator shall inform the applicant in writing that the plan, as submitted or as modified, does or does not meet the objectives of this chapter and is approved or rejected on those grounds.
(Ord. 100, passed 6-12-1979)

' 151.031 PRELIMINARY PLAT.

(A) Upon completing the preplat investigation, the subdivider may prepare a preliminary plat, which shall conform to the requirements of this chapter and the Zoning Ordinance of the city together with improvement plans and other supplemental material as may be specified by the Planning Commission and its reviewing agencies.

(B) An application shall be filed at least 10 days prior to the meeting of the Planning Commission, at which action is desired. The Zoning Administrator shall send copies of the preliminary plat to each of the following agencies as required for their comments or recommendations.

(1) *County agencies.*

- (a) Dodge County Highway Department;
- (b) Dodge County Assessor;
- (c) Dodge County Surveyor;
- (d) Dodge County Planning Commission; and
- (e) Dodge County Environmental Quality.

(2) *Other agencies.*

- (a) City Engineer;
- (b) KM School Board;
- (c) Xcel Energy;
- (d) KM Telecom;
- (e) Mediacom Cable Company;
- (f) MnDOT; and
- (g) Minnesota Energy Resources.

(Ord. 100, passed 6-12-1979)

' 151.032 PUBLIC HEARING ON PRELIMINARY PLATS.

The Planning Commission may hold a public hearing on the preliminary plat. Notice of the public hearing shall be given at least 10 days before the date of the hearing by publication in the official newspaper and by written notice mailed to the applicant and the owners of record listed in the office of the Zoning Administrator of all land within 350 feet of the outer boundary of the preliminary plat. The failure to give mailed notice to individual property owners or defects in the notice shall not affect the validity of the proceedings or of any action taken by the Planning Commission or the City Council.
(Ord. 100, passed 6-12-1979)

' 151.033 PLANNING COMMISSION RECOMMENDATION.

After considering the comments and suggestions received at the public hearing, if held, the Planning Commission shall recommend in writing to the City Council stating its reason therefor either that the preliminary plat be granted approval subject to certain conditions, if any, or that the preliminary plat be disapproved. A copy of the recommendation shall be forwarded to the City Council and the applicant with notice to the applicant of the date when it will be considered by the City Council.
(Ord. 100, passed 6-12-1979)

' 151.034 CITY COUNCIL ACTION; PRELIMINARY PLAT.

The City Council shall consider the preliminary plat at its next meeting following receipt of the Planning Commission recommendation. The City Council shall either approve the preliminary plat subject to certain conditions, if any, or disapprove the plat. The City Clerk-Treasurer shall notify the applicant in writing of the City Council's action, stating the conditions of approval or reasons for disapproval and shall endorse the date of the approval or disapproval on the preliminary plat. If approval is given, the City Clerk-Treasurer shall send the applicant 1 copy of the preliminary plat marked with any required revisions.
(Ord. 100, passed 6-12-1979)

' 151.035 APPROVAL OF PRELIMINARY PLAT.

Approval of a preliminary plat shall not constitute approval of the final plat. Unless earlier rescinded by the City Council, approval of a preliminary plat is limited to a period of 1 year after which time the applicant is required to resubmit a preliminary plat. Upon application filed with the City Clerk-Treasurer, the City Council may continue the approval for an additional period of time. The application shall be filed at least 20 days prior to expiration of the approval of the preliminary plat.
(Ord. 100, passed 6-12-1979)

' 151.036 FINAL PLAT.

Following approval of a preliminary plat, the applicant may prepare a final plat and shall file with the City Clerk-Treasurer an application for approval of the final plat. The application shall be filed at least 15 days prior to the meeting of the Planning Commission, at which action is desired. The City Clerk-Treasurer shall send copies of the application and final plat to each of the agencies which received a preliminary plat for their comments and recommendations. No final plat shall be considered unless it is filed with the City Clerk-Treasurer within the effective period of the approval of the preliminary plat. A final plat shall conform to the requirements of this chapter and all conditions set forth in the approval of the preliminary plat.

(Ord. 100, passed 6-12-1979)

' 151.037 REVIEW OF FINAL PLAT.

The Planning Commission shall review the final plat and the comments and recommendations of the other agencies and shall submit its findings and recommendations in writing to the City Council and the applicant.

(Ord. 100, passed 6-12-1979)

' 151.038 PUBLIC HEARING ON FINAL PLAT.

The City Council shall hold a public hearing on the final plat after receiving the Planning Commission's recommendation. The notification procedure as outlined in ' 151.032.

(Ord. 100, passed 6-12-1979)

' 151.039 CITY COUNCIL ACTION; FINAL PLAT.

The City Council shall, by resolution adopted within 60 days after the public hearing, approve or disapprove the final plat. The reasons for disapproval shall be recorded in the minutes of the City Council and reported to the applicant and Planning Commission by the City Clerk-Treasurer. No final plat shall be approved by the City Council unless satisfactory evidence is filed with the city that all past taxes have been paid in full, that the final plat is in a form acceptable for recording in the office of the County Recorder.

(Ord. 100, passed 6-12-1979)

' 151.040 RECORDING FINAL PLAT.

Upon approval by the City Council, the developer shall record the final plat in the office of the County Recorder or Registrar of Titles as provided by law. The final plat shall be signed by the City Clerk-Treasurer and the Chairperson of the Planning Commission.

(Ord. 100, passed 6-12-1979)

SPECIFICATIONS FOR APPLICATIONS AND PLATS

' 151.055 APPLICATION FOR GENERAL DEVELOPMENT PLAN FOR PREPLAT INVESTIGATION.

(A) A copy of the application on a form approved by the Planning Commission;

(B) Six copies of the Plan, which should include the following information:

(1) Scale and north point;

(2) Name and address of property owner;

(3) Name and address of subdivider;

(4) Zoning classification of land in the proposal and adjacent lands;

(5) Names of existing streets;

(6) General street design; and

(7) General lot layout.

(Ord. 100, passed 6-12-1979)

' 151.056 APPLICATION FOR PRELIMINARY PLAT.

An application for approval of a preliminary plat shall include the following:

(A) A copy of the application on a form approved by the Planning Commission;

(B) Six copies of the preliminary plat on black or blue line prints; and

(C) Two copies of existing or proposed private deed restrictions, if any.

(Ord. 100, passed 6-12-1979)

' 151.057 APPLICATION FOR FINAL PLAT.

An application for approval of a final plat shall include the following:

(A) Two copies of the application on a form approved by the Planning Commission;

(B) Six copies of the final plat on black or blue line prints;

(C) Two copies of a title opinion prepared by an attorney and approved by the City Attorney identifying the owners and persons of record having an interest in the platted area; and

(D) Two copies of existing or proposed private deed restrictions, if any.
(Ord. 100, passed 6-12-1979)

' 151.058 FORM OF PLATS.

Preliminary plats and final plats shall be prepared by a Minnesota Registered Engineer or Land Surveyor in accordance with the provisions of this chapter and the laws of the State of Minnesota and shall contain the following information:

<i>Preliminary Plat</i>	<i>Final Plat</i>
1. Identification: Date, scale north point, and north point, and proposed name of subdivision. The name shall not duplicate or closely approximate the name of any other subdivision in Dodge County.	1. Identification: Same.
2. Legal Description: Legal description of the land to be subdivided.	2. Legal Description: Same
3. Principals. Names of the owners of record and registered land surveyor.	3. Principals: Same
4. Boundaries. Length and bearings of the exterior boundaries of the land being divided.	4. Boundaries: Same.
5. Radii and Tangents: Approximate radii of all curves and lengths of all tangents.	5. Radii and Tangents: Same.

6. Lots and Blocks: Layout and approximate dimensions of lots and blocks. Lots shall be numbered progressively through each block, and blocks shall be numbered progressively through each plat.	6. Lots and Blocks: Same.
7. Monuments and Lot Corners: The approximate location of all permanent monuments and lot corners.	7. Monuments and Lot Corners: The exact location and material of all permanent lot corners and monuments.
8. Existing Streets and Public Uses: Layout, width and identification of existing public streets, easements, drainage ditches, parks, and other public property within and adjacent to the proposed subdivision.	8. Existing Streets and Public Uses: Same.
9. Existing Utilities: Location of existing sanitary and storm sewer lines, water mains, and culverts within and adjacent to the proposed subdivision with pipe sizes, cross-sectional areas, grades and capacities indicated.	9. Existing Utilities: Omit.
10. Other Existing Features: Location of existing buildings and structures, railroad right-of-way, municipal lines, township lines and lakes, rivers and streams and their known high and low water elevations. Water elevation references shall be the United States Geological Survey Datum. Flood hazard areas shall be clearly labeled.	10. Other Existing Features: Same, except buildings and structures shall be omitted.
11. Proposed Features: Layout, width and identification of proposed streets, easements, drain-age ditches, parks and other property to be dedicated to the public or reserved by covenants for the common use of property owners within the subdivision. Location of proposed sewer lines, water mains, culverts, and drainage facilities.	11. Proposed Features: Layout, width, and identification of proposed street rights-of-way, easements, drainage ditches, parks, and other property to be dedicated to the public or reserved by covenants for the common use of property owners within the subdivision.

12. Topographic Map of the Area Showing Contours as follows: Two-foot intervals where slope is 7% or less; 5-foot intervals where slope is from 7 to 15%; 20-foot intervals where slope is greater than 15%. All areas of the subdivision to be platted with a slope greater than 25% must be clearly indicated.	12. Topography: Omit.
13. Percolation test results, minimum of 2 per lot, together with soil borings, every acre to indicate depth to water table and rock formations. Omit if municipal sanitary sewer is available.	13. Percolation Tests: Omit.
14. Zoning: Identification of zoning classifications.	14. Zoning: Omit.
15. Restrictive Deed Covenants: Within identified flood plain areas, restrictive deed covenants requiring the flood plain areas to be left essentially in the state shown on the plat, establishing finished elevations of buildings, structures, and private streets and roads, and requiring that additions or modifications to the facilities shall comply with applicable ordinances and regulations governing the flood plain areas.	15. Restrictive Deed Covenants: Same.
16. Dedication: Omit.	16. Dedication: A statement of dedication signed, acknowledged, and witnessed as required by law for recording conveyances. The dedication shall read substantially as follows: AWe, the undersigned, certify that we are the sole interested parties in the tract of land described in the foregoing Surveyor=s Certificate, which is written on the plat on which this instrument is written, that we have caused the same to be surveyed and platted as . . . Subdivision as shown on the plat and that we do hereby grant and dedicate to the public for public use forever the streets, alleys, avenues, park sites, walks, easements, and limited accesses as shown thereon.@

17. Certificates: Omit.	17. Certificates: i. Surveyor: A certificate of the surveyor that the plat was made in accordance with this chapter and the laws of Minnesota, that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that all monuments have been correctly placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat. ii. Owner: A certificate of the owners is substantially the form as follows: AAs owners, we hereby certify that we caused the land described on this plat to be surveyed, divided, mapped, dedicated as represented on the plat. This certificate shall be signed, acknowledged, and witnessed as required by law for recording conveyances. iii. Taxes: A certificate by the County Auditor that all prior taxes have been paid. iv. City Clerk-Treasurer: A certificate by the City Clerk-Treasurer that the plat has been approved by the City Council. v. Chairman, Planning and Zoning Commission: A certificate that the plat has been approved by the Planning and Zoning Commission.
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(Ord. 100, passed 6-12-1979)

SUBDIVISION DESIGN STANDARDS

' 151.070 GENERALLY.

(A) The design of each subdivision and resubdivision shall conform to the Comprehensive Plan, and shall comply with the design standards contained in this chapter. Plans for improvements must be approved by the City Council before any work is begun. Proposed improvements shall be extended to the boundary lines of the tract to be subdivided unless, in the opinion of the City Council, such an extension is not possible or desirable for the existing layout or future development on adjacent tracts.

(B) Public improvements of each subdivision, except street surfacing and curb and gutter, must be completed before the subdivision is accepted by the city and building permits issued. Street surfacing and curb and gutter installation will be completed in the construction season following the utility installation.

(C) All costs of required improvements, including engineering fees, shall be borne by the subdivider, either directly or by assessment, to the subdivision.

(Ord. 100, passed 6-12-1979; Am. Ord. 127, passed 1-27-1992) Penalty, see ' 10.99

' 151.071 STREET DESIGN.

(A) The street system of a proposed subdivision shall be designed to facilitate adequate traffic circulation within the subdivision and from the subdivision to adjacent.

(B) Street arrangement, character, width, grade, location, sight distance, and surface material shall be related to existing or planned streets, topography, convenience, safety, and their intended ultimate function.

(1) The arrangement of major streets in a subdivision shall provide for the continuation or projection of existing streets in adjacent areas or conform to a plan approved by the Planning Commission where topographic or other conditions make continuance or conformance to existing streets impracticable.

(2) Collector streets shall be properly related to major streets and designed in a manner so as to supplement the major street system but not to serve in lieu thereof.

(3) Local streets shall be designed to benefit from the topography, to discourage through traffic and to provide the minimum amount of streets necessary for safe access to adjacent properties. The reasonable and intelligent use of curvilinear and cul-de-sac streets is allowed where necessary.

(4) Where a subdivision abuts upon, or contains, an existing or proposed highway, major thoroughfare, or railroad right-of-way, the Planning Commission may require reverse frontage lots with appropriate screen plantings in the non-access reservation strip; or the provision of suitable access roads parallel to, and on either side of, the highway, major thoroughfare, or railroad right-of-way providing access to adjacent properties and affording separation of through and local traffic.

(5) Streets designed and laid out so as to have one end permanently closed shall not exceed 300 feet in length, except where the Planning Commission has approved additional length due to property limitations or large lot size.

(6) Turnarounds shall be provided at the permanently closed end of all streets and shall have a minimum turnaround radius of 60 feet. The Planning Commission may approve a AT@ or AY@ type turnaround in lieu of the circular turnaround.

(Ord. 100, passed 6-12-1979) Penalty, see ' 10.99

' 151.072 INTERSECTIONS.

All streets shall intersect at right angles or as close thereto as possible. No street shall intersect another at an angle of less than 70 degrees. More than 2 streets intersecting at the same location shall be prohibited. Street jogs with centerline offsets of less than 150 feet shall be avoided.

(Ord. 100, passed 6-12-1979) Penalty, see ' 10.99

' 151.073 UTILITY EASEMENTS.

Easements for telephone service, electricity, gas lines, and other public utilities shall be provided and centered along the read and side lot lines where needed. The easements shall be 10 feet in width and shall be aligned from block to block.

(Ord. 100, passed 6-12-1979) Penalty, see ' 10.99

' 151.074 BLOCKS.

Block lengths shall not exceed 1,200 feet and shall not be less than 300 feet. A pedestrian crosswalk easement with a minimum width of 10 feet shall be provided near the center of any block longer than 800 feet. Block widths shall be sufficient to provide 2 tiers of lots of appropriate depth.

(Ord. 100, passed 6-12-1979) Penalty, see ' 10.99

' 151.075 LOTS.

(A) The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and the type of use contemplated. All lots shall comply with the minimum lot frontage and area requirements specified in the Zoning Ordinance.

(B) Every lot shall abut on a public street to assure access for fire protection, utilities, and other services.

(C) Lot remnants which are less than the minimum lot size shall be added to adjacent lots.

(D) Side lot lines shall be as near to right angles with streets having straight lines or radial to adjacent streets having curved lines as possible.

(E) (1) Except as otherwise provided herein, no individual wells or disposal systems may be constructed except in areas where the construction of municipal sewer and water is not feasible.

(2) In lands where municipal sewer and water is deemed by the City Council to be not feasible, development may take place if the following requirements are met.

(a) All land must be platted.

(b) All lots must have the capabilities of being served by city sewer and water in the future.

(c) Each home site shall consist of at least 3 city-sized lots.

(d) Each home site shall be constructed in such a position that 3 or more city-sized lots may be developed at such time city sewer and water becomes available.

(e) An individual well may serve up to 4 homes.

(f) Each home must have an individual disposal system.

(g) All wells and disposal systems must be built to all recommended state standards.

(h) In the event 1 home is to be built on 3 or more acres, the first 5 requirements shall not apply.

(3) In lands where municipal water is available and municipal sewer is deemed by the City Council to be not feasible, individual disposal systems may be constructed if the following requirements are met.

(a) All land must be platted.

(b) Each home site shall consist of at least 9,000 square feet.

(c) Each home must have an individual disposal system.

(d) All disposal systems must be built to all recommended state standards.

(Am. Ord. 107, passed 4-20-1982)

(Ord. 100, passed 6-12-1979) Penalty, see ' 10.99

' 151.076 PARKS, PLAYGROUNDS, AND RECREATION AREAS.

(A) *Recreation standards.* The Planning Commission shall require that land be reserved for parks and playgrounds or other recreation purposes in locations designated on the Comprehensive Plan or otherwise where such reservations would be appropriate. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned by the Planning Commission. The area shall be shown and marked on the plat, reserved for park and/or recreations purposes. When recreation areas are required, the Planning Commission shall determine the number of acres to be reserved from the following table, which has been prepared on the basis of providing 3 acres of recreation area for every 100 dwelling units. The Planning Commission may refer such proposed reservations to the local government official or department in charge of parks and recreation for recommendation. The developer shall dedicate all such recreation areas to the local government as a condition of final subdivision plat approval.

(1) *Table of recreation requirements.*

<i>Single-Family Lots Size of Lot</i>	<i>Percentage of Total Land in Subdivision to be Reserved for Recreation Purposes</i>
80,000 & greater sq. feet	1.5%
50,000 sq. feet	2.5%
40,000 sq. feet	3.0%
35,000 sq. feet	3.5%
25,000 sq. feet	5.0%
15,000 sq. feet	8.0%

(2) *Multi-family and high-density residential.* The Planning Commission shall determine the acreage for reservation based on the number of dwelling units per acre to occupy the site as permitted by the Zoning Ordinance.

(B) *Minimum size of park and playground reservations.* In general, land reserved for recreation purposes shall have an area of at least 4 acres. When the percentages from the table above would create less than 4 acres, the Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than 2 acres be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Where recreation land in any subdivision is not reserved, or the land reserved is less than the percentage in ' 151.076(A)(1), the provisions of ' 151.076(D) shall be applicable.

(C) *Recreation sites.* Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes, and shall be relatively level and dry; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the performance bond. A recreation site shall have a total frontage of 1 or more streets of at least 200 feet, and no other dimension of the site shall be less than 200 feet in depth. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the local government official or department in charge of parks and recreation for a recommendation. All land to be reserved for dedication to the local government for park purposes shall have prior approval of the governing body and shall be shown marked on the plat, reserved for park and/or recreation purposes.

(D) *Alternative procedure; money in lieu of land.* Where, with respect to a particular subdivision, the reservation of land required pursuant to this section does not equal the percentage of total land required to be reserved in ' 151.076(A)(1), the Planning Commission shall require, prior to final approval of the subdivision plat that the applicant deposit with the governing body a cash payment in lieu of land reservation. The deposit shall be placed in a Park and Recreation Improvement Fund to be established by the City Council. The deposit shall be used by the local government for improvement of a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that will be actually available to and benefit the persons in the subdivision and be located in the general neighborhood of the subdivision. The Planning Commission shall determine the amount to be deposited, based on the following formula: \$50 multiplied by the number of times the total area or the subdivision is divisible by the required minimum lot size of the zoning district in which it is located, less a credit for the amount of land actually reserved for recreation purposes, if any, as the land reserved bears in proportion to the land required for reservation in ' 151.076(A)(1), but not including any lands reserved through density zoning.

(E) *Other recreation reservations.* The provisions of this section are minimum standards. None of the paragraphs above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.
(Ord. 100, passed 6-12-1979) Penalty, see ' 10.99

CONVEYANCE OF UNPLATTED LAND OR PORTION OF A PLATTED LOT

' 151.090 CONVEYANCES PROHIBITED.

(A) *Generally.* No conveyance involving a portion of a platted lot, or involving unplatted land, the conveyance of which is prohibited by M.S. ' 462.358, Subdivision 4, as it may be amended from time to time, shall be made unless approval is first obtained as follows.

(B) *Portion of platted lot.* On application of the owner, the Planning Commission may approve a conveyance of a portion of a platted lot under the following circumstances if, in each instance, the new and residual parcels of land which would result from the conveyance meet the frontage and area requirements of the Zoning Ordinance:

(1) When it is desired to detach a portion of a platted lot and add it to an adjoining platted lot; and

(2) When it is desired to divide 2 platted lots into not more than 3 parcels, and the dedication of public utility or street easements is not involved.

(C) *Unplatted land.* On application of the owner filed with the City Clerk-Treasurer, the City Council, by resolution, may approve a conveyance by metes and bounds if it is determined that the following conditions exist:

(1) That the restriction against such conveyance will create an unnecessary hardship;

(2) That such a conveyance will not interfere with the purposes of the subdivision regulations;

(3) That the dedication of public utility or street easements is not involved;

(4) That the conveyance involves the division of a parcel into not more than 3 separate parcels;
and

(5) That the new and residual parcels of land which would result from the conveyance meet the frontage and area requirements of the Zoning Ordinance.

(D) *Applications.* All applications under this section shall be filed with the City Clerk-Treasurer and shall have attached thereto a surveyor's certificate, legal description, and map of the land to be surveyed.

(E) *Violations.* Any owner or agent of the owner of land who conveys a portion of a platted lot or unplatted land in violation of the provisions of this section shall be subject to the same violation provisions as set forth in ' 151.013.

(Ord. 100, passed 6-12-1979) Penalty, see ' 10.99

Section

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Editors note: A Flood Insurance Rate Map and Flood Boundary and Floodway Map have been published for the community. The Regulatory Floodway boundary is shown on the Flood Boundary and Floodway Map.

STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE**' 152.001 STATUTORY AUTHORIZATION.**

The legislature of the State of Minnesota has, in Minnesota Statutes, including but not limited to Chs. 103F and 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows in this chapter.
(Ord. --, passed 6-23-2008)

' 152.002 FINDINGS OF FACT.

(A) The flood hazard areas of Mantorville, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) *Methods used to analyze flood hazards.* This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(C) *National Flood Insurance Program compliance.* This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
(Ord. --, passed 6-23-2008)

' 152.003 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in ' 152.002 division (A) by provisions contained herein.
(Ord. --, passed 6-23-2008)

GENERAL PROVISIONS**' 152.010 LANDS TO WHICH CHAPTER APPLIES.**

This chapter shall apply to all lands within the jurisdiction of the city, shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the floodway, flood fringe, or general flood plain districts.

(Ord. --, passed 6-23-2008)

' 152.011 ESTABLISHMENT OF OFFICIAL ZONING MAP.

The official zoning map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this chapter. The attached material shall include the flood insurance study for the city, prepared by the Federal Emergency Management Agency dated August 3, 1981, and the Flood Boundary and Floodway Map and Flood Insurance Rate Map dated February 3, 1982 therein. The official zoning map shall be on file in the office of the City Clerk-Treasurer and the Zoning Administrator.

***Editor's Note:** For future annexation of floodplain lands, it is a requirement of the National Flood Insurance Program, that a community legally apply the provisions of its floodplain ordinance to the annexed land on the date of annexation (see ' 152.018 that follows). The flood insurance rate map panels adopted into ' 152.011 above must be inclusive enough so that they encompass all of the unincorporated area of the county that may be annexed into the city into the foreseeable future. This may mean that a city will need to adopt flood insurance rate map panels in addition to those flood map panels that contain the current corporate boundaries of the city.*

(Ord. --, passed 6-23-2008)

' 152.012 REGULATORY FLOOD PROTECTION ELEVATION.

The regulatory flood protection elevation shall be an elevation no lower than 1 foot above the elevation of the regional flood plus an increase in flood elevation caused by encroachments on the flood plain that results from designation of a floodway.

(Ord. --, passed 6-23-2008)

' 152.013 INTERPRETATION.

(A) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(B) The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence. (Ord. --, passed 6-23-2008)

' 152.014 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only. (Ord. --, passed 6-23-2008)

' 152.015 WARNING AND DISCLAIMER OF LIABILITY.

This chapter does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. --, passed 6-23-2008)

' 152.016 SEVERABILITY.

If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby. (Ord. --, passed 6-23-2008)

' 152.017 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

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.

BASEMENT. Means any area of a structure, including crawl spaces, having its floor or base sub-grade (below ground level) on all 4 sides, regardless of the depth of excavation below ground level.

CONDITIONAL USE. Means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(1) Certain conditions as detailed in the zoning ordinance exist; and

(2) The structure and/or land use conform to the comprehensive land use plan, if one exists and are compatible with the existing neighborhood.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term **FLOODWAY FRINGE** used in the Flood Insurance Study for the city.

FLOOD PLAIN. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

FLOOD PROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages. Classifications of flood proofing: refer to 152.044, E, 3. "FP" classifications are reference in the Minnesota Building Code. "W" classifications are referenced in the US Army Corp of Engineers Codes. The "FP" and "W" classifications are comparable.

(1) *FP1 (WD) - completely dry spaces.* These spaces shall remain completely dry during flooding to the RFD (Regulatory Flood Datum aka Flood Protection Elevation); walls shall be impermeable to passage of water and water vapor. Permitted contents and interior finish materials are virtually unrestricted, except for high hazard type uses or human habitation as provided in 209.3.

(2) *Section. 209.3 - use of space below the regulatory flood datum.* No flood level or portion of the building or structure that is below the RFD regardless of structure or space classification shall be used for human occupancy, or for storage of any property, materials, or equipment that might constitute a safety hazard when contacted by floodwaters. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(3) *FP2 (W2) - essentially dry spaces.* These spaces shall remain essentially dry during flooding to the RFD (Regulatory Flood Datum aka Flood Protection Elevation); walls shall be substantially impermeable to water, but may pass some water vapor or seep slightly. Contents and interior finish materials are restricted when hazardous or vulnerable under these conditions. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(4) *FP3 (W3) - spaces intentionally flooded with potable water.* These spaces will be flooded internally with potable water provided by the owner in order to maintain the building's structural integrity by equalizing pressure on structural components during flooding to the RFD (Regulatory Flood Datum aka Flood Protection Elevation); wall shall be sufficiently impermeable to prevent the passage, infiltration or seepage of contaminated floodwaters. Contents and interior finish materials are restricted when hazardous or vulnerable under intentional flooding conditions.

(5) *FP4 (W4) - spaces flooded with floodwater.* These spaces will be flooded with floodwater (contaminated) by automatic means, or are otherwise partially exposed to the unmitigated effects of the flood. Although there are minimal structural requirements to be met for walls and other structural components, contents and interior finish materials are restricted to types which are neither hazardous nor vulnerable to loss under these flooding conditions. (Most spaces in existing buildings would have this classification, if provided with a suitable automatic flooding system. Carports, loading platforms, open crawl spaces, porches, and patios would generally fall into this classification.)

(6) *FP5 (W5) - non-flood proofed spaces.* A non-flood proofed space in an existing building or structure is defined as a space which fails to meet the requirements of any of the above described classifications.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

HISTORIC STRUCTURE. As defined in 2003 CFR Title 44, FEMA Emergency Management & Assistance, Volume 1, Page 239.

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

MANUFACTURED HOME. A structure, transportable in 1 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include the term **RECREATIONAL VEHICLE**.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

PRINCIPAL USE or **STRUCTURE.** Means all uses or structures that are not accessory uses or structures.

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

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term **RECREATIONAL VEHICLE** shall be synonymous with the term **TRAVEL TRAILER/TRAVEL VEHICLE**.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in a flood insurance study.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). The regulatory flood protection elevation shall be an elevation no lower than 1 foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in ' 152.093, of this chapter and other similar items.

SUBSTANTIAL DAMAGE. Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the **START OF CONSTRUCTION** of the improvement. This term includes structures that have incurred **SUBSTANTIAL DAMAGE**, regardless of the actual repair work performed. The term does not, however, include either;

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of an **HISTORIC STRUCTURE**, provided that the alteration will not preclude the structure's continued designation as an **HISTORIC STRUCTURE**. For the purpose of this chapter, **HISTORIC STRUCTURE** shall be as defined in 44 Code of Federal Regulations, Part 59.1.

VARIANCE. Means a modification of a specific permitted development standard required in an official control including this chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.
(Ord. --, passed 6-23-2008)

' 152.018 ANNEXATIONS.

The Flood Insurance Rate Map panels adopted by reference into ' 152.011 above may include floodplain areas that lie outside of the corporate boundaries of the city, at the time of adoption of this chapter. If any of these floodplain land areas are annexed into the city, after the date of adoption of this chapter, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of annexation into the city.
(Ord. --, passed 6-23-2008)

ESTABLISHMENT OF ZONING DISTRICTS**' 152.030 DISTRICTS.**

(A) *Floodway district.* The floodway district shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in ' 152.011.

(B) *Flood fringe district.* The flood fringe district shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in ' 152.011.

(C) *General flood plain district.* The general flood plain district shall include those areas designated as Zone A on the Flood Insurance Rate Map adopted in ' 152.011 and those areas designated as Zones A1-30, AO, or AH on the Flood Insurance Rate Map where a floodway/flood fringe boundary has not been designated on the Flood Boundary and Floodway Map adopted in ' 152.011.

(Ord. --, passed 6-23-2008)

' 152.031 COMPLIANCE.

No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway, flood fringe and general flood plain districts, all uses not listed as permitted uses or conditional uses in ' ' 152.040, 152.042, 152.050, 152.052, and 152.060 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

(A) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically ' ' 152.090 through 152.092.

(B) Modifications, additions, structural alterations, normal maintenance and repair or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically ' 152.110.

(C) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in ' ' 152.100 through 152.103.

(Ord. --, passed 6-23-2008)

FLOODWAY DISTRICT (FW)

' 152.040 PERMITTED USES.

(A) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(B) Industrial-commercial loading areas, parking areas, and airport landing strips.

(C) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

(D) Residential lawns, gardens, parking areas, and play areas.
(Ord. --, passed 6-23-2008)

' 152.041 STANDARDS FOR FLOODWAY PERMITTED USES.

(A) The use shall have a low flood damage potential.

(B) The use shall be permissible in the underlying zoning district if one exists.

(C) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
(Ord. --, passed 6-23-2008)

' 152.042 CONDITIONAL USES.

(A) Structures accessory to the uses listed in ' 152.040 above and the uses listed in ' 152.042(B) through (H).

(B) Extraction and storage of sand, gravel, and other materials.

(C) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(D) Railroads, streets, bridges, utility transmission lines, and pipelines.

(E) Storage yards for equipment, machinery, or materials.

(F) Placement of fill or construction of fences.

(G) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of ' 152.092 of this chapter.

(H) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 100-year frequency flood event. (Ord. --, passed 6-23-2008)

' 152.043 STANDARDS FOR FLOODWAY CONDITIONAL USES.

(A) *All uses.* No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(B) All floodway conditional uses shall be subject to the procedures and standards contained in ' 152.103.

(C) The conditional use shall be permissible in the underlying zoning district if one exists.

(D) *Fill.*

(1) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(3) As an alternative, and consistent with division (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the County Recorder.

(E) *Accessory structures.*

(1) Accessory structures shall not be designed for human habitation.

(2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

(a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(3) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:

(a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

(b) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

(c) To allow for the equalization of hydrostatic pressure, there must be a minimum of 2 "automatic" openings in the outside walls of the structure having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding. There must be openings on at least 2 sides of the structure and the bottom of all openings must be no higher than 1 foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(F) Storage of materials and equipment.

(1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(G) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of M.S. Ch. 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

(H) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(Ord. --, passed 6-23-2008)

FLOOD FRINGE DISTRICT (FF)

' 152.050 PERMITTED USES.

Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the flood fringe district provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for flood fringe district permitted uses listed in ' 152.051 and the standards for all flood fringe uses listed in ' 152.054.

(Ord. --, passed 6-23-2008)

' 152.051 STANDARDS FOR FLOOD FRINGE PERMITTED USES.

(A) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than 1 foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(B) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with ' 152.043(E)(3).

(C) No placement of fill shall be located on the parcel unless said fill is specifically intended to elevate a structure in accordance with ' 152.051(A) of this chapter. All other placement or storage of fill, in excess of 100 cubic yards shall require a conditional use permit.

(D) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(E) The provisions of ' 152.054 of this chapter shall apply.
(Ord. --, passed 6-23-2008)

' 152.052 CONDITIONAL USES.

Any structure that is not elevated on fill or flood proofed in accordance with ' 152.051(A) through (B) and or any use of land that does not comply with the standards in ' 152.051(C) through (D) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in ' 152.053 through 152.054 and 152.103 of this chapter. (Ord. --, passed 6-23-2008)

' 152.053 STANDARDS FOR FLOOD FRINGE CONDITIONAL USES.

(A) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

- (1) The enclosed area is above-grade on at least 1 side of the structure;
- (2) It is designed to internally flood and is constructed with flood resistant materials; and
- (3) It is used solely for parking of vehicles, building access or storage.

(B) The above-noted alternative elevation methods are subject to the following additional standards:

(1) *Design and certification.* The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.

(2) *Specific standards for above-grade, enclosed areas.* Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:

(a) A minimum area of openings in the walls where internal flooding is to be used as a flood-proofing technique. There shall be a minimum of 2 openings on at least 2 sides of the structure and the bottom of all openings shall be no higher than 1 foot above grade. The automatic openings shall have a minimum net area of not less than 1 square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and

(b) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the state Building Code and shall be used solely for building access, parking of vehicles or storage.

(C) Basements, as defined by ' 152.017(B), shall be subject to the following;

(1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

(2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood-proofed in accordance with ' 152.053(C).

(D) All areas of non-residential structures including basements to be placed below the regulatory flood protection elevation shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.

(E) When at any one time more than 100 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shore land management ordinance. In the absence of a state approved shore land ordinance, the plan must clearly specify methods to be used to stabilize the fill on-site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

(F) *Storage of materials and equipment.*

(1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(3) The provisions of ' 152.054 shall also apply.
(Ord. --, passed 6-23-2008)

' 152.054 STANDARDS FOR ALL FLOOD FRINGE USES.

(A) All new principal structures must have vehicular access at or above an elevation not more than 2 feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

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

(C) *Manufacturing and industrial uses.* Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in ' 152.054(B) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

(D) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(E) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.

(F) Standards for recreational vehicles are contained in ' 152.092.

(G) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(Ord. --, passed 6-23-2008)

GENERAL FLOOD PLAIN DISTRICT**' 152.060 PERMISSIBLE USES.**

(A) The uses listed in ' 152.040 shall be permitted uses.

(B) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to ' 152.061 below. Sections 152.040 through 152.043 shall apply if the proposed use is in the floodway district and ' ' 152.050 through 152.054 shall apply if the proposed use is in the flood fringe district. (Ord. --, passed 6-23-2008)

' 152.061 PROCEDURES FOR FLOODWAY AND FLOOD FRINGE DETERMINATIONS.

(A) Upon receipt of an application for a permit or other approval within the general flood plain district, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe district.

(1) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

(2) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

(3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

(4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(B) The applicant shall be responsible to submit 1 copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional flood.

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over-bank areas.

(3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(C) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the governing body. The governing body must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary or deny the permit application. The governing body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the floodway and flood fringe district boundaries have been determined, the governing body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of ' ' 152.040 through 152.043 and ' ' 152.050 and 152.054.

(Ord. --, passed 6-23-2008)

SUBDIVISIONS

' 152.070 REVIEW CRITERIA.

No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the floodway district at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than 2 feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(Ord. --, passed 6-23-2008)

' 152.071 REQUIREMENTS FOR FLOODWAY/FLOOD FRINGE DETERMINATIONS.

In the general flood plain district, applicants shall provide the information required in ' 152.061 to determine the 100-year flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.

(Ord. --, passed 6-23-2008)

' 152.072 REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION.

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(Ord. --, passed 6-23-2008)

UTILITIES, RAILROADS, ROADS, AND BRIDGES**' 152.080 PUBLIC UTILITIES.**

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

(Ord. --, passed 6-23-2008)

' 152.081 PUBLIC TRANSPORTATION FACILITIES.

Railroad tracks, roads, and bridges to be located within the flood plain shall comply with ' ' 152.040 through 152.054. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(Ord. --, passed 6-23-2008)

' 152.082 ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS.

Where public utilities are not provided:

(A) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(B) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

(Ord. --, passed 6-23-2008)

MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES**' 152.090 NEW MANUFACTURED HOME PARKS.**

New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by ' ' 152.070 through 152.072.

(Ord. --, passed 6-23-2008)

' 152.091 REPLACEMENT MANUFACTURED HOMES, EXISTING PARKS.

(A) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with ' ' 152.050 through 152.054. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with ' 152.054 (A), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

(B) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(Ord. --, passed 6-23-2008)

' 152.092 RECREATIONAL VEHICLES.

Recreational vehicles that do not meet the exemption criteria specified in division (A) below shall be subject to the provisions of this chapter and as specifically spelled out in divisions (C) and (D) below.

(A) *Exemption.* Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (B) below and further they meet the following criteria:

(1) Have current licenses required for highway use.

(2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.

(3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(B) *Areas exempted for placement of recreational vehicles:*

(1) Individual lots or parcels of record;

(2) Existing commercial recreational vehicle parks or campgrounds; and

(3) Existing condominium type associations.

(C) Recreational vehicles exempted in division (A) above lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in ' ' 152.040 through 152.054. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(D) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding 5 units or dwelling sites shall be subject to the following:

(1) Any new or replacement recreational vehicle will be allowed in the floodway or flood fringe districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with ' 152.054(A). No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(2) All new or replacement recreational vehicles not meeting the criteria of division (1) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of ' 152.103. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of ' 152.092(A)(1) and (2) will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with ' 152.082.
(Ord. --, passed 6-23-2008)

ADMINISTRATION

' 152.100 ZONING ADMINISTRATOR.

A Zoning Administrator or other official designated by the governing body shall administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions of this chapter the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in ' 152.999.
(Ord. --, passed 6-23-2008)

' 152.101 PERMIT REQUIREMENTS.

(A) *Permit required.* A permit issued by the Zoning Administrator in conformity with the provisions of this chapter shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

(B) *Application for permit.* Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(C) *State and federal permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(D) *Certificate of zoning compliance for a new, altered, or nonconforming use.* It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

(E) *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by ' 152.999.

(F) *Certification.* The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

(G) *Record of first floor elevation.* The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

(H) *Notifications for watercourse alterations.* The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to M.S. Ch. 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(I) *Notification to FEMA when physical changes increase or decrease the 100-year flood elevation.* As soon as is practicable, but not later than 6 months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

(Ord. --, passed 6-23-2008)

' 152.102 BOARD OF ADJUSTMENT.

(A) *Rules.* The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by state law.

(B) *Administrative review.* The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter.

(C) *Variances.* The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this chapter, any other zoning regulations in the community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall only be issued by a community upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(D) *Hearings.* Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least 10 days notice of the hearing.

(E) *Decisions.* The Board of Adjustment shall arrive at a decision on such appeal or variance within 60 days, from the filing of all completed documents, to request an appeal. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the

Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in ' 153.103(F), which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under ' 152.999. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within 10 days of such action.

(F) *Appeals.* Appeals from any decision of the Board of Adjustment may be made, and as specified in this community's official controls and also by Minnesota Statutes.

(G) *Flood insurance notice and record keeping.* The Zoning Administrator shall notify the applicant for a variance that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(Ord. --, passed 6-23-2008)

' 152.103 CONDITIONAL USES- STANDARDS AND EVALUATION PROCEDURES.

The Board of Adjustment shall hear and decide applications for conditional uses permissible under this chapter. Applications shall be submitted to the City Clerk-Treasurer/Zoning Administrator who shall forward the application to the Board of Appeals for consideration.

(A) *Hearings.* Upon filing with the City Clerk-Treasurer/Zoning Administrator, an application for a conditional use permit, the City Clerk-Treasurer/Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least 10 days notice of the hearing.

(B) *Decisions.* The Board of Appeals shall arrive at a decision on a conditional use within 60 days from the date all complete appeal documents are submitted to the City Clerk-Treasurer/Zoning Administrator. In granting a conditional use permit the Board of Appeals shall prescribe appropriate conditions and safeguards, in addition to those specified in ' 152.103(F), which are in conformity with

the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this chapter punishable under ' 152.999. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within 10 days of such action.

(C) Procedures to be followed by the Board of Appeals in passing on conditional use permit applications within all flood plain districts.

(1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Board of Appeals for determining the suitability of the particular site for the proposed use:

(a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and

(b) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

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

(3) Based upon the technical evaluation of the designated engineer or expert, the Board of Appeals shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(D) Factors upon which the decision of Board of Appeals shall be based. In passing upon conditional use applications, the Board of Appeals shall consider all relevant factors specified in other sections of this chapter, and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments;

(2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures;

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(5) The importance of the services provided by the proposed facility to the community;

- (6) The requirements of the facility for a waterfront location;
- (7) The availability of alternative locations not subject to flooding for the proposed use;
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area;
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
- (12) Such other factors which are relevant to the purposes of this chapter.

(E) *Time for acting on application.* The Board of Appeals shall act on an application in the manner described above within 60 days from receiving the complete application, except that where additional information is required pursuant to ' 152.103(C). The Board of Appeals shall render a written decision within an additional 60 days from the receipt of such additional information. This is applicable if the applicant agrees in writing to an extension of up to 60 additional days based upon the lack of relevant information. The Board of Appeals may choose to deny the application in its entirety.

(F) *Conditions attached to conditional use permits.* Upon consideration of the factors listed above and the purpose of this chapter, the Board of Appeals shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

- (1) Modification of waste treatment and water supply facilities;
- (2) Limitations on period of use, occupancy, and operation;
- (3) Imposition of operational controls, sureties, and deed restrictions;
- (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; and
- (5) Flood-proofing measures, in accordance with the state Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(Ord. --, passed 6-23-2008)

NONCONFORMING USES AND AMENDMENTS**' 152.110 NONCONFORMING USES.**

A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in ' 152.018(U)(2), shall be subject to the provisions of divisions (A) through (E) of this section.

(A) No such use shall be expanded, changed, enlarged, or altered in a way that increases its non-conformity.

(B) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood-proofing techniques (i.e., FP-1 thru FP-4 flood-proofing classifications) allowable in the state Building Code, except as further restricted in (C) and (F) below.

(C) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50% of the market value of the structure, then the structure must meet the standards of ' ' 152.040 through 152.052 for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively.

(D) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.

(E) If any nonconforming use or structure is substantially damaged, as defined in ' 152.018(T), it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in ' ' 152.040 through 152.061 will apply depending upon whether the use or structure is in the floodway, flood fringe or general flood plain district, respectively.

(G) If a substantial improvement occurs, as defined in ' 152.018(U), from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of ' ' 152.040 through 152.052 of this chapter for new structures, depending upon whether the structure is in the floodway or flood fringe district, respectively.

(Ord. --, passed 6-23-2008)

' 152.111 AMENDMENTS.

(A) The flood plain designation on the official zoning map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.

(B) All amendments to this chapter, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the chapter amendment or technical study under consideration. (Ord. --, passed 6-23-2008)

' 152.999 PENALTIES FOR VIOLATION.

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(B) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation of this chapter. Such actions may include but are not limited to:

(1) In responding to a suspected violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it, including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct violations of this chapter to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(2) When a violation of this chapter is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional office along with the community's plan of action to correct the violation to the degree possible.

(3) The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either:

(a) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

(b) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(4) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this chapter.

(Ord. --, passed 6-23-2008)

Section

Codes Adopted by Reference **CHAPTER 153: GENERAL PROVISIONS**

153.01 Minnesota State Building Code

Assessment Policy for Local Improvement Projects

153.15 Petition for improvements

153.16 Classification of projects

153.17 Financing Class B and Class C improvements

153.18 Assessment regulations for Class B improvements

153.19 Assessment rules for Class C improvements

153.20 Special rules

153.21 Federal, state, and county aid use

153.22 Effective date

CODES ADOPTED BY REFERENCE

' 153.01 MINNESOTA STATE BUILDING CODE.

(A) *Codes adopted by reference.* The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. Chapters 16B.59 through 16B.75, as they may be amended from time to time, including all of the amendments, rules, and regulations established, adopted, and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section. The Minnesota State Building Code is hereby incorporated in this section as if fully set out herein.

(B) *Application, administration, and enforcement.*

(1) The application, administration, and enforcement of the code shall be in accordance with the Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. ' 16B.62, Subdivision 1, as it may be amended from time to time, when so established by this section.

(2) This code shall be enforced by the Minnesota Certified Building Official designated by this municipality to administer the code (M.S. ' 16B.65, Subdivision 1, as it may be amended from time to time).

(3) The code enforcement agency of this municipality is called the Building Official for the City of Mantorville. The Building Official shall be construction management services or the other building official as shall be appointed from time to time by the City Council.

(C) *Permits and fees.* The issuance of permits and the collection of fees shall be as authorized in M.S. ' 16B.62, Subdivision 1, as it may be amended from time to time. Permit fees shall be assessed for work governed by this code. All fees shall be set by resolution of the City Council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. ' 16B.70, as it may be amended from time to time.

(D) *Violations.* A violation of the code is a misdemeanor (M.S. ' 16B.69, as it may be amended from time to time).

(E) *Building Code optional chapters.* The Minnesota State Building Code, established pursuant to M.S. ' ' 16B.59 through 16B.75, as they may be amended from time to time, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. This municipality has elected not to adopt any such optional chapters.

(F) *Effective date.* This section becomes effective from and after its passage and publication. (Ord. 154, passed 5-6-2003) Penalty, see ' 10.99

ASSESSMENT POLICY FOR LOCAL IMPROVEMENT PROJECTS

' 153.15 PETITION FOR IMPROVEMENTS.

A project may be initiated by the City Council or by a petition of 35% of affected property owners. (Ord. 116, passed 5-14-1985)

' 153.16 CLASSIFICATION OF PROJECTS.

(A) *Generally.* Public improvements are divided into 3 classes specified in the following subdivisions according to their respective benefit to the whole city and to property specially served by the improvement and taking into account past city practice.

(B) *Class A.* Class A improvements are those which are of general benefit to the city at large, including public buildings, except a building which is part of an improvement described in one of the following subdivisions; any public park, playground, or recreational facility; the installation and maintenance of street lighting systems; and any improvement not described in M.S. ' 429.021, Subdivision 1, as it may be amended from time to time. Any such improvement shall be financed from general city funds and not from special assessments.

(C) *Class B.* Class B improvements are those which are of both general benefit and special benefit to abutting or nearby property. Class B improvements include:

- (1) Trunk water mains larger than 6 inches;
- (2) Trunk sanitary sewer mains larger than 8 inches;
- (3) Curb and gutter grading and surfacing collector streets;
- (4) Storm sewers; and
- (5) The construction of off-street parking facilities.

(D) *Class C.* Class C improvements are those which are primarily if not exclusively of benefit to property abutting or in the area of the improvement, including:

- (1) Sidewalks;
- (2) Water mains no larger than 6 inches in diameter and services to property line;
- (3) Sanitary sewer mains no larger than 8 inches in diameter and services to property line;
- (4) Curb and gutter, grading and surfacing residential streets; and

(5) The abatement of nuisances and the draining of swamps, marshes, and ponds on public or private property and filling the same.

(Ord. 116, passed 5-14-1985)

' 153.17 FINANCING CLASS B AND CLASS C IMPROVEMENTS.

It is the policy of the city to finance Class B and Class C improvements by the methods prescribed in ' ' 153.18 through 153.20. The apportionment of the cost between benefitted property and the city at large and the method of levying assessments prescribed in those sections shall be followed in each case unless the Council, by resolution, finds that because of special circumstances stated in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement described in

M.S. ' 429.021, as it may be amended from time to time, and not placed in Class A, B, or C by ' 153.16 shall be financed as the Council determines to be most feasible and equitable in each case. In each case, the Council shall examine the assessment roll before approval and adjust any assessment which exceeds the benefit received by the property assessed.

(Ord. 116, passed 5-14-1985)

' 153.18 ASSESSMENT REGULATIONS FOR CLASS B IMPROVEMENTS.

(A) *Trunk water mains and sanitary sewers.* The cost of trunk sewer and water mains and lift stations shall be assessed on an area basis. When a trunk main is constructed and also serves as a lateral main for abutting property, the abutting property shall be directly assessed on a front foot basis for the cost of a 8-inch sewer or 6-inch water main plus its share of the trunk (oversizing) cost on an area basis. Other property benefitted by the trunk main but not having direct access to the trunk shall not be assessed for its share of the trunk cost until access to the main is provided.

(B) *Collector street.* The collector streets are designated on the map attached to Ordinance 116. When grading and surfacing is done on a collector street, the cost of construction based on a 32-foot, 7-ton roadway shall be assessed to the abutting property on a front foot basis. Any additional cost to construct the roadway to higher design standards shall be paid from general funds.

(C) *Storm sewers.* A percentage of the cost of constructing storm sewers shall be paid by the city from general funds. The remainder of the cost shall be assessed against the property in the area served by the sewer on the basis of the square footage of the property. The area to be assessed shall be determined on the basis of topographic maps and other pertinent data.

(Ord. 116, passed 5-14-1985)

' 153.19 ASSESSMENT RULES FOR CLASS C IMPROVEMENTS.

(A) *Sidewalks.* The cost of the construction of sidewalks shall be assessed on the basis of frontage against property abutting the side of the street on which the sidewalk is located.

(B) *Water and sewer.* The cost of water mains not exceeding 6-inches in diameter and of sanitary sewer mains not exceeding 8-inches in diameter shall be assessed against abutting property on the basis of frontage. The cost of water mains to be assessed includes the service lines, if furnished, hydrants, and valves. The cost of sewer mains includes service lines, if furnished.

(C) *Streets.* The cost of construction of residential streets up to a 32-foot, 7-ton roadway including curb and gutter, grading, and surfacing shall be assessed on the basis of frontage. The rest of the cost shall be paid from general funds.

(D) *Nuisances*. The cost of abating nuisances and draining of swamps, marshes, and ponds on public or private property and filling the same shall be assessed in a manner determined by the Council in each case to measure most equitably the benefit received by property to be assessed. The assessment in any such case may be made against nonabutting property to the extent the property is benefitted by the improvement. (Ord. 116, passed 5-14-1985)

' 153.20 SPECIAL RULES.

(A) *Corner lots*. In any assessment made on the basis of frontage, except for water or sewer, corner lots shall be assessed for footage along the front of the lot plus 1/2 of the side footage; the other 1/2 of the side footage shall be spread among all other assessed properties. Corner lots that are large enough to be split into smaller buildable lots shall be assessed for front footage of those buildable lots on the basis of the split that would provide the most buildable lots.

(B) *Intersections*. The cost of improvements in street intersections shall be included as part of the total assessable cost.

(C) *Adjusted frontage*. When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined according to the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment.

(1) Front footage shall be measured at setback on cul-de-sacs and sharply curved streets and irregularly shaped lots.

(2) Equivalent front footage shall be determined by dividing the square footage of the lot by the general lot depth of the subdivision for pie-shaped lots and irregular shaped lots where other rules do not apply.

(3) Where frontage curves so greatly as to give a general appearance of a corner, the lot shall be considered a corner lot and equivalent front footage, as well as side footage where required, determined on the basis of an irregularly shaped lot.

(4) Where a lot consists of a combination of the above, the equivalent front footage shall be determined in accordance with applicable rules.
(Ord. 116, passed 5-14-1985)

' 153.21 FEDERAL, STATE, AND COUNTY AID USE.

If the city receives financial assistance from the federal government, the state, or the county to defray a portion of the cost of a street improvement project, the aid shall be used first to reduce the share of the project cost which would be met from general city funds according to the assessment formula

contained in this subchapter. If the aid is more than the amount of the improvement cost to be borne by the city, the remainder of the aid so received shall be used to reduce each individual assessment proportionately.

(Ord. 116, passed 5-14-1985)

' 153.22 EFFECTIVE DATE.

This subchapter becomes effective from and after its passage and publication.

(Ord. 116, passed 5-14-1985)