

## CHAPTER 11

### LAND USE REGULATION (ZONING)

#### SECTION 11.01. INTENT AND PURPOSE.

**Subd. 1.** Pursuant to the authority conferred by the State of Minnesota in Section 462.357, Laws of 1965 amended, and for the purpose of: (1) promoting and protecting the public health, safety, and general welfare of the inhabitants of the City; (2) protecting and conserving the character, social, and economic stability of agricultural, residential, commercial, industrial and other use areas; (3) securing the most appropriate use of land; (4) preventing the overcrowding of the land and undue congestion of population; (5) providing adequate light, air and reasonable access; (6) facilitating adequate and economical provision of transportation, water supply and sewage disposal; and, (7) planning for location of schools, recreation facilities and other public requirements.

**Subd. 2.** This Chapter sets minimum and maximum standards for the height and size of buildings, the size of yards, courts and other open spaces, the density of population, the location and use of buildings and land for trade, commerce, industry, residence and other purposes; creates districts for said purposes and establishes the boundaries thereof; provides for changes in regulations, restrictions and boundaries of such districts; defines certain terms used herein; and provides for enforcement and administration.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

**Subd. 3.** The purpose and intent of adult use regulations set forth in provisions of this Chapter is to serve a substantial government interest in attempting to preserve the quality and vitality of neighborhoods, curtail the depression of property values, restrain increased criminal activity and slow the speed of sexually transmitted diseases.

**A.** Adult use entertainments, as defined in this Chapter, because of their very nature, are recognized as having serious objectionable operational characteristics that have a deleterious effect on the use and enjoyment of adjacent areas. These secondary effects are especially evident where such uses are concentrated.

**B.** One of the objectives of adult use regulation of this Chapter is to disperse the adult uses through separation requirements from other adult uses and from other significantly incompatible uses. These regulations allow adult uses only in the I-1 Light Industrial District.

**C.** The secondary effects associated with adult use has included increased level of criminal activity, increased risk of exposure to sexually transmitted diseases, depression of property values and a significant change in the character of surrounding neighborhoods.

**D.** However, it is recognized that such regulations cannot de facto constitute a prohibition of adult uses. Otherwise, a protected form of expression would vanish. The adult use regulations as set forth in this Chapter represent a balancing of competing interests: reduction of objectionable secondary affects through the regulation of adult uses versus the protected rights of owners, operators and performers and patrons of those adult uses.

Source: Ordinance No. 3, 2<sup>nd</sup> Series  
Effective Date: 03-16-1994

## **SECTION 11.02. JURISDICTION, APPLICATION AND INTERPRETATION.**

**Subd. 1.** The jurisdiction of this Chapter shall apply to all of the area within the City. This Chapter shall also apply to the unincorporated area within two miles of its limits; provided that the governing bodies or body of any unincorporated area adjacent to the City have not adopted ordinances for the zoning of land uses. Should any governing body have zoning ordinances, this Chapter shall only apply after a joint resolution has been adopted by the City and the affected governing body which confers the zoning authority to the City.

### **Subd. 2. Application and Interpretation.**

**A.** In their application and interpretation, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.

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

**C.** No structure shall be erected, converted, enlarged, reconstructed or altered without first obtaining a building permit, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Chapter.

**D.** Except as herein provided no building, structure or premises shall herein be used or occupied and no building permit shall be granted that does not conform to the requirements of this Chapter.

**Subd. 3. Lots of Record.** All lots which are part of a subdivision legally recorded with the County Recorder, and lot or lots described by metes and bounds, the deed to which has been recorded in the office of the County Recorder prior to the effective date of this Chapter, shall be considered to be lots of record and shall thereby be considered a legally buildable lot even though such lot or lots may not conform to the minimum requirements of this Chapter, provided the setback requirements of this Chapter are complied with insofar as practical.

**SEC. 11.03. RULES AND DEFINITIONS.**

**Subd. 1. Rules.** For purposes of this Chapter, words used in the singular number includes the plural, and the plural the singular; the present tense includes the past and future tenses and the future the present; the word "shall" is mandatory, the word "may" is permissive; all measured distances shall be to the nearest integral foot; whenever a word or term defined hereinafter appears in the text of this Chapter, its meaning shall be construed as set forth in such definition thereof.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

**Subd. 2. Definitions.** The following terms, as used in this Chapter, shall have the meanings stated:

- 1. Accessory Building** - A subordinate building or structure on the same lot or part of the main building, occupied by or devoted exclusively to an accessory use.
- 2. Accessory Use** - A use naturally and normally incidental to, subordinate to, and auxiliary to the principal permitted use of the premises.
- 3. Adult Arcade** - An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines for viewing by five (5) or fewer persons are each used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or sexual anatomical areas.
- 4. Adult Bookstore** - An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- 5. Adult Cabaret** - A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- 6. Adult Motion Picture Theater** - An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

**7. Adult Theater** - A theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

**8. Adult Use Establishments** - Adult use establishment include, but are not limited to: adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.

**9. Alley** - Any dedicated public way providing a secondary means of ingress and/or egress to land or structures thereon.

**10. Automobile Wrecking or Junk Yard** - A place maintained for keeping, storing or piling in commercial quantities, whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used or second-hand material of any kind, including used motor vehicles, machinery, and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron or other metals, or articles which from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk. This shall include a lot or yard for the keeping of unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment. This shall not prohibit the keeping of one (1) unlicensed motor vehicle within a garage or other structure in residential districts or two (2) unlicensed motor vehicles not including farm implements within a farm in the agricultural district.

**11. Basement** - That portion of a floor of a building which is wholly or partially, up to fifty (50) percent, underground or below grade.

**12. Boarding or Rooming House** - A boarding or rooming house shall be construed to mean any dwelling occupied in any such manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any attempt to provide therein cooking or kitchen accommodations, providing that accommodations are not provided for more than ten (10) persons.

**13. 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 or property of any kind, when any portion thereof is completely separated from every other part thereof by division walls from the ground up and without openings, each portion of such building shall be deemed as a separate building.

**14. Buildable Area** - That part of the lot remaining after required yards have been provided.

**15. Building Principal** - A building or structure in which is conducted the main or principal use of the lot on which said building or structure is situated.

**16. Building Height** - The vertical distance measured from the average ground level adjoining the building to the highest point of the roof surface if a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

**17. Building Setback Line** - The front line of the building or the legally established line which determines the location of the building with respect to the street line.

**18. Carport** - A structure permanently attached to a dwelling having a roof supported by columns but not otherwise enclosed.

**19. Clear-Cutting** - The removal of an entire stand of trees.

**20. Clinic** - A clinic for the purpose of this Chapter, is a public or proprietary institution providing diagnostic, therapeutic or preventive treatment of ambulatory patients by a group of doctors acting in concert and in the same building for the purposes aforesaid.

**21. Conditional Use** - A use which, because of unique characteristics, cannot be classified as a permitted use in any particular district. After due consideration, in each case, of the impact of such use upon neighboring land and of the public desirability for the particular use at the particular location a "Conditional Use Permit" may be granted.

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

**23. Dwelling** - A building or portion thereof, designed exclusively for residential occupancy, including one family, two family and multiple family dwellings but not including motels, hotels, boarding houses and garage space.

**24. Dwelling, Multiple** - A building designed with three (3) or more units for occupancy by three (3) or more families living independently of each other but sharing hallways and main entrances and exits.

**25. Dwelling, Single Family** - A dwelling occupied by only one (1) family, and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for one (1) family only.

**26. Dwelling, Two Family** - A dwelling so designed and arranged to provide cooking and kitchen accommodations and sanitary facilities for occupancy by two (2) families.

**27. Easement** - A grant by a property owner for the use of a strip of land for the purpose of construction and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways and gas lines.

**28. Equal Degree of Encroachment** - A method of determining the location of encroachment lines so that the hydraulic capacity of flood plain lands on each side of a stream are reduced by an equal amount when calculating the increases in flood stages due to flood plain encroachments.

**29. Essential Services** - The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, communications, steam or water transmissions or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, and other similar equipment and accessories in connection therewith (but not including buildings) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare.

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

**31. Farming** - The cultivating or pasturing of a parcel of land or using it for the raising of livestock or fowl for commercial purposes.

**32. Farmstead** - Property on which structures and a farm dwelling are located for management, storage, and general farm operation.

**33. Flood** - A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

**34. Flood Fringe** - That portion of the flood plain outside of the floodway.

**35. Flood Plain** - Those areas adjoining a water course which have been or hereafter may be covered by the regional flood.

**36. 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.

**37. Floodway** - The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

**38. Floor Area, Ground** - The area within the exterior walls of the main building or structure as measured from the outside walls at the ground level, not including garages or enclosed or unenclosed porches and not including attached utility or accessory rooms having three or more exterior sides.

**39. Garage, Community** - Any space or structure or series of structures for the storage of motor vehicles for the use of two or more occupants of property in the vicinity and having no public shop or service therein.

**40. Garage, Private** - An accessory building designed or used for the storage of not more than three (3) licensed automobiles, trucks, or buses, owned and used by the occupants of the building to which it is accessory.

**41. Gasoline Service Station** - A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including special facilities for the painting, major repair or similar servicing thereof.

**42. Home Occupation** - Any gainful occupation engaged in by the occupants of a dwelling at or from the dwelling when carried on within the dwelling unit and not in an accessory building. Permissible home occupations shall not include the conducting of a retail business other than by mail, manufacturing business, or a repair shop of any kind on the premises, and no stock in trade shall be kept or sold. No other than persons residing on the premises shall be employed, and no mechanical equipment shall be employed that is not customarily found in the home. Such home occupation shall not require internal or external alterations or involve construction features not customarily found in dwellings. The entrance to the space devoted to such occupations shall be within the dwelling. There shall be no exterior display, nor exterior signs except as allowed in the sign regulations for the zoning districts in which such home occupation is located; there shall be no exterior storage of equipment or materials used in the home occupation. Permissible home occupations include, but are not limited to, the following: art studio; dressmaking; special offices of a clergyman, lawyer, architect, engineer, accountant, or real estate agent or appraiser, when located in a dwelling unit occupied by the same; and teaching, with musical, dancing, and other instruction limited to one (1) pupil at a time, except day care centers as regulated in the districts.

**43. Livestock Operation** - Any operation for the feeding and care of animals or poultry for food, pelts or as pets.

**44. Lot** - A lot is a piece or parcel of land occupied or to be occupied by a building, structure or use, or by other activity permitted thereon and including the open spaces required under this Chapter, and having its principal frontage on a public street.

**45. Lot Area** - The area of a horizontal plane within the lot lines.

**46. Lot Corner** - A lot situated at the junction of two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

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

**48. Lot Depth** - The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

**49. Lot Frontage** - The front of a lot shall be for purposes of complying with this Chapter, that boundary abutting a public right-of-way having the least width.

**50. Lot Line** - A property boundary line of any lot held in single or separate ownership: except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

**51. Lot Width** - The shortest horizontal distance between the side lot lines measured at right angles to the lot depth.

**52. Lot of Record** - A lot which is part of a subdivision, the map of which has been recorded in the office of the Stearns County Recorder or a lot described by metes and bounds, the deed to which has been recorded in the office of the Stearns County Recorder prior to the effective date of this Chapter.

**53. Mobile Home** - A structure transportable in one or more sections, which when erected on site measures eight body feet or more in width and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, and bears the appropriate Federal Department of Housing and Urban Development inspection label certifying that the mobile home meets Federal Mobile Home Construction and Safety Standards.

**54. Modular Home** - A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site, and bears a seal from the State of Minnesota stating that the unit is approved by the State Building Inspector certifying that the unit is a manufactured building and complies with the State Building Code. A modular home shall be congruous to a single-family dwelling.

**55. Motel or Motor Court** - A business comprising a series of attached, semi-attached or detached rental units with or without eating facilities for the overnight accommodations of transient guests.

**56. Non-Conforming Building, Structure or Use** - A building, structure or use which does not conform with the district regulations in which it is situated.

**57. Ordinary High Water Mark** - A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

**58. Parking Space** - An area sufficient in size to store one (1) standard automobile, which has adequate access to a public street or alley.

**59. Permitted Use** - A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and performance standards (if any) of such district.

**60. Public Waters** - Any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes 1976, Section 105.37, Subdivision 6. However, no lake, pond or flowage of less than 10 acres in size and no river or stream having a total drainage area less than two square miles need be regulated for the purposes of these regulations. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commissioner of Natural Resources shall be exempt from the provisions of these regulations.

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

**62. 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 100 years recurrence interval.

**63. Regulatory Flood Protection Elevation** - A point not less than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Chapter are required to be elevated or flood proofed.

**64. Set Back** - The minimum horizontal distance between a building and street or lot line.

**65. Shoreland** - The land located within the following distances from public waters (a) 1,000 feet from the normal high water mark of a lake, pond, or flowage; (b) 300 feet from a river or stream, or the landward extent of a flood plain designated by this Chapter on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits wherever the waters involved are bounded by natural or man-made topographic divides which extend landward from the waters for lesser distances.

**66. Specified Anatomical Areas** - As used herein, specified anatomical areas means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**67. Specified Sexual Activities** - As used herein, specified sexual activities means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; 2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in connection with any of the activities set forth in Items 1 through 3, above.

**68. Story** - That portion of a building included between the surface of any floor and the surface of the floor next above it, or the space between such floor and the ceiling next above it. A basement shall be considered a story if its ceiling is over five (5) feet above the average established grade.

**69. Structure** - Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner.

**70. Temporary Structure** - Any structure which is moved or constructed to temporarily meet the needs of a land owner in a commercial or industrial district who has lost the use of a permanent structure which has been destroyed or seriously damaged by fire, storm or other natural disaster.

**71. Townhouse** - Single family attached units in structures housing three (3) or more dwelling units contiguous to each other, only by the share of one (1) common wall, and each dwelling unit shall have separate and individual front and rear entrances.

**72. Use** - The purpose for which land or buildings thereon are designed, arranged, or intended to be occupied or used, or for which they are occupied or maintained.

**73. Variance** - The waiving of specific literal provisions of this Chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. Variances are to be granted only when it is demonstrated that a waiving of the provision will be in keeping with the spirit and intent of this Chapter. Furthermore, hardship must be demonstrated on a non-economic basis.

**74. Yard** - An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

**75. Yard, Front** - A yard extending across the front of the lot between the side lot lines and lying between the front line of the lot and the nearest line of the building.

**76. Yard, Rear** - A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

**77. Yard, Side** - A yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.

Source: Ordinance No. 3, 2<sup>nd</sup> Series

Effective Date: 03-16-1994

(Sections 11.04 through 11.09, inclusive, reserved for future expansion.)

**SEC. 11.10. GENERAL REQUIREMENTS.**

**Subd. 1. Intent.** The intent of this Section is to establish general development performance standards. The regulations provided herein shall apply equally to all districts except where special provisions provide otherwise.

**Subd. 2. Parking and Loading Requirements.**

**A.** In all zoning districts, with the exception of allowed uses in the "C-1" District, off-street parking facilities for the storage of motor vehicles for the use of occupants, employees and patrons of the buildings or structures hereafter erected, altered or extended after the effective date of this Chapter, shall be provided and maintained as herein prescribed.

**B.** Parking of automobiles and other motor vehicles is permitted in the front and side yards in manufacturing districts if screened by a greenbelt eight (8) feet in width.

**1.** Loading space shall not be construed as supplying off-street parking space.

**2.** 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 one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

**3.** Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this Chapter, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.

**4.** 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 or patients as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise, less ten (10) percent.

**5.** Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve.

**6.** The location of required off-street parking facilities for other than dwellings shall be within three hundred (300) feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building or structure.

**7.** Where a use is not specifically mentioned, off-street parking requirements shall be the same as for similar uses.

**8.** Nothing in this Section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses provided, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the following requirements:

**9.** Nothing in this Section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area, or an additional area within three hundred (300) feet of such building.

**10.** The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table, and the space so required shall be irrevocably reserved for such use.

**(a) Single family, two family and townhouse units.** One (1) space per unit.

**(b) Boarding house.** At least two (2) parking spaces for each three (3) persons for whom accommodations are provided for sleeping.

**(c) Multiple family dwellings.** One and one-half (1-1/2) spaces per unit.

**(d) Motels, motor hotels, hotels.** One (1) space per each rental unit plus one (1) additional space for each ten (10) units and one (1) space for each employee on any shift.

**(e) Church, theatre, auditorium.** At least one (1) parking space for each four (4) seats based on the design capacity of the main assembly hall.

**(f) Hospitals.** Two (2) spaces per each bed.

**(g) Medical, dental or hospital out-patient clinic.** One (1) space for each one hundred ten (110) square feet of net floor area or seven and one-half (7-1/2) spaces per doctor, whichever number of parking spaces is greater.

**(h) Sanitarium, convalescent home, rest home, nursing home or day nurseries.** Four (4) spaces plus one (1) for each three (3) beds for which accommodations are offered.

**(i) Elderly (senior citizen) housing.** One-half (1/2) space per unit.

**(j) Drive-in establishment and convenience food.** At least one (1) parking space for each thirty-five (35) square feet of gross floor area but not less than fifteen (15) spaces.

**(k) Office buildings and professional offices.** One (1) space for each two hundred fifty (250) square feet of floor area.

**(l) Bowling alley.** At least five (5) parking spaces for each alley, plus additional spaces as may be required herein for related uses contained within the principal structure.

**(m) Motor fuel station.** At least four (4) off-street parking spaces plus two (2) off-street parking spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts and/or service shall be required to provide additional parking in compliance with other applicable Sections of this Chapter.

**(n) Retail store and service establishment.** At least one (1) off-street parking space for each two hundred (200) square feet of floor area.

**(o) Retail sales and service business with fifty (50) percent of gross floor area devoted to storage, warehouse and/or industry.** One (1) space for each two hundred (200) square feet devoted to public sales and/or service plus one (1) space for each five hundred (500) square feet of storage area or one (1) space for each employee on the maximum shift which is appropriate.

**(p) Restaurants, cafes, private clubs serving food and/or drinks, bars, taverns, nightclubs.** At least one (1) space for each sixty (60) square feet of gross floor area.

**(q) Undertaking establishments.** At least twenty (20) parking spaces for each chapel or parlor, plus one (1) parking space for each funeral vehicle maintained on the premises. Aisle space shall also be provided off the street for making up a funeral procession.

**(r) Auto repair, bus terminal, boats and marine sales and repair, bottling company, shop for a trade employing six (6) or less people, garden supply store, building material sales in structure.** Eight (8) off-street parking spaces, plus one (1) additional space for each eight hundred (800) square feet of floor area over one thousand (1,000) square feet.

**(s) Manufacturing, fabricating or processing of a product or material; warehouse, storage, handling of bulk goods, post offices.** At least eight (8) spaces, plus one (1) space for each two (2) employees on each shift based on maximum planned employment or at a minimum one (1) space for each seven hundred (700) square feet of floor area.

**(t) Car wash.** (In addition to required magazine or stacking space):

**(1) Automatic drive through, serviced.** A minimum of ten (10) spaces or one (1) space for each employee on the maximum shift, whichever is greater.

(2) **Self-service.** A minimum of two (2) spaces.

(3) **Motor fuel station car wash.** Zero (0) in addition to that required for the station.

11. In all districts where off-street parking lots are permitted or required, such off-street parking lots shall be constructed and maintained subject to the following regulations:

- (a) Adequate ingress and egress shall be provided.
- (b) Such parking lots shall be maintained in a usable dustproof condition, such as concrete, blacktop, or properly treated crushed rock, or some other permanently surfaced area and shall be kept graded and drained to dispose of surface water.
- (c) Whenever such parking lot boundary adjoins property zoned for residential use, a setback of eight (8) feet from said line shall be required.
- (d) Necessary curbs or other protections against damage to adjoining properties, streets and sidewalks shall be provided and maintained.
- (e) Plans for the construction of any such parking lot must be approved by the City Engineer before construction is started. No such land shall be used for parking until approved by the City Engineer.

12. Required loading berths in connection with any structure which is to be erected or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, with a gross floor area of ten thousand (10,000) square feet or more, there shall be off-street loading provided on the basis of the following:

<u>Gross Floor Area</u> <u>Square Feet</u>	<u>Minimum Required</u> <u>Loading Berths</u>
10,000 to 16,000	1
16,000 to 40,000	2
40,000 to 70,000	3
70,000 to 100,000	4
each additional 40,000	1 additional

**Subd. 3. Accessory Buildings.**

A. In all residential districts detached accessory buildings shall be located in the rear yard. When located within ten (10) feet of the rear wall of the principal building they shall comply with all yard requirements applicable to the principal building in the district. Where accessory buildings are to be located more than ten (10) feet from the rear wall of the principal building they shall not be located closer than four (4) feet from an adjoining side or rear lot line. All detached accessory buildings shall set back a minimum of thirty (30) feet

from all street right-of-way lines. Accessory buildings are further limited not to exceed over one (1) story or sixteen (16) feet in height.

**B.** All garages shall, if the vehicle entrance backs upon a public alley, be set back at least twenty (20) feet from the public alley right-of-way.

**C.** In no case shall the door of any structure, building, or improvement, except a fence, be erected or constructed so as to extend beyond any lot line.

**D.** In business and manufacturing districts, accessory buildings and uses may occupy any of the ground area which the principal building is permitted to occupy. Accessory buildings such as buildings for parking attendants, guard shelters, gate houses and transformer buildings, may be located in front or side yard in the Industrial District. Parking of automobiles and other motor vehicles is permitted in the front and side yards in Industrial Districts if screened by a greenbelt five (5) feet in width.

**Subd. 4. General Fencing, Screening, Landscaping and Storage.**

**A.** All materials and equipment, except as provided in the district provisions of this Chapter, shall be stored within a building or structure or screened so as not to be visible from adjoining properties, except the following:

1. Usable laundry equipment (clothes lines).
2. Recreational equipment and vehicles.
3. Construction and landscaping material currently being used on the premises.

**B.** No fence, wall, structure, coniferous trees or obstruction, other than chain link fences with openings of 1-5/8" to 2" not exceeding 48" in height, shall be erected, established or maintained on a corner lot with a triangular area bounded by the lot lines and a line connecting points on each lot line twenty (20) feet from the intersection of such lot lines. An object within this area not exceeding thirty (30) inches in height as measured from the centerline elevation of the street shall not be considered as an obstruction to vision. This provision does not apply to the "C-1" District.

**C.** No fence shall exceed eight (8) feet in height and in the case of grade separation, the height shall be determined on the basis of measurement from the average point between the highest and lowest grade.

**D.** In all Commercial and Industrial Districts adjacent to Residential Districts and not divided by streets there shall be provided along the property line, a twenty (20) foot wide planting strip composed of grass, trees and shrubs. A screening fence may be utilized when approved by the Planning Commission. Such fence shall not exceed eight (8) feet in height nor be less than six (6) feet in height and shall screen up to eighty (80) percent per square yard of area.

**E.** In all zoning districts the lot area remaining after providing for parking, driveways, loading, sidewalks or other requirements shall be planted and maintained in grass, sodding, shrubs or other acceptable vegetation or landscaping techniques.

**Subd. 5. Unplatted Property.**

**A.** Any person desiring to improve unplatted property shall submit to the City Engineer a survey of said premises and information on the location and dimensions of proposed buildings, location of easements crossing the property and other information which may be necessary to insure conformance to City Code provisions.

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

**C.** The Planning Commission shall review the lot survey to determine if the division and creation of the property was in compliance with the statutes and regulations applicable at the time of said division. If the Planning Commission finds that the division of the property was in compliance with legal requirements applicable at the time of the division, the lot shall be recognized and development of the property shall be allowed in the conformance to the building and zoning regulations of the City. If the Planning Commission finds that the division of the property was not in compliance with legal requirements applicable at the time of the division, the lot shall not be recognized and current standards and procedures for platting shall be imposed.

**Subd. 6. Dwelling Unit Restrictions.**

**A.** No basement, except when used as a portion of the living space of the family, cellar, garage, tent or accessory building shall at any time be used as a residence or dwelling unit, temporarily or permanently.

**B.** Except in the case of planned unit developments provided for herein, not more than one (1) principal building shall be located on a lot.

**C.** On a through lot (a lot fronting on two (2) parallel streets) or a corner lot, both street bt lines shall be front lot lines for applying yard and parking requirements.

**D.** Mobile homes, as defined herein, shall be limited to locations in mobile home parks as provided in the district provisions.

**Subd. 7. General Performance Standards.**

**A.** All sewage facilities shall be connected to community sewer facilities when available. Where sewers are not constructed or in operation, all sewage facilities shall be connected to approved septic tanks and disposal fields. This provision shall not apply to temporary construction sites, or portable units.

**B.** Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high temperature processes such as combustion or welding shall not be directed into an adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the center line of said street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 candles (meter reading) as measured from said property.

**C.** The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15 and as subsequently expanded, modified or amended.

**D. Dust and Other Particulated Matter.** The emission of dust, fly ash or other particulated matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15 and as subsequently expanded, modified or amended.

**E. Odors.** The emission of odorous matter in such quantity as to be offensive shall not be permitted. The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15 and as subsequently expanded.

**F. Noise.** All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and as measured at any property line, shall not exceed the minimum standards established by the State of Minnesota, Regulations NPC 1, 2, and 4.

#### **Subd. 8. Height and Yard Exceptions.**

**A.** Chimneys, cooling towers, elevator bulk head, fire towers, drive-in movie theater screens, grain elevators, silos, penthouses, stacks, tanks, water towers, pumping towers, radio or television towers, monuments, cupolas, steeples and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located, shall not be included in calculating the height of the principal structure.

**B.** Outside stairways, fire escapes, fire towers, porches, platforms, decks, balconies, boiler flues and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts or unoccupied space; provided, however, that this provision shall not apply to one (1) fireplace or one (1) chimney, not more than eight (8) feet in length and projecting not more than thirty (30) inches into the allowable side yard space nor cornices not exceeding sixteen (16) inches in width nor to platforms, terraces or steps below the first floor level, nor to unenclosed porches or other ground level unenclosed projections not over one (1) story in height which may extend into a front or rear yard not more than five (5) feet, or into a side yard not more than four (4) feet, such platform shall be restricted from the five (5) foot required side yard in the Residence District.

**SEC. 11.11. NON-CONFORMING USES.**

**Subd. 1. General Provisions.**

- A.** The lawful use of a building or structure existing on the effective date of this Chapter may be continued although such use does not conform with the district provisions herein.
- B.** A non-conforming use may be extended throughout the building or structure, provided no structural alterations or changes are made therein, except those required by law or City Code provision or such as may be required for safety, or such as may be necessary to secure or insure the continued advantageous use of the building during its natural life.
- C.** Any non-conforming building or structure damaged more than fifty (50) percent of its then appraised value, exclusive of foundations at the time of damage by fire, collapse, explosion or acts of God or public enemy, shall not be restored or reconstructed and used as before such happening; but, if less than fifty (50) percent damaged above the foundation, it may be restored, reconstructed or used as before provided that it is done within twelve (12) months of such happening and that it be built of like or similar materials, or the architectural design and building materials are approved by the Planning Commission.
- D.** A non-conforming use cannot be changed to a comparable non-conforming use. Whenever a non-conforming use has been changed to a conforming use, or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a non-conforming use of less restricted district.
- E.** In the event that a non-conforming use of any building or building and land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
- F.** Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.
- G.** Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been started, prior to the effective date of this Chapter, may be completed and used in accordance with the plans and application on which said building permit was granted.
- H.** No junk yard may continue as a non-conforming use for more than one (1) year after the effective date of this Chapter, except that a junk yard may continue as a non-conforming use in a Commercial or Industrial District if within that period it is completely enclosed within a building or within a continuous solid fence of not greater than eight (8) feet in height or other approved screening which screens completely the operation of the junk yard. Approval of the fence or screen design shall be obtained from the Planning Commission.

**I.** Any proposed structure which will, under this Chapter, become non-conforming but for which a building permit has been lawfully granted prior to the effective date of this Chapter, may be completed in accordance with the approved plans, provided construction is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure and use shall thereafter be a legally non-conforming structure and use.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

**SEC. 11.12. TEMPORARY STRUCTURES; General Provisions.**

**Subd. 1.** Except as otherwise provided herein, temporary structures are prohibited.

**Subd. 2.** A temporary structure may be constructed or placed upon any lot or parcel of land within any commercial or industrial district when an existing structure on the lot or parcel of land has been destroyed or seriously damaged by fire, storm or other natural disaster, by obtaining a permit for the temporary structure.

**Subd. 3.** The purpose of permits for temporary structures is to provide the City with a means of accommodating the needs of a business which has suffered a loss of facilities as a result of fire, storm or other natural disaster.

**Subd. 4.** Application for a temporary structure permit shall be made to the City Administrator on a form to be provided by the City together with the payment of the required fee.

**Subd. 5.** Upon receipt of a completed application and the required fee, a permit for a temporary structure shall be issued for a period of not more than 180 days which may be extended upon application. The period for which the temporary permit is to be issued shall be based upon estimates of the time required to repair or replace the damaged permanent structure as set forth in the application for the permit for the temporary structure.

Source: Ordinance No. 3, 2<sup>nd</sup> Series  
Effective Date: 03-16-1994

**SEC. 11.13. SPLITTING OF LOTS AND PARCELS.**

**Subd. 1. Purpose.** The purpose of this Section is to encourage platting of land within the City and to avoid the creation of unbuildable parcels of land by splitting of lots.

**Subd. 2. Splitting of Unplatted Land.** There shall be no splitting of parcels of unplatted land within the City except by the preparation and approval of plats. The only acceptable method of splitting of unplatted land shall be by means of approved plats prepared by a registered land surveyor.

**Subd. 3. Splitting Platted Land.** Any land owner seeking to split a platted lot between two or more owners, or into two or more parcels, shall submit an application for such lot split to the City Administrator, showing such information as may be requested to evaluate the application, including but not limited to:

- A. Description of the site to be split;
- B. The reasons supporting the proposed split;
- C. Description of any site or sites to which the split is to be added;
- D. A scale drawing showing the location of any and all buildings on the site proposed to be split, and any contiguous sites;
- E. A scale drawing showing the location of any proposed new buildings; and
- F. Any additional written or graphic data required by the City Administrator.

**Subd. 4. Procedure.**

- A. The City Administrator shall forward said application to the Planning Commission for consideration. Final determination on an application shall conform to time requirements set forth in City Code, Chapter 2.
- B. The Planning Commission shall set a date for the official public hearing.
- C. Notice of such public hearing shall be published at least once in the official newspaper of the City.
- D. The Planning Commission shall consider possible adverse effects of the proposed conditional use and make recommendation to the Council within 60 days after the completed application has been submitted.
- E. Upon receiving the report and recommendation of the Planning Commission, the Council shall have the option to hold a public hearing, if necessary, and may impose any conditions deemed necessary. Approval of the lot split shall require passage by a majority vote of the full Council.

**Subd. 5. Standards.** No lot split shall be recommended by the Planning Commission unless the Planning Commission finds:

- A. The lot proposed to be split is a platted lot;
- B. The split as proposed will not result in the existence of an unbuildable or non-conforming lot within the zoning classification in which such lot is located;
- C. There is a demonstrated need for the splitting of the lot; and

**D.** The proposed use is in compliance with any land use plan adopted by the City.

**Subd. 6. Fees.** To defray administrative costs of proceeding, applications for a lot split shall be accompanied by a non-refundable fee to be paid by the applicant at the time the application is requested. The amount of the fee shall be set by the Council, adopted by resolution, and uniformly enforced. This fee may, from time to time, be amended by the Council by resolution.

Source: Ordinance No. 21, 2<sup>nd</sup> Series  
Effective Date: 01-15-1998

(Sections 11.14 through 11.19, inclusive, reserved for future expansion.)

**SEC. 11.20. GENERAL DISTRICT PROVISIONS.**

**Subd. 1. Establishment of Districts.** The following district classifications are hereby established:

- A. "A-1" - Agricultural District.**
- B. "R-1" - Single and Two Family Residential District.**
  
- C. "R-2" - Multiple Family Residential District.**
- D. "R-M" - Mobile Home Residential District.**
  
- E. "C-1" - Central Business District.**
- F. "C-2" - Highway Business District.**
  
- G. "I-1" - Light Industrial District.**
- H. "I-2" - Heavy Industrial District.**
  
- I. Shoreland and Flood Plain District.**

**Subd. 2. Zoning District Application.**

**A.** The boundaries of the districts enumerated in this Section are hereby established and adopted as shown upon the map on file in the office of the City Clerk-Administrator, designated "The Official Zoning Map of the City of Paynesville, Minnesota", dated June 28, 1978, and as subsequently amended and bearing the signatures of the Mayor, and City Clerk-Administrator, which map with all notations, references, data and other information shown thereon is hereby made part of this Chapter as if the same were fully set forth herein.

**B. Annexed Land.** All land which may hereafter become a part of the City through annexation shall be automatically classified in the "A-1" - Agricultural District until otherwise changed by amendment procedure as prescribed herein.

**Subd. 3. Zoning District Boundaries.** The boundaries of districts are the center lines of streets; the center lines of alleys; the rear lot lines where there are no alleys; the side lines of recorded lots or designated distances where land is unplatted.

**Subd. 4. Uses not Provided For Within Zoning Districts.** Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case the Council, the Planning Commission, or a property owner may request a study by the City to determine if the use is acceptable and if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The Council and/or Planning Commission upon receipt of the staff study may, if appropriate, initiate an amendment to the Zoning Chapter to provide for the particular use under consideration or may find that the use is not compatible for development within the City.

**SEC. 11.21. "A-1" - AGRICULTURAL DISTRICT.**

**Subd. 1. Intent.** To establish and preserve areas for low density residential and outdoor recreation without permitting an intensity of development which would require the provision of municipal facilities and services, and further to allow agricultural uses in this district.

**Subd. 2. Permitted Uses.**

**A.** Agriculture, including farm dwellings and agricultural related buildings and structures subject to Minnesota Pollution Control Standards, but not including commercial feed lots or similar commercial operations.

**B.** Single family dwellings.

**C.** Public parks, recreational areas, wildlife areas and game refuges.

**D.** Nurseries and tree farms.

**E.** Essential services.

**F.** Slaughtering, limited to livestock raised on the farmstead.

**G.** Mobile Homes - one per farm for farm employees.

**Subd. 3. Permitted Accessory Uses.**

**A.** Operation and storage of vehicles, machinery and equipment which is incidental to permitted or conditional uses allowed in this district.

**B.** Boarding or renting of rooms to not more than two (2) persons.

**C.** Living quarters for persons employed on the premises.

**D.** Home Occupations.

**Subd. 4. Conditional Uses.** The following uses require a conditional use permit based on the procedures set forth and regulated herein:

**A.** Governmental and public utility buildings and structures necessary for the health, safety and general welfare of the community.

**B.** Commercial outdoor recreational areas including golf courses, club houses, swimming pools and similar facilities.

**C.** Processing and packaging of agricultural products, including livestock, cold storage plants, fertilizer plants, livestock farming, livestock feed lots and sales yards, subject to all applicable Pollution Control Standards.

**D.** Kennels and animal hospitals, stables and riding academies provided that the property containing such use is adequate and is adequately separated from Residential, Commercial and Industrial Districts.

**E.** Churches, schools and similar uses.

**F.** Uses which in the judgment of the Planning Commission and the Council are similar to those listed in this zoning district.

**Subd. 5. Lot, Yard, Area and Height Requirements.**

**A.**

<u>Lot Area</u>	<u>Width</u>	<u>Lot</u>		
		<u>Side Yards</u>	<u>Front Yard</u>	<u>Rear Yard</u>
1 acre	100'	15' each	30'	50'

**B. Building Height.** Residential structures hereafter erected shall not exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height. Agricultural buildings shall be exempt from these requirements.

Source: Ordinance No. 02-1978  
 Effective Date: 08-11-1978

(Sections 11.22 through 11.29, inclusive, reserved for future expansion.)

**SEC. 11.30. "R-1" - SINGLE AND TWO FAMILY RESIDENTIAL DISTRICT.**

**Subd. 1. Intent.** It is the intent of this district to permit the development of single family and two family dwellings in the community; to provide reasonable standards for such development; to avoid overcrowding; and to prohibit the use of land which would be incompatible with or detrimental to the essential residential character of such district.

**Subd. 2. Permitted Uses.**

- A. Single and two family dwellings.
- B. Public parks and playgrounds.
- C. Essential services.
- D. Agriculture other than the raising and keeping of livestock.

**Subd. 3. Permitted Accessory Uses.**

- A. Private garages, parking spaces and car ports for passenger cars, trucks, recreational vehicle and equipment.
- B. Home Occupations.
- C. Swimming pools and tennis courts.
- D. Tool houses and similar buildings for storage of domestic equipment and non-commercial recreational equipment.
- E. Boarding or renting of rooms to not more than two (2) persons.

**Subd. 4. Conditional Uses.** The following uses require a conditional use permit based on the procedures set forth herein:

- A. Governmental and public utility buildings and structures necessary for the health, safety and general welfare of the community.
- B. Residential Planned Unit Developments regulated by Section 11.70 of this Chapter, and townhouses.
- C. Public or semi-public recreational buildings, community centers and day care centers.
- D. Nurseries, but not including greenhouses, farm or truck gardens, display and sale of agricultural products.
- E. Churches, libraries, museums, schools, memorial buildings and hospitals.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

**F. Manufactured Homes.**

1. Such homes shall comply with all zoning regulations for the zone in which they are located.
2. A building permit and any other required permits shall be obtained for such manufactured housing.
3. No such housing shall have ground floor space of less than eight hundred (800) square feet.
4. No such house shall have a width of less than twenty-four (24) feet at its narrowest point.
5. Such houses shall be placed on permanent foundations which comply with the Uniform Building Code as adopted in the State of Minnesota and which are solid for the complete circumference of the house. Any such manufactured home shall have exterior siding extending from within six (6) inches of the dirt or two (2) inches of concrete which siding shall be of a conventional exterior dwelling type material.
6. Any such manufactured house shall have a pitched roof covered with shingles or tile and have eaves of not less than six (6) inches.
7. All such manufactured houses shall be built in compliance with Minnesota Statutes 327.21 through 327.35.

**Subd. 5. Lot, Yard, Area and Height Requirements.**

**A.**

Lot Area Sq. Feet	Lot Width	Side Yards		Front Yard
		Least Width	Total both sides	
Single Family				
7,000	50' existing	5'	13'	20'
	75' newly	5'	13'	20'
Two Family				
10,000	75'	5'	13'	20'
Townhouses				
5,000	75'	5'	13'	20'

In addition to the foregoing, front, rear and side yard setbacks from all alleys shall be five (5) feet except where twenty (20) feet is required under Sec. 11.10, Subd. 3B.

Source: Ordinance No. 20, 2<sup>nd</sup> Series  
Effective Date: 01-22-1998

**B.** Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure, the setbacks shall be the average of the required setback and the setback of the adjacent structure. In no case shall the front yard setback requirement exceed twenty (20) feet.

**C.** On corner lots the side yard on the street side shall be the same as the front yard on the reverse interior lots on that street, provided this does not reduce the buildable width to less than thirty (30) feet.

**D. Building Height.** Residential structures hereafter erected shall not exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height.

**E. Building Dimensions.** Residential structures hereafter erected shall have a minimum length of twenty-four (24) feet and a minimum width of twenty-four (24) feet and a minimum ground floor area of not less than 800 square feet.

**F. Manufactured Homes.** (CODIFIER'S NOTE: The provisions of this Subparagraph F are now found at Subd. 4, Subparagraph F.)

**G. Maximum Coverage.** Lot coverage shall not exceed forty (40) percent.

Source: Zoning Ordinance Amendment  
Effective Date: 09-02-982

## **SEC. 11.31. "R-2" - MULTIPLE FAMILY RESIDENTIAL DISTRICT.**

**Subd. 1. Intent.** It is the intent of this district to provide for multiple family dwelling unit structures and directly related complementary uses.

### **Subd. 2. Permitted Uses.**

- A.** All permitted uses as allowed in an "R-1" Single and Two Family Residential District.
- B.** Multiple family dwelling units.
- C.** Boarding and rooming houses.
- D.** Nursing homes, rest homes.

**Subd. 3. Permitted Accessory Uses.**

**A.** All permitted accessory uses as allowed in an "R-1" Single and Two Family Residential District.

**B.** Off-street loading and parking.

**Subd. 4. Conditional Uses.** The following uses shall require a conditional use permit based on the procedures set forth herein:

**A.** All conditional uses, subject to the same provisions as allowed in the "R-1" Single and Two Family Residential District.

**B.** Funeral home, provided yard area and screening is adequate to buffer adjoining properties, and adequate parking provided.

**C.** Clinics and other buildings for treatment of human beings contingent upon adequate parking being provided.

Source: Ordinance No. 02-1978

Effective Date: 08-11-1978

**Subd. 5. Lot, Yard, Area and Height Requirements.**

A. Use	Lot Area Sq. Feet	Lot Width	Area Per Family Sq. Feet	Side Yards		Front Yard
				Least Width	Total Both Sides	
<u>Dwellings</u>						
Single Family	7,000	50' existing 75' new plats	7,000	5'	13'	20'
Two Family	10,000	75'	5,000	5'	13'	20'
Three Family or more	---	75'	2,500	5'	13'	20'

In addition to the foregoing, front, rear and side yard setbacks from all alleys shall be five (5) feet except where twenty (20) feet is required under Sec. 11.10, Subd. 3B.

Source: Ordinance No. 22, 2<sup>nd</sup> Series

Effective Date: 01-22-1998

**B.** Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure, the setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the front yard setback requirement exceed twenty (20) feet.

**C.** On corner lots the side yard on the street side shall be the same as the front yard on the reverse interior lots on that street, provided this does not reduce the buildable width to less than thirty (30) feet.

**D. Building Height.** Residential structures hereafter erected shall not exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height.

**E. Building Dimensions.** Residential structures hereafter erected shall have a minimum length of twenty-four (24) feet and a minimum width of twenty-four (24) feet.

**F. Manufactured Homes.**

1. Such homes shall comply with all zoning regulations for the zone in which they are located.

2. A building permit and any other required permits shall be obtained for such manufactured housing.

3. No such housing shall have ground floor space of less than eight hundred (800) square feet.

4. No such house shall have a width of less than twenty-four (24) feet at its narrowest point.

5. Such houses shall be placed on permanent foundations which comply with the Uniform Building Code as adopted in the State of Minnesota and which are solid for the complete circumference of the house. Any such manufactured home shall have exterior siding extending from within six (6) inches of the dirt or two (2) inches of concrete which siding shall be of a conventional exterior dwelling type material.

6. Any such manufactured house shall have a pitched roof covered with shingles or tile and have eaves of not less than six (6) inches.

7. All such manufactured houses shall be built in compliance with Minnesota Statutes 327.21 through 327.35.

**G. Maximum Coverage.** Lot coverage shall not exceed forty (40) percent.

Source: Zoning Ordinance Amendment  
Effective Date: 9-2-82

**SEC. 11.32. "R-M" - MOBILE HOME DISTRICT.**

**Subd. 1. Intent.**

**A.** It is the intent of this district to permit the development of mobile home parks in the community; to supplement applicable State laws pertaining to mobile homes; to provide reasonable standards for site development of such parks; to avoid over-crowding; to provide setbacks and other development standards which will make such developments more attractive, safe and pleasant to live in, and compatible with other land uses and developments in the community.

**B.** All statutes of the State of Minnesota pertaining to the regulation of mobile homes and mobile home parks are hereby adopted by reference and are declared to be an integral part of this Chapter as if they were reproduced in their entirety herein; provided that where standards of this Chapter are higher or more restrictive than said statutes, this Chapter shall govern.

**Subd. 2. Permitted Uses.**

**A.** Mobile homes.

**B.** Mobile home parks.

**C.** Mobile home park office, laundry, recreation and storm shelter facilities, provided these structures are permanent in nature.

**Subd. 3. Permitted Accessory Buildings.**

**A.** Private garages, parking spaces.

**B.** Tool houses and similar buildings for storage of domestic equipment and non-commercial recreational equipment.

**Subd. 4. Conditional Uses.**

**A.** All mobile home parks shall require a conditional use permit in addition to being located in the Mobile Home Zoning District and shall be subject to additional provisions set forth in this Section.

**B.** Home occupations, subject to the following:

**1.** Compliance with Section 11.03, Subdivision 2, Item 36.

**2.** The use can be reasonably and safely conducted in a mobile home structure; and,

**3.** All requirements of Section 11.80 are met.

**Subd. 5. Lot, Yard and Area Requirements.**

A.	Lot Area Sq. Feet	Lot Width	Yard Setbacks		
			Front*	Side	Rear
	5,000	50'	15'	4'	5'

\* Front yard setback from curb line of interior street, 20 feet when front on public right-of-way.

**B.** The maximum building height shall not exceed twenty (20) feet.

**C. Maximum Site Coverage.** Lot coverage shall not exceed fifty (50%) percent.

**Subd. 6. Other Requirements.**

**A. Common Open Space** - At least 6% of the total site of a mobile home park shall be reserved for common, usable open space, for the exclusive use of residents, and to be maintained by the proprietor or operator of the mobile home park. Such open space and its improvements shall be completed before any mobile home site is offered for occupancy.

**B.** An application for mobile home park shall be accompanied by the same data, map, and information required for other plats or subdivisions within the City.

**C.** Any additional data required by the State Board of Health for licensing of mobile home parks shall also be submitted to the Planning Commission prior to or concurrently with its submittal to the State Board of Health.

**D. Landscaping Required:**

1. Each mobile home park shall provide and maintain a 10-foot landscaped strip around the perimeter of the property.

2. Each mobile home site shall be provided with a tree, and all unpaved areas shall be suitably sodded.

**E.** Commercial sales and/or commercial storage of mobile homes shall be prohibited in a mobile home park.

**F.** Paved private streets serving the mobile home park shall be of sufficient width to provide for two lanes of traffic and for parking on each side of the street, unless off-street parking is provided.

**G.** Each mobile home park shall provide a storm shelter with sufficient space to accommodate all of its residents.

H. Each mobile home within a mobile home park shall be properly and completely skirted.

Source: Ordinance No. 02-1978

Effective Date: 08-11-1978

**SEC. 11.33. "R-1A" LOW DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT.**

**Subd. 1. Intent.** It is the intent of this district to provide for the development of low density multi-family dwellings in units consisting of no more than five units per structure, and one unit per lot; to provide for reasonable standards for such developments; to avoid overcrowding; and to prohibit the use of land which would be incompatible with or detrimental to the essential character of this district.

**Subd. 2. Permitted Uses.**

- A. All permitted uses as allowed in an "R-1" Single and Two Family Residential District.
- B. Multi-family dwelling units consisting of no more than five units per structure and one unit per lot.

**Subd. 3. Permitted Accessory Uses.**

- A. Garages, parking spaces, and carports for passenger cars, trucks, recreational vehicles and equipment.
- B. Home occupations.
- C. Swimming pools and tennis courts.
- D. Tool houses and similar buildings for storage of domestic equipment and non-commercial recreational equipment.
- E. Boarding or renting of rooms to not more than two persons.

**Subd. 4. Conditional Uses.** The following uses require a conditional use permit based on the procedures set forth herein.

- A. Governmental and public utility buildings and structures necessary for the health, safety and general welfare of the community.
- B. Residential planned unit developments regulated by Sec. 11.70 of this Chapter.
- C. Public or semi-public recreational buildings, community centers and daycare centers.
- D. Nurseries, but not including greenhouses, farm or truck gardens, display and sale of agricultural products.

E. Churches, libraries, museums, schools, memorial buildings and hospitals.

**Subd. 5. Lot, Yard, Area and Height Requirements.**

A.	Lot Area Sq. Feet	Lot Width	Side Yards		Front Yard
			Least Width	Total Both Sides	
<u>Single Family</u>					
	7,000	50' existing	5'	13'	20'
<u>Two Family</u>					
	10,000	75'	5'	13'	20'
<u>Multi-Family Dwelling Units</u> - Up to Five Units Per Structure					
	5,000	75'	5'	13'	20'

In addition to the foregoing, front, rear and side yard setbacks from all alleys shall be five (5) feet except where twenty (20) feet is required under Sec. 11.10, Subd. 3B.

**B.** Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure, the setbacks shall be the average of the required setback and the setback of the adjacent structure. In no case shall the front yard setback requirement exceed twenty (20) feet.

**C.** On corner lots the side yard on the street side shall be the same as the front yard on the reverse interior lots on that street, provided this does not reduce the buildable width to less than thirty (30) feet.

**D. Building Height.** Residential structures hereafter erected shall not exceed two and one-half (2½) stories or thirty-five (35) feet in height.

**E. Building Dimensions.** Residential structures hereafter erected shall have a minimum length of twenty-four (24) feet and a minimum width of twenty-four (24) feet.

**F. Manufactured Homes.**

1. Such homes shall comply with all zoning regulations for the zone in which they are located.
2. A building permit and any other required permits shall be obtained for such manufactured housing.

3. No such housing shall have ground floor space of less than eight hundred (800) square feet.
4. No such house shall have a width of less than twenty-four (24) feet at its narrowest point.
5. Such houses shall be placed on permanent foundations which comply with the Uniform Building Code as adopted in the State of Minnesota and which are solid for the complete circumference of the house. Any such manufactured home shall have exterior siding extending from within six (6) inches of the dirt or two (2) inches of concrete which siding shall be of a conventional exterior dwelling type material.
6. Any such manufactured house shall have a pitched roof covered with shingles or tile and have eaves of not less than six (6) inches.
7. All such manufactured houses shall be built in compliance with Minnesota Statutes 327.21 through 327.35.

**G. Maximum Coverage.** Lot coverage shall not exceed forty (40) percent.

Source: Ordinance No. 19, 2<sup>nd</sup> Series  
Effective Date: 01-22-1998

(Sections 11.34 through 11.39, inclusive, reserved for future expansion.)

**SEC. 11.40. "C-1" - CENTRAL BUSINESS DISTRICT.**

**Subd. 1. Intent.** It is the intent of this district to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region.

**Subd. 2. Permitted Uses.**

- A.** Business services including banks, offices and postal stations.
- B.** Clothing services including dry cleaning and laundry establishments, laundromats, dressmaking, millinery and tailor shops, shoe repair shops.
- C.** Equipment services including radio and television shops, electrical appliance shops, showroom of a plumber, decorator or similar trade.
- D.** Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessen, candy shops and bakeries whose products are sold only at retail on the premises.
- E.** Personal services including drug stores, hardware stores, haberdasher stationery and book stores, news shops, apparel shops, showroom for articles to be sold at retail, flower shops, commercial greenhouses, and laundromats.
- F.** Personal services including barber and beauty shops, reducing salons, photographic shops and funeral homes.
- G.** Public transportation terminals, public utility buildings and transformer stations without storage yards.
- H.** Buildings used for research and testing laboratories, storage buildings or distributing stations.
- I.** Residence when included as an integral part of the principal building to be occupied by the owner or his employee.
- J.** Governmental and public utility buildings and structures.
- K.** Recreational services including theaters, bowling lanes, clubs and lodges.
- L.** Hotels, motels, taverns, private clubs and lodges.
- M.** Clinics and other buildings for treatment of human beings.
- N.** Funeral homes.

**Subd. 3. Permitted Accessory Uses.**

- A. Off-street parking and loading areas in compliance with Section 11.10.
- B. Commercial or business buildings for a use accessory to the principal use.
- C. Signs as regulated by the Council.

**Subd. 4. Conditional Uses.** The following uses shall require a conditional use permit based on the procedures set forth herein:

- A. Open outdoor sales, service or rental as an accessory use provided:
  - 1. The area is fenced or screened from abutting properties.
  - 2. Sales areas are surfaced to control dust.
- B. Commercial Planned Unit Developments regulated herein.
- C. Automobile service stations including sales, gasoline service stations, and auto repair garages; provided that no filling station, public garage or gasoline distributing station shall be located within two hundred (200) feet of a school, church, hospital or meeting place having a seating capacity of more than fifty (50) persons.
- D. Drive-in restaurants, drive-in banks, and other drive-in services.
- E. Multiple family dwellings provided that the use is either adjacent to or provided off-street parking and there is no conflict with adjacent commercial activities.
- F. Single and two family dwellings provided they are compatible with adjacent uses and meet all requirements of Section 11.10.

**Subd. 5. Lot, Yard, Area, Height, and Parking Requirements.**

- A. For uses allowed in the "C-1" District, there will be no requirements for lot areas, frontage, lot coverage, yard sizes, parking or loading requirements.
- B. **Building Height.** Buildings hereafter erected shall not exceed forty-five (45) feet in height.

**SEC. 11.41. "C-2" - HIGHWAY COMMERCIAL DISTRICT.**

**Subd. 1. Intent.** It is the intent of this district to provide for and limit the establishment of automobile oriented or dependent commercial and service activities.

**Subd. 2. Permitted Uses.**

- A. All permitted uses as allowed in the "C-1" District.
- B. Automobile sales, service.
- C. Commercial recreational services.
- D. Farm implement sales and services.
- E. Funeral homes and mortuaries.
- F. Tourist oriented retail stores.
- G. Residence when occupied in connection with the commercial use.

**Subd. 3. Permitted Accessory Uses.**

- A. All permitted accessory uses in the "C-1" District.
- B. Off-street parking and loading facilities including semi- trailers.

**Subd. 4. Conditional Uses.** The following uses shall require a conditional use permit based on the procedures set forth herein:

- A. All conditional uses allowed in the "C-1" District.
- B. Open air display areas for the sale of manufactured products such as garden furniture, hardware items, nursery stock, or rental of manufactured products or equipment including mobile home sales lots.
- C. Recreational camping areas provided:
  - 1. Land area is adequate for the proposed use.
  - 2. The site is serviced by an adequately paved arterial street.
  - 3. Utilities are provided to each site and approved by the City Engineer.

**Subd. 5. Lot, Yard, Area and Height Requirements.**

<b>A.</b>	<b>Lot Area</b> <b>Sq. Feet</b> as necessary	<b>Lot</b> <b>Width</b>  80'	<b>Yard Setbacks</b> <b>Front</b> <b>Side</b> <b>Rear</b>  25'   10'   20'		
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**B.** Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure, the setback shall be the average of the required setback and the setback of the adjacent structure. In no case shall the front yard setback requirement exceed twenty-five (25) feet.

**C.** On corner lots the side yard on the street side shall be the same as the front yard on the reverse interior lots on that street, provided this does not reduce the buildable width to less than thirty (30) feet.

**D. Building Height.** Commercial structures hereafter erected shall not exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height.

**E. Maximum Coverage.** Lot coverage shall not exceed fifty (50) percent.

Source: Ordinance No. 02-1978

Effective Date: 08-11-1978

(Sections 11.42 through 11.49, inclusive, reserved for future expansion.)

**SEC. 11.50. "I-1" - LIGHT INDUSTRIAL DISTRICT.**

**Subd. 1. Intent.** It is the intent of this district to provide for and allow a wide range of industrial, warehousing and bulk commercial activities.

**Subd. 2. Permitted Uses.**

- A.** Any branch of trade or industry employing labor and capital; activities not allowed in Commercial Districts; activities which do not require steam, diesel or gasoline engines as a prime mover excepting that no industry or use noxious by reason of odor, dust, smoke, noise or gas shall be included which interferes with other permitted uses.
- B.** Building materials, storage yards, lumber yards.
- C.** Contractors equipment and storage yards.
- D.** Wholesale business and warehousing.
- E.** Machine shops, public and private garages.
- F.** Public utility and service buildings and gas regulator stations.
- G.** Residences when on the same parcel as the principal use and occupied by an individual employed by the principal use.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

**H.** Adult use establishments, so long as no two adult use establishments are located on contiguous lots and so long as no such adult use establishment is constructed within 200 feet of any residential area, school, child care facility, church or public park.

Source: Ordinance No. 3, 2<sup>nd</sup> Series  
Effective Date: 03-16-1994

**Subd. 3. Permitted Accessory Uses.**

- A.** Off-street parking and loading.
- B.** Open and outdoor storage.
- C.** Offices accessory to a principal use.

**Subd. 4. Conditional Uses.** The following uses shall require a conditional use permit based on the procedures set forth herein:

- A. Any use of a manufacturing type which does not have heavy odors, smoke or other obnoxious or distasteful smells or appearances or excessive noise.
- B. Industrial Planned Unit Developments regulated by Section 11.70.

**Subd. 5. Lot, Yard, Area and Height Requirements.**

<b>A.</b>	<b>Lot Area</b> <b>Sq. Feet</b> as necessary	<b>Lot</b> <b>Width</b>  100'	<b>Yard Setbacks</b> <b>Front</b>  25'	<b>Side (each)</b>  10'	<b>Rear</b>  20'
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- B. Where a property abuts a railroad siding no side or rear yard shall be required when a railroad loading facility is to be installed.
- C. **Building Height.** No structure hereafter erected shall exceed forty-five (45) feet in height.
- D. **Maximum Coverage.** Lot coverage shall not exceed fifty (50) percent.

**SEC. 11.51. "I-2" - HEAVY INDUSTRIAL DISTRICT.**

**Subd. 1. Intent.** It is the intent of this district to provide for the establishment of heavy industrial and manufacturing development and uses, which because of the nature of the product, isolation from residential and/or commercial uses is desirable.

**Subd. 2. Permitted Uses.**

- A. All uses permitted in the "I-1" Light Industrial District.
- B. Any branch of industry employing labor and capital not permitted in other districts established by this Chapter, subject to the general development provisions and other applicable requirements of this Chapter.
- C. Manufacturing of cement, concrete, lime gypsum or plaster.
- D. Distillation of bone, coal, tar, petroleum, refuse, grain or wood.
- E. Explosive manufacturing or storage.
- F. Fertilizer manufacturing, compost or storage.
- G. Garbage, offal, dead animals, refuse, rancid fats, incineration, glue manufacturing, size or gelatine manufacturing where the processes include the refining or recovery of products from animal refuse or offal.
- H. Livestock feeding yards, slaughtering of animals or stockyards.

- I. Petroleum or asphalt refining, manufacturing or storage.
- J. Smelting or refining of metals from ores.
- K. Steam and board hammers and forging presses.
- L. Storing, curing, and tanning of raw, green or salted hides or skins.
- M. Corrosive acid manufacturing or bulk storage thereof.
- N. Junk yards.
- O. Grain elevators and storage subject to height restrictions set forth as part of the conditional use permit.
- P. Industrial Planned Unit Development regulated herein.

**Subd. 3. Lot, Yard, Area and Height Requirements.**

<b>A.</b>	<b>Lot Area Sq. Feet</b>	<b>Lot Width</b>	<b>Yard Setbacks</b>		
	as necessary	100'	<b>Front</b>	<b>Each Side</b>	<b>Rear</b>
			25'	10'	25'

**B.** Where a property abuts a railroad siding no side or rear yard shall be required when a railroad loading facility is to be installed.

**C. Building Height.** No structure hereafter erected shall exceed forty-five (45) feet in height.

**E. Maximum Coverage.** Lot coverage shall not exceed fifty (50) percent.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

(Sections 11.52 through 11.59, inclusive, reserved for future expansion.)

**SEC. 11.60. SHORELAND OVERLAY DISTRICT.**

**Subd. 1. Intent.** The uncontrolled use of shorelands in the City affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety, and welfare to provide for the wise development of shorelands and flood plain areas. The Legislature of Minnesota has delegated responsibility to the municipalities of the State, Minnesota Statutes 1969, Chapter 104; Laws of Minnesota 1973, Chapter 379; and policies declared in Minnesota Statutes 1976, Chapters 105, 115, 116, and 462 to regulate the subdivision, use and development of the shorelands and flood plains and thus preserve and enhance the quality of surface waters, preserve the economic and natural values of shorelands and provide for the wise utilization of waters and related land resources.

**Subd. 2. Shoreland Management Classification.** In order to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety, and welfare, all public waters in the City have been given a shoreland management classification. The public waters of the City have been classified by the Commissioner of Natural Resources as follows:

**General Development Lakes and Streams:  
North Fork Crow River**

**Subd. 3. Shoreland Overlay District.** The shorelands of the City are hereby designated as a Shoreland Overlay District. The purpose of the Shoreland Overlay District is to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of the public waters of the City.

**A. Permitted Uses.** All permitted uses allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District as indicated on the Official Zoning Map of the City.

**B. Conditional Uses.** All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District as indicated on the Official Zoning Map of the City. Notice of all requests for conditional uses and variances shall be forwarded to the Department of Natural Resources at least ten (10) days prior to any hearing.

**C. General Provisions.** The following standards shall apply to all shorelands of all public waters within the City. Where the requirements of the underlying zoning district as shown on the Official Zoning Map are more restrictive than those set forth herein, then the more restrictive standards shall apply:

**1. Unsewered Areas:**

**GENERAL DEVELOPMENT  
WATERS**

Lot Area (Ft.)	20,000
Water Frontage and Lot Width at Building Line (Ft.)	100
Building Setback From Ordinary High Water Mark (Ft.)	75
Building Setback From Roads and Highways (Ft.)	50 State or County 20 City or Private
Placement of Roads and Parking Lots From Ordinary High Water Mark (Ft.)	50
Elevation of Lowest Floor Above Highest Known Water Level (Ft.)	3
Building Height Limitation (Ft.)	35 (2-1/2 stories)
Total Lot Area Covered by Impervious Surface (%)	30
Sewage System Setback From Ordinary High Water Mark (Ft.)	50
Sewage System Elevation Above Highest Groundwater Level or Bedrock (Ft.)	4

In unsewered areas the design and installation of sewage disposal systems shall be in conformance with the Minnesota Department of Health Code 1971.

**2. Sewered Areas.** All provisions for unsewered areas shall apply to sewerred areas except for the following, which shall supersede the provisions applied to unsewered areas:

**GENERAL DEVELOPMENT  
WATERS**

Lot Area (Ft.)	
Waterfront Lots	15,000
Other Lots	10,000
Water Frontage and Lot Width at Building Line (Ft.)	75
Building Setback From Ordinary High Water Mark (Ft.)	50

**D. Substandard and Non-Conforming Sewage Disposal.**

**1. Substandard Sewage Disposal Systems.**

(a) A substandard sewage disposal system is a system that has been properly constructed, is large enough to adequately treat the effluent, is not endangering a water supply and has sufficient elevation above the ground water table, but does not meet the minimum setback distance from the shoreline, lot line, or the dwelling and well.

(b) A substandard sewage disposal system may be used until it has failed or when in need of major repair.

(c) A substandard system that has failed or is in need of major repairs must be relocated to conform to the required setback as established in this Chapter.

**2. Non-Conforming Sewage Disposal Systems.**

(a) A non-conforming sewage disposal system is a system that:

(1) Does not conform to proper size, construction, use or maintenance.

(2) Is creating a nuisance, endangering a domestic water supply, polluting a lake, stream or river, or contaminating an underground water table.

(3) Is located in any of the following areas:

(aa) Low swampy areas, areas where standing water is prevalent, or areas subject to flooding;

(bb) Where the bottom of the soil absorption unit is closer than four feet to the ground water table or bedrock;

(cc) On a steep slope where soil conditions may cause effluent seepage to the ground surface.

(b) Non-conforming sewage disposal systems must be brought into conformity with this Subdivision upon notice issued by the City or discontinued within five (5) years of the effective date of this Chapter.

**Subd. 4. Lots of Record.** Lots of record in the office of the County Recorder on the effective date of this Chapter shall be allowed as building sites provided such use is permitted in the zoning district, the lot is in separate ownership from abutting lands and sanitary and dimensional requirements of this Chapter are complied with insofar as practicable.

**Subd. 5. Shoreland Alterations.**

**A.** The removal of natural vegetation shall be restricted to prevent erosion into public waters, to consume nutrients in the soil, and to preserve shoreland aesthetics. Removal of natural vegetation in the Shoreland Overlay District shall be subject to the following provisions:

1. Selective removal of natural vegetation shall be allowed, provided that sufficient vegetative cover remains to screen cars, dwellings, and other structures when viewed from the water.
2. Clear cutting of natural vegetation shall be prohibited.
3. Natural vegetation shall be restored insofar as feasible after any construction project is completed in order to retard surface runoff and soil erosion.
4. The provisions of this Section shall not apply to permitted uses which normally require the removal of natural vegetation.

**B.** Grading and filling in shoreland areas or any alterations of the natural topography where the slope of the land is toward a public water or a watercourse leading to a public water must be authorized by a conditional use permit. The permit may be granted subject to the conditions that:

1. The smallest amount of bare ground is exposed for as short a time as feasible;
2. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted;
3. Methods to prevent erosion and trap sediment are employed; and,
- 1.Fill is stabilized to accepted engineering standards.

- C. Excavations on shorelands where the intended purpose is connection to a public water shall require a permit from the City Clerk-Administrator before construction is begun. Such permit may be obtained only after the Commissioner of Natural Resources has issued a permit for work in the beds of public waters.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

**Subd. 6. Flood Plain Provisions.**

**A. Authority.** The Legislature of the State of Minnesota in Minnesota Statutes, Chapter 103F has delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

**B. Purpose.** Development upon flood plain located within the City could result in loss of life and property, create health and safety hazards and lead to extraordinary public expenditures for flood protection and relief. This provision does not imply that areas outside of the boundaries of these provisions are not subject to flooding and shall not create liability on the part of the City for any flood damage which results from reliance on this Subdivision or any administrative decision lawfully made thereunder. Since development of these areas is not essential to the orderly growth of the community and since these lands are suitable for open space uses and do not require structures or fill, the Council does ordain as follows:

**C. Designation of Flood Plain District.** The Flood Insurance Study for the City of Paynesville prepared by FEMA and dated August 16, 1994 and the Flood Insurance Rate Map dated August 16, 1994 contained therein are hereby incorporated as part of the Official Zoning Map for the city of Paynesville and adopted by reference and declared to be part of this Subdivision. The Flood Plain Insurance Study shall be on file in the office of the City Administrator. The Flood Plain District shall include those areas which lie within the 100-year flood boundary on the Flood Insurance Rate Map dated August 16, 1994.

**D. Permitted Uses in Flood Plain Districts.** The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Flood Plain District to the extent that they are not prohibited by any other City Code provision and provided they do not require structures, fill, or storage of materials or equipment. All other uses and all uses that require structures, fill or the storage of materials or equipment shall be prohibited.

1. Agricultural uses such as general farming, pasture, grazing, forestry, sod farming and wild crop harvesting.
2. Industrial-Commercial uses such as parking areas and airport landing strips.
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

4. Residential uses such as lawns, gardens, parking areas and play areas.

**E. Permits/Variances.** Prior to granting a permit or processing an application for a conditional use permit or variance, the Planning Commission shall determine that the applicant has obtained all necessary State and Federal permits.

**F. Variances and Appeals.** Variances and appeals shall be handled in the same manner as otherwise provided in this Chapter. However, 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. Furthermore, the Planning Board shall submit by mail to the Commissioner of Natural Resources a copy of any application for variance or appeal sufficiently in advance so that the Commissioner of Natural Resources will receive at least ten days' notice

of the hearing. A copy of all decisions granting variances or appeals within the Flood Plain District shall be forwarded to the Commissioner of Natural Resources within ten days of such action.

**G. Nonconforming Uses.** A structure or use of a structure or premises which was lawful on the effective date or amendment of this Subdivision but which is not in conformity with the provisions of this Subdivision may be continued subject to the following conditions:

1. No such use shall be expanded, changed, enlarged or altered in any way which increases its nonconformity.
2. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building or premises shall conform to this Subdivision. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value prior to the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Subdivision.

**H. Amendments.** The flood plain designation on the Official Zoning Map shall not be removed by the flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if the Commissioner determines that, through other measures, lands are adequately protected for the intended use. All amendments to this flood plain provision must be submitted and approved by the Commissioner of Natural Resources prior to adoption. Changes to the Official Zoning Map must meet Federal Emergency Management Agency 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 Subdivision and said notice shall include a draft of the ordinance amendment or technical study under consideration.

Source: Ordinance No. 6, 2<sup>nd</sup> Series  
Effective Date: 09-08-1994

(Sections 11.61 through 11.69, inclusive, reserved for future expansion.)

**SEC. 11.70. PLANNED UNIT DEVELOPMENTS.**

**Subd. 1. Intent.** The purpose of this Section is to provide for the grouping of land parcels for development as an integrated, coordinated unit as opposed to traditional parcel by parcel, piecemeal, sporadic and unplanned approach to development. This Section is intended to introduce flexibility of site design and architecture for the conservation of land and open space through clustering of buildings and activities. It is further intended that Planned Unit Developments are to be characterized by central management, integrated planning and architecture, joint or common use of parking, maintenance of open space and other similar facilities, and a harmonious selection and efficient distribution of uses. These regulations are not intended as subdivision regulations and should not be confused as such.

**Subd. 2. Procedures and Requirements for Establishment of a Planned Unit Development.**

**A.** An application for a conditional use permit shall be filed and processed based upon procedures established by Section 11.80.

**B. Development Plan** - The conditional use permit application shall be accompanied by a development plan, drawn to a scale of not more than fifty (50) feet per inch, showing the following:

1. The entire outline, overall dimensions and area of the tract described in the application.
2. The use, zoning and ownership of all adjacent properties within one hundred (100) feet of the tract boundaries including the location of all structures thereon and the right-of-way width and traveled width of all adjacent public roadways.
3. The existing and proposed topography of the tract with contour intervals not greater than five (5) feet.
4. The location, general exterior dimensions and approximate gross floor areas of all proposed buildings.
5. The type of each use proposed to occupy each building and the approximate amount of building floor area devoted to each separate use.
6. The proposed location, arrangement and number of automobile parking stalls.
7. The proposed location, arrangement and general dimensions of all truck loading facilities.
8. The location and dimensions of all vehicular entrances, exits and driveways and their relationship to all existing or proposed public streets.
9. The location and dimensions of pedestrian entrances, exits and walks.

10. The general drainage system.
11. The location and dimensions of all walls, fences and plantings designed to screen the proposed district from adjacent uses.
12. The types of all ground covers.
13. Standards for exterior finish, exterior lighting, location and type of exterior signs, architectural style, and any other variables which will be controlled in the design of buildings in the development area.
14. **Development Schedule** - The applicant shall submit a proposed schedule of construction. If the construction of the proposed Planned Unit Development is to be in stages, then the components contained in each stage must be clearly delineated. The development schedule shall indicate the starting date and the completion date of the complete development plan.

**Subd. 3. Property Control.**

- A. In order that the purposes of this Subdivision may be achieved, the property shall be in single ownership or under the management and supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this Chapter.
- B. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document or a document such as specified by Laws 1963, Chapter 457, Section 11 and a set of floor plans such as specified by Laws 1963, Chapter 457, Section 13 shall be filed with the City; said filing with the City to be made prior to the filings of said declaration or document or floor plans with the recording officers of Stearns County, Minnesota.
- C. Approval of the City shall be secured as to the documents described in Subparagraph B, above.
- D. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments shall subject said properties to the terms of said declaration.
- E. The declaration of covenants, conditions and restrictions shall provide that an owners' association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner.

**F.** The declaration shall additionally, amongst other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City, or fails to pay taxes or assessments on properties as they become due, and in the event the said City incurs any expenses in enforcing its rules and regulations, which said expenses are not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its pro-rata share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made and, in addition, each such assessment, together with such interest thereon and such costs of collection thereof, shall also be a personal obligation of the person who was the owner of such property at the time when the assessment became payable.

**G.** It is the intent of this Chapter to require subdivision of property simultaneous with application for conditional use. The subdivision and/or platting of land as Planned Unit Development shall be subject to the requirements for approval and recording with the Stearns County Recorder as have been established by the City.

#### **Subd. 4. General Development Provisions.**

##### **A. Yards.**

1. The front and side yard restrictions at the periphery of the Planned Unit Development side at a minimum shall be the same as imposed in the respective districts.
2. No building shall be located less than fifteen (15) feet from the back of the curb line along those roadways which are part of the internal street system.

##### **B. Roadways.**

1. Private roadways within the project shall have an improved surface to twenty (20) feet or more in width and shall be so designed as to permit the City fire trucks to provide protection to each building.
2. No portion of the required twenty (20) feet road system may be used in calculating required off-street parking space.

##### **C. Utility Connection.**

1. **Water Connections.** Where more than one property is served from the same service line, a shut off valve must be located in such a way that each unit's service may be shut off by the City, in addition to the normally supplied shut off at the street.
2. **Sewer Connections.** Where more than one unit is served by a sanitary sewer lateral which exceeds 300 feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners' association or owner.

**D. Building Types.** In addition to the conventional type of construction and arrangements of building, structure uses and property as allowed by this Chapter, it shall be permissible to cluster, adjoin, and attach structures in a row house, townhouse, patio home or similar style of development within the Planned Unit Development. The number of units or structures by Density Bonus Provisions shall not exceed the number of units or structures allowable under the standard development requirements of the district classification which applies to said property.

**E. Subdivision and Ownership.** It shall be permissible within a Planned Unit Development to subdivide properties into lesser size parcels for individual ownership and create common open space areas in undivided proportions under joint ownership. Such ownership arrangements are commonly defined as condominium and/or cooperative developments. The joint area of the project must, however, conform to the minimum area requirements established for the respective district classification which jointly applies to said property.

**F. Minimum Project Size.**

1. Within Residential Districts, a Planned Unit Development shall not be applied to a parcel of land containing less than one (1) acre.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

2. Within a Commercial or Industrial District, a Planned Unit Development shall not be applied to a parcel of land containing less than one acre.

Source: Ordinance No. 5, 2<sup>nd</sup> Series  
Effective Date: 06-29-1994

**G. Density Bonus.** As a consequence of all Planned Unit Development's planned and integrated character, the number of dwelling units allowed within the respective zoning district may be increased by five (5) percent. The building, parking and similar requirements for these extra units shall be observed in compliance with this Chapter.

**H. Public Service.** The proposed project shall be served by the City Water and Water System and fire hydrants shall be installed at such locations as necessary to provide fire protection.

**Subd. 5. Review and Evaluation.** The review and evaluation of a proposed Planned Unit Development and supportive materials and plans shall include but not be limited to the following criteria:

- A. Adequate property control is established and provided to protect the individual owner's rights and property values and to define legal responsibilities for maintenance and upkeep.
- B. The interior circulation plan plus access from and onto public rights-of-way does not create congestion or dangers and is adequate for the safety of the project residents and general public.

- C.** A sufficient amount of usable open space is provided.
- D.** The arrangement of buildings, structures and accessory uses does not unreasonably disturb the privacy or property values of the surrounding uses.
- E.** The architectural design of the projects is compatible with the surrounding area.
- F.** The drainage and utility system plans are submitted to the City Engineer and are subject to his approval.
- G.** The development schedule insures a logical development of the site which will protect the public interest and conserve land.
- H.** Principal and accessory uses and requirements are in compliance with the district provisions in which the development is intended.

Source: Ordinance No. 02-1978

Effective Date: 08-11-1978

(Sections 11.71 through 11.79, inclusive, reserved for future expansion.)

**SEC. 11.80. CONDITIONAL USE PERMITS.**

**Subd. 1. Purpose.** The purpose of this Section is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public safety.

**Subd. 2. Application.** Applications for conditional use permits shall be made to the City Clerk-Administrator together with required fees. The application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Chapter, including, but not limited to:

- A. Description of site (legal description).
- B. Site plan drawn at scale showing parcel and building dimensions.
- C. Location of all buildings and their square footage.
- D. Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.
- E. Landscaping and screening plans.
- F. Drainage plan.
- G. Sanitary sewer and water plan with estimated use per day.
- H. Soil type.
- I. Any additional written or graphic data reasonably required by the City Clerk-Administrator or the Planning Commission.

**Subd. 3. Procedure.**

- A. The City Clerk-Administrator shall forward said application to the Planning Commission for consideration at its next regular meeting.
- B. The Planning Commission shall set a date for the official public hearing. Notice of such hearing shall be published in accordance with State law and notice shall be published at least once in the official newspaper of the City and mailed to individual properties within three hundred fifty (350) feet of the parcel included in the request not less than ten (10) days nor more than thirty (30) days prior to the date of said hearing. Failure of a property owner to receive said notice shall not invalidate any such proceedings.
- C. The Planning Commission shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce any adverse effects, and shall make a recommendation to the Council within sixty (60) days after the first regular meeting at which the request was initially considered.

**D.** Upon receiving the report and recommendation for the Planning Commission, the Council shall have the option of holding a public hearing, if necessary, and may impose any conditions deemed necessary. Approval of a conditional use shall require passage by a majority vote of the full Council.

**Subd. 4. Standards.** No conditional use shall be recommended by the Planning Commission unless said Commission shall find:

**A.** That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

**B.** That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

**C.** That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

**D.** That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

**E.** That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

**F.** That proper facilities are provided which would eliminate any traffic congestion or traffic hazard which may result from the proposed use.

**G.** The demonstrated need for the proposed use.

**H.** The proposed use is in compliance with any Land Use Plan adopted by the City.

Source: Ordinance No. 02-1978

Effective Date: 08-11-1978

**Subd. 5. Fees.** To defray administrative costs of processing requests for conditional use permits, a non-refundable fee shall be paid by the applicant at the time the application is requested. The amount of this fee shall be set by the Council, adopted by resolution, and uniformly enforced. This fee may, from time to time, be amended by the Council by resolution. The City shall also be reimbursed for any additional costs associated with the review of a proposal as established by resolution of the Council.

Source: Ordinance No. 05-1991

Effective Date: 05-01-1991

**Subd. 6. Compliance.** Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of such permits and of any conditions designated in connection therewith.

**Subd. 7. Lapse of Conditional Use Permit By Non-Use.** Whenever within one (1) year after granting the conditional use the work permitted has not been started, then such permit shall become null and void unless a petition for an extension has been approved by the Council.

## **SEC. 11.81. AMENDMENTS/REZONING.**

**Subd. 1. Initiation.** The Council or the Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Chapter. Any person, persons, firm or corporation or his expressed agent owning real estate within the City may initiate a request to amend the district boundaries and/or text of this Chapter so as to affect the said real estate.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

### **Subd. 2. Procedure.**

**A.** A request together with copies of detailed written and graphic materials fully explaining the proposal for an amendment to this Chapter shall be filed with the City Clerk-Administrator and shall be accompanied by a non-refundable fee to be set by the Council, adopted by resolution and uniformly enforced. This fee may, from time to time, be amended by the Council by resolution.

Source: Ordinance No. 05-1991  
Effective Date: 05-01-1991

**B.** The City Clerk-Administrator shall refer said amendment request along with all related information to the Planning Commission for consideration and a report and recommendation to the Council.

**C.** The Planning Commission shall consider the amendment request at its next regular meeting. The City Clerk-Administrator shall refer such amendment proposal along with all related information to the Planning Commission.

**D.** The Planning Commission shall set a date for the official public hearing. Notice of such hearing shall be published in conformance with the State law and individual notices. If it is a district change request, it shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property, according to the assessment records, within three hundred fifty (350) feet of the parcel included in the request. Such notice shall also be published in the official newspaper within the above time periods. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.

**E.** The Planning Commission shall reach a decision and make its report to the Council within sixty (60) days after the regular meeting at which the amendment request was first considered by the Commission.

**F.** The Council shall, upon receiving no report from the Planning Commission within ninety (90) days, place such request on the agenda of its next regular meeting and decide the issue within thirty (30) days.

**G.** Upon receiving the reports and recommendations of the Planning Commission, the Council shall place the amendment request on the agenda of the next regular meeting and decide the issue within thirty (30) days. Said reports and recommendations shall be entered in and made part of the permanent written record of the Council meeting.

**H.** The Council shall have the option to set and hold a public hearing if deemed necessary for reaching a decision.

**I.** Amendment of this Zoning Chapter shall be by a majority vote of the full Council.

**J.** The City Clerk-Administrator shall notify the originator of the amendment request of the Council's decision in writing.

#### **SEC. 11.82. VARIANCE/APPEALS.**

**Subd. 1. Board of Adjustment.** The Board of Adjustment shall be the Council and shall act upon all questions as they may arise in the administration of this Chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing this Chapter. Such appeal may be taken by any person owning the property under appeal or by an officer, department, board or commission of the City. The Board of Adjustment shall have power to vary or adapt the strict application of any of the requirements of this Chapter in the case of exceptionally irregular, narrow, or shallow lots, or other exceptionally physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other uses except specifically described. Any appeals on a Board of Adjustment decision shall be made to the District Court, Board of Adjustment decisions shall be final except said appeal to District Court.

**Subd. 2. Variances.** No variance in the provisions or requirements of this Chapter shall be authorized by the Board of Adjustment unless it finds evidence that all the facts and conditions exist:

**A.** That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.

**B.** That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return shall not in itself be deemed sufficient to warrant a variance.

**C.** That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Chapter or the public interest.

**D.** That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

**E.** In granting a variance, the Board of Adjustment may impose conditions to insure compliance and to protect adjacent properties. The Board of Adjustment may not permit as a variance any use that is not permitted under this Chapter for the property in the district where the affected person's land is located.

Source: Ordinance No. 02-1978

Effective Date: 08-11-1878

### **Subd. 3. Procedure.**

**A.** Requests for a variance or appeal shall be filed with the City Clerk-Administrator and shall be accompanied by a non-refundable fee in an amount to be set by the Council, adopted by resolution and uniformly enforced. This fee may, from time to time, be amended by the Council by resolution.

Source: Ordinance No. 05-1991

Effective Date: 05-01-1991

**B.** The Planning Commission shall consider the request at its next regular meeting and shall make a recommendation to the Board of Adjustment within sixty (60) days of receiving the appeal.

**C.** Upon receiving the recommendation of the Planning Commission, the Board of Adjustment shall set and hold a public hearing on said request. Notice of such hearing shall be mailed not less than ten (10) days nor more than thirty (30) days to property owners within three hundred fifty (350) feet of the affected parcel as determined by the City Clerk-Administrator. Such notice shall also be published in the official newspaper within the above time period. Failure of a property owner to receive said notice shall not invalidate any such proceedings.

**D.** A variance of this Zoning Chapter shall be by majority vote of the full Board of Adjustment.

**E.** Within a reasonable time after the hearing, the Board of Adjustment shall make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail.

**Subd. 4. Lapse of Variance.** If, within one (1) year after granting a variance, the work permitted is not started, such a variance shall become null and void unless a petition for an extension has been approved by the Council.

## **SEC. 11.83. ENVIRONMENTAL DOCUMENTS.**

**Subd. 1. Intent.** It is the intent of this Section to implement the environmental review procedures to follow the provisions of Minnesota Statutes, Chapter 116D, relating to the Environmental Review program and any rules adopted thereunder by the Minnesota Environmental Quality Board. All terms used in this Section shall have the same meaning as the terms used in Chapter 116D. The provisions of the rules for the Environmental Review Program, 6 MCAR 3.021 to 3.047 are hereby adopted and are on file in the office of the City Clerk-Administrator.

### **Subd. 2. Cost of Preparation and Review.**

**A.** The applicant for a permit for any action for which environmental documents are required either by State law or rules or by the Council shall supply in the manner prescribed by Section 11.80 all unprivileged data or information reasonably requested by the City that the applicant has in his possession or to which he has reasonable access.

**B.** The applicant for a permit for any action for which an Environmental Assessment Worksheet (EAW) is required either by State law or rules or by the Council shall pay all costs of preparation and review of the EAW, and, upon the request of and in the manner prescribed by the City Clerk-Administrator shall prepare a draft EAW and supply all information necessary to complete that document.

**C.** The City and the applicant for a permit for any action for which an Environmental Impact Statement (EIS) is required shall comply with the provisions of the Rules Governing Assessment of Costs for Environmental Impact Statements, one copy of which is on file in the office of the City Clerk-Administrator, unless the applicant and the Council provide otherwise by a written agreement.

**D.** No permit for an action for which an EAW is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied, and until the environmental review process has been completed as provided in this Chapter and the rules adopted by reference by this Chapter, and pursuant to any written agreement entered into by the applicant for the permit or permits and the Council.

**E.** The applicant for a permit for any action for which an EAW or EIS is required and the Council may, in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS as provided in 6 MCAR 3.042.

**Subd. 3. Administration.**

**A.** The City Clerk-Administrator shall be the person responsible for the administration of the Environmental Review Program, this Section, and rules adopted by reference by this Section.

**B.** The City Clerk-Administrator shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under 6 MCAR 3.024. The City Clerk-Administrator shall also determine those proposed actions for which an optional EAW may be required under the provisions of this Chapter and shall notify the Planning Commission and the Council of these proposed actions.

**C.** All EAW's and EIS's shall be prepared under the supervision of the City Clerk-Administrator, reviewed by the Planning Commission and reviewed and approved by the Council.

**D.** When reviewing an EAW or EIS, the City Clerk-Administrator and the Planning Commission may suggest design alteration which would lessen the environmental impact of the action. The Council may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.

**E.** After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the Council whether or not it should require the preparation of an EIS. The Council shall require an EIS when it finds under 6 MCAR 3.025 that an action is major and has potential for significant environmental effects.

**Subd. 4. Optional EAW.** The Council may, upon recommendation by the City Clerk-Administrator require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required:

**A.** Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?

**B.** Is the action likely to have disruptive effects such as generating traffic and noise?

**C.** Are there public questions or controversy concerning the environmental effects of the proposed actions?

**Subd. 5. Enforcement.**

**A.** No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this Chapter are completed.

**B.** No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this Chapter are fully complied with.

**SEC. 11.84. ENFORCEMENT.** This Chapter shall be administered and enforced by the City Clerk-Administrator, or his authorized representative. The City Clerk-Administrator may institute appropriate action for any violations of this Chapter at the direction of the Council and through the City Attorney as deemed necessary.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978

(Sections 11.85 through 11.98, inclusive, reserved for future expansion.)

**SEC. 11.99. VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: Ordinance No. 02-1978  
Effective Date: 08-11-1978