

TITLE XV: LAND USAGE

Chapter

- 150. BUILDINGS AND CONSTRUCTION**
- 151. TRAILER COACH PARKS**
- 152. SUBDIVISION REGULATIONS (PLATTING)**
- 153. ZONING CODE/LAND USE REGULATIONS**

CHAPTER 150: BUILDINGS AND CONSTRUCTION

Section

General Provisions

- 150.01 Permits and special requirements for moving buildings
- 150.02 Powers and duties of the Building Inspector
- 150.03 Private sewer construction

Adoption of State Building Code

- 150.15 Codes adopted by reference
- 150.16 Application, administration and enforcement
- 150.17 Permits and fees
- 150.18 Violations
- 150.19 Building Code; optional chapters

GENERAL PROVISIONS

150.01 PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

(A) *Definition.* **STREET** or **STREETS** as used in this section means all streets and highways in the city which are not state trunk highways, county state-aid highways or county roads.

(B) *Moving permit required and application.*

(1) It is unlawful for any person to move a building on any street without a moving permit from the city.

(2) The application for a moving permit shall state the approximate size and weight of the structure or building proposed to be moved, together with the places from and to which it is proposed to move the same, and proposed route to be followed, proposed dates and times of moving and parking, and the name and address of the proposed mover. The application shall also state any municipal utility, street, and public property repairs or alterations that will be required by reason of the movement.

Chisholm - Land Usage

(C) *Permit and fee.* The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the state, except that a permit may be issued to a person moving his or her own building, or a person moving a building which does not exceed 12 feet in width, 25 feet in length or 16 feet in loaded height. Fees to be charged shall be separate for each of the following: a moving permit fee to cover use of streets and route approval; and a fee equal to the anticipated amount required to compensate the city for any municipal utility and public property (other than streets) repairs or alterations occasioned by the movement. The latter shall be paid in advance.

(D) *Building permit and code compliance.* Before any building is moved from one location to another within the city, or from a point of origin without the city to a destination within the city, regardless of the route of movement, it shall be inspected and a building permit shall have been issued for at least the work necessary to bring it into full compliance with the State Building Code.

(E) *Proof of tax payment.* It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the city, and regardless of the route of movement, without having paid in full all real and personal property taxes and special assessments due thereon, and filing written proof of the payment with the city.

(1994 Code, ' 4.04) Penalty, see ' 10.99

' 150.02 POWERS AND DUTIES OF THE BUILDING INSPECTOR.

In addition to those enumerated in the administrative chapter of the city code, the Building Inspector shall have the following powers and duties:

(A) *Right of entry.* Upon presentation of proper credentials, the Building Inspector or his or her duly authorized representative, may enter at reasonable times any building, structure or premises in the city to perform any duty imposed upon him or her by this chapter;

(B) *Stop orders.* Whenever any building work is being done contrary to the provisions of this chapter the Building Inspector may order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done, and any like person shall forthwith stop the work until authorized by the Building Inspector to proceed with the work;

(C) *Occupancy violations.* Whenever any structure is being used contrary to the provisions of this chapter, the Building Inspector may order the use discontinued and the structure or portion thereof vacated by notice served on any person causing the use to be continued. The person shall discontinue the use within ten days after receipt of the notice or make the structure or portion thereof, comply with the requirements of this chapter; and

(D) *Liability.* The Building Inspector, or any employee charged with the enforcement of this chapter, acting in good faith and without malice for the city in the discharge of his or her duties, shall not thereby render himself or herself liable personally and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his or her duties. Any suit brought against the Building

Inspector or employee because of that act or omission performed by him or her in the enforcement of any provisions of this chapter, shall be defended by the City Attorney until final determination thereof.
(1994 Code, ' 4.08)

' 150.03 PRIVATE SEWER CONSTRUCTION.

If no statute or other provision of the city code prohibits the construction of a private sewer, the same may be installed provided the lot upon which the private sewer is designed has an area of at least 12,500 square feet, and then only for residential purposes.
(1994 Code, ' 4.20)

ADOPTION OF STATE BUILDING CODE

' 150.15 CODES ADOPTED BY REFERENCE.

The State Building Code, pursuant to M.S. ' ' 326B.101 to 326B.194, as it may be amended from time to time, includes all of the referenced amendments, rules and regulations and is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this subchapter. The State Building Code is hereby incorporated in this subchapter as if fully set out herein.
(Ord. 119, passed 12-26-2006)

' 150.16 APPLICATION, ADMINISTRATION AND ENFORCEMENT.

The application, administration and enforcement of the code shall be in accordance with State Building Code. The code shall be enforced within the extraterritorial limits permitted by M.S. ' 326B.121, as it may be amended from time to time, when so established by this subchapter. The code enforcement agency of this municipality is called the Building Safety Department. This code shall be enforced by the State Certified Building Official designated by this city to administer the code (M.S. ' 326B.133(1)).
(Ord. 119, passed 12-26-2006)

' 150.17 PERMITS AND FEES.

The issuance of permits and the collection of fees shall be as authorized in M.S. ' 326B.121(1), as it may be amended from time to time. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. ' 326B.148, as it may be amended from time to time.

(Ord. 119, passed 12-26-2006)

' 150.18 VIOLATIONS.

A violation of the code is a misdemeanor.

(Ord. 119, passed 12-26-2006)

' 150.19 BUILDING CODE; OPTIONAL CHAPTERS.

The State Building Code, established pursuant to M.S. ' ' 326B.101 to 326B.194, as they may be amended from time to time, allows the city to adopt by reference and enforce certain optional chapters of the most current edition of the State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this municipality.

(Ord. 119, passed 12-26-2006)

CHAPTER 151: TRAILER COACH PARKS

Section

- 151.01 Definitions
- 151.02 Exception
- 151.03 Prohibition; permit
- 151.04 Conflict
- 151.05 Temporary special use

' 151.01 DEFINITIONS.

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

TRAILER COACH. Any vehicle used or so constructed as to permit its being used as a conveyance upon the public streets or highways and subject to tax or registration as such, and shall include self-propelled or non-self-propelled vehicles as designed, constructed, reconstructed or added to by means of an enclosed addition or room in a manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons, having no foundation other than wheels, jacks or skirtings.

TRAILER COACH PARK. Any site, lot, field or tract of land upon which one or more occupied trailer coaches are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the trailer coach park.

(1994 Code, ' 4.40.1)

' 151.02 EXCEPTION.

Trailer coach parks may be established in any district except a Residential District, provided, however, that the proposed site is approved by the Council and a special use permit granted by the Planning Commission.

(1994 Code, ' 4.40.2)

' 151.03 PROHIBITION; PERMIT.

It is unlawful for any person to occupy or allow to be occupied a trailer coach on any premises in the city other than a trailer coach park licensed pursuant to the provisions of M.S. Chapter 327, as it may be amended from time to time; provided, however, that any trailer coach now situated in the city and occupied upon premises other than an approved trailer coach park shall be permitted to remain thereon as a special use. If the occupancy shall cease for a period of one year, the special use permit shall expire and the trailer coach cannot thereafter be occupied upon the premises.

(1994 Code, ' 4.40.3) Penalty, see ' 10.99

' 151.04 CONFLICT.

Any conflict or overlapping between this section and state statutes shall be resolved in favor of that which is the more stringent regulation.

(1994 Code, ' 4.40.4)

' 151.05 TEMPORARY SPECIAL USE.

The Council from time to time in its sole discretion may designate areas within the city where it is lawful for the temporary special use as a trailer coach park, the site to be selected by the Council and designated by Council resolution as a temporary trailer coach park for temporary use during special events taking place in the city.

(1994 Code, ' 4.40.5)

CHAPTER 152: SUBDIVISION REGULATIONS (PLATTING)

Section

- 152.01 General provisions
- 152.02 Definitions
- 152.03 Preliminary plan
- 152.04 Final plat
- 152.05 Design standards
- 152.06 Public land
- 152.07 Required improvements
- 152.08 Other provisions
- 152.09 Violations

152.01 GENERAL PROVISIONS.

(A) *Purpose.*

(1) Each new subdivision becomes a permanent unit in the basic physical structure of the future community, a unit to which the future community will, of necessity, be forced to adhere.

(2) Piecemeal planning of subdivisions, without correlation to the community's plans and planning standards, will bring a disastrous, disconnected patchwork of plats and poor circulation of traffic.

(3) In order that new subdivisions will contribute toward an attractive, orderly, stable and wholesome community environment, adequate municipal services and safe streets, all subdivisions thereafter platted within the city shall fully comply with the regulations hereinafter set forth in this chapter.

(B) *Interpretation.* In their interpretation and application, the provisions of this chapter shall be the minimum requirements adopted for the protection of the public health, safety and general welfare.

(C) *Scope.* This chapter shall not apply to any lot or lots forming a part of a subdivision recorded in the office of the Register of Deeds prior to the effective date of this chapter, nor is it intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provision or other laws or ordinances except those specifically repealed by, or in conflict with, this chapter, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the city is a party. Where this chapter imposes a greater restriction upon land than is imposed or required by the existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

(1994 Code, ' 12.01)

' 152.02 DEFINITIONS.

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

COLLECTOR STREET. A street that carries traffic from minor streets to thoroughfares. It includes the principal entrance streets of a residential development and principal streets for circulation within that development.

EASEMENT. A grant by an owner of land for the specific use of the land by the public generally or to a person or persons.

FINAL PLAT. The final map, drawing or chart on which the subdivider=s plan of subdivision is presented to the Council for approval and which, if approved, will be submitted to the County Register of Deeds.

MARGINAL ACCESS STREET. A service drive or minor street that is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.

MINOR STREET. A street of limited continuity used primarily for access to the abutting properties and the local needs of a neighborhood.

OWNER. Any individual, firm, association, syndicate, co-partnership corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

PRELIMINARY PLAN. The preliminary map, drawing or chart indicating the proposed layout of the subdivision.

STREET WIDTH. The shortest distance between the lines delineating the right-of-way of a street.

SUBDIVIDER. Any person commencing proceedings under this chapter to effect a subdivision of land hereunder for himself or herself or for another.

SUBDIVISION. The division of a parcel of land into two or more lots or parcels, for the purpose of transfer of ownership or building development. The term includes **RESUBDIVISION** and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

THOROUGHFARE. A fast or heavy traffic street of considerable continuity, and used primarily as a traffic artery for intercommunication among large areas, including highways and arterial streets. (1994 Code, ' 12.02)

' **152.03 PRELIMINARY PLAN.**

(A) *Procedure for preliminary plan.*

(1) Prior to preparation of a preliminary plan, it is suggested that the subdivider have a preliminary discussion with the Planning Commission, the City Engineer and the Superintendent of the school district in which the area to be subdivided is located.

(2) The subdivider shall submit to the City Clerk;

(a) Four copies of the preliminary plan; and

(b) A cash fee of \$150 plus \$10 for each lot up to a maximum total of \$1,000. This fee will be used for the expenses of the city in connection with approval or disapproval of the preliminary plan.

(3) The City Clerk shall upon receipt of preliminary plan:

(a) Refer one copy of the same to the City Engineer to ascertain whether the preliminary plan includes the data required by this chapter;

(b) If the Engineer determines that all the necessary data is included, he or she shall notify the Clerk who shall then refer one copy to the Planning Commission and one copy to the school district Superintendent; and

(c) If the Engineer determines that all the necessary data is not included, he or she shall notify the subdivider, who shall then supply the required data before further action can be taken.

(4) The City Engineer shall within 30 days submit his or her report to the Planning Commission. This report shall be on the feasibility of street location and construction, and on any drainage problems that might be encountered.

(5) The Planning Commission shall study the preliminary plan.

(a) The primary function of the Planning Commission in reviewing a preliminary plan is to determine whether the plan conforms to the design standards set forth in this chapter.

(b) The Planning Commission may recommend approval of a preliminary plan subject to

certain revisions, and may delegate its staff or one of its members to see that the further revisions conform to the intent of the Planning Commission.

(6) The Council shall hold a public hearing on the proposed preliminary plan, and shall have notice of the hearing published in the official paper at least ten days prior to the hearing.

(a) The subdivider shall certify that owners of unsubdivided property adjacent to the area being subdivided have been notified of the hearing by mail. The Council shall act on the preliminary plan within 60 days of the date on which it was filed with the City Clerk.

(b) If the report of the Planning Commission has not been received in time to meet this requirement, the Council may act without the report.

(c) Approval of a preliminary plan by the Council is tentative only, involving merely the general acceptability of the layout.

(d) Subsequent approval will be required of the engineering proposals, pertaining to water supply, storm drainage, sewerage and sewage disposal, gas and electric service, grading, gradients and roadway widths, and the surfacing of streets.

(e) If the preliminary plan is not approved by the Council, the reasons for that action shall be recorded in the proceedings of the Council and transmitted to the applicant.

(B) *Data required for preliminary plan.*

(1) *Scale of map.* One inch to 100 feet, if possible; otherwise, one inch to 50 feet or 200 feet.

(2) *Identification and description.*

(a) Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in the county;

(b) Location by section, town, range or by other legal description;

(c) Names and addresses of the owner, subdivider, surveyor and designer of the plan. The subdivider shall submit a statement that he or she has the area being subdivided under ownership or control;

(d) Graphic scale;

(e) North-point; and

(f) Date of preparation.

(3) *Existing conditions in tract and in surrounding area to a distance of 100 feet.*

- (a) Boundary line of proposed subdivision, clearly indicated;
- (b) Any nonresidential zoning districts;
- (c) Total approximate acreage;
- (d) Platted streets, railroad right-of-way and utility easements;
- (e) Boundary lines and ownership of adjoining unsubdivided land;
- (f) Permanent buildings and structures;
- (g) Sewers, water mains, culverts or other underground facilities;
- (h) Topography, showing lakes, watercourses, marsh areas and contours at vertical intervals of not more than two feet, except that contour lines shall be no more than 100 feet apart. Contour lines shall be shown by means of dashed lines on the preliminary plan;
- (i) Wooded areas; and
- (j) Other information, such as soil tests, if requested by the City Engineer.

(4) *Subdivision design features.*

- (a) Layout of proposed streets, showing approximate grades and gradients, right-of-way widths and names of streets. The name of any street heretofore used in the municipality, or its environs, shall not be used unless the proposed street is an extension of an already named street, in which event, the name shall be used. The street layout shall include all contiguous land owned or controlled by the subdivider;
- (b) Location and widths of proposed pedestrian ways and utility easements;
- (c) Layout, numbers and minimum dimensions of lots;
- (d) Areas, other than streets, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of the area or areas in acres; and
- (e) Proposed use of all parcels, and if zoning change is contemplated, proposed rezoning. (1994 Code, ' 12.03)

' **152.04 FINAL PLAT.**

(A) *Procedure for final plat.*

- (1) Unless an extension of time is requested by the subdivider and granted by the Council, the

subdivider shall within six months following approval of the preliminary plan, submit to the City Clerk:

(a) Five copies of the final plat. This final plat shall incorporate all changes required by the Council. Otherwise, it shall conform to the preliminary plan. The final plat may constitute only that portion of the preliminary plan which the subdivider proposes to record and develop at the time. If the final plat is not submitted within six months, the approval of the preliminary plan shall be considered void; and

(b) An up-to-date certified abstract of title or registered property report, and other evidence as the City Attorney may require showing title or control in the applicant.

(2) The City Clerk shall refer one copy of the final plat to the City Engineer, and one copy each to the telephone and power companies. The Clerk shall refer the abstract of title or registered property report to the City Attorney for his or her examination and report.

(3) The reports of the City Attorney and City Engineer shall be submitted to the Council within 15 days after filing of the final plat. The Engineer shall state whether the final plat and the proposed improvements conform to the engineering standards and specifications established in this chapter. He or she shall also state whether the final plat conforms to the preliminary plan.

(4) The Council shall act on the final plat within 60 days of the date on which it was filed with the City Clerk. It shall not approve a final plat unless it:

(a) Conforms to the preliminary plan; and

(b) Meets the design standards and engineering specifications set forth in this chapter.

(5) If the final plat is approved by the Council, the subdivider shall record it with the County Register of Deeds within 30 days after the date of approval otherwise, the approval shall be considered void.

(6) The subdivider shall immediately, upon recording, furnish the City Clerk with one completed cloth print of the final plat, showing evidence of the recording, and shall furnish to the City Engineer a form of permanent tracing acceptable to the City Engineer.

(B) *Data required for final plat.*

(1) Plans for water supply, sewage disposal, drainage and flood control;

(2) Soil borings, as required by the City Engineer;

(3) Evidence that ground water control is at least ten feet below level of finished graded or plan for solving ground water problems;

(4) Any supplementary engineering data required by the City Engineer;

(5) Data required under regulation of County Surveyor; accurate, angular and lineal dimensions for all lines, angles and curvatures used to describe boundaries, streets, easements, areas to be reserved for public use and other important features;

(6) When lots are located on a curve, or when side lot lines are at angles other than 90 degrees, the width of the building setback line shall be shown;

(7) An identification system for all lots and blocks;

(8) The size (in square feet) and dimensions of all lots;

(9) True angles and distances tied to the nearest established street lines or official monuments (not less than three), which shall be accurately described in the plat;

(10) Municipal, township, county or section lines accurately tied to the lines of the subdivision by distances and angles;

(11) Complete curve data, including radii, internal angles, points and curvatures, tangent bearings and lengths of all arcs;

(12) Accurate location of all monuments;

(13) Certification by a registered land surveyor to the effect that the plat represents a survey made by him or her, and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct;

(14) Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas;

(15) Certifications showing that all taxes currently due on the property to be subdivided have been paid in full; and

(16) Form for approval. Approved by the City of Chisholm, Minnesota, this _____ day of _____, 20____.
(1994 Code, ' 12.04)

' 152.05 DESIGN STANDARDS.

(A) *Streets.*

(1) *General design.*

(a) The design of all streets shall be considered in their relation to: public safety; existing and planned streets, efficient circulation of traffic; topographical conditions; runoff of storm water; and proposed use of the land to be served by the streets.

Chisholm - Land Usage

(b) The arrangement of streets in new subdivisions shall make provisions for the appropriate continuation of existing streets in adjoining areas.

(c) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets.

(d) When a new subdivision adjoins unsubdivided land susceptible to being divided, then the new streets shall be carried to the boundaries of the unsubdivided land.

(2) *Width.* All right-of-way widths shall conform to the following minimum dimensions:

Arterial streets	66 feet
Collector streets	60 feet
Marginal access streets	50 feet

(3) *Reverse curves.* Tangents of at least 50 feet in length shall be introduced between reverse curves on collector streets.

(4) *Street grades.* All centerline gradients shall be at least 0.5%, and shall not exceed the following:

Collector streets	6%
Minor streets	8%

(5) *Minor streets.* Minor streets shall be so aligned that their use by through traffic will be discouraged.

(6) *Street jogs.* Street jogs with centerline offsets of less than 125 feet shall be avoided.

(7) *Safe intersections.* It must be evidenced that all street intersections encourage safe and efficient traffic flow.

(8) *Alleys.* Alleys are not permitted in residential areas.

(9) *Half-streets.* Half-streets shall be prohibited, except where essential to the reasonable development of the subdivision and adjoining unsubdivided areas.

(10) *Reserve strips.* Reserve strips controlling access to streets shall be prohibited except under conditions approved by the Council.

(11) *Private streets.* Private streets shall not be approved, nor shall public improvements be approved for any previously existing private street.

(12) *Hardship to owners of adjoining property.* The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land, and providing convenient access to it.

(13) *Street interval.* In general, provisions shall be made at intervals not exceeding one-half mile for through streets (streets running through the subdivision in a fairly direct manner).

(14) *Intersections.* In general, streets shall intersect at right angles.

(15) *Corners.* Property lines at residential street corners shall be rounded on a radius of not less than ten feet, and curb lines on a radius of not less than 20 feet.

(B) *Easements.*

(1) *Utilities.* Easements at least 15 feet wide, centered on rear and other lot lines, shall be provided for utilities, where necessary. They shall have continuity of alignment from block to block. At deflection points, easements for pole-line anchors shall be provided, where necessary. Where the utilities are to be developed on a radius, the easement shall be sufficiently wider.

(2) *Drainage.* Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, together with further width or construction, or both, as will be adequate for stormwater run-off. The easement shall include not only the stream channel, but also, adjoining areas that have been subject to flooding in years of heavy run-off.

(3) *Structures.* No structure shall be erected on assigned easements without written approval from the City Engineering Department.

(C) *Blocks.*

(1) *Length.* Block lengths shall not exceed 1,500 feet, and, if possible, should not be less than 400 feet in length.

(2) *Arrangement.* A block shall be so designed as to provide two tiers of lots, unless it adjoins a railroad or limited access highway, and unless topographic conditions necessitate a single tier of lots.

(3) *Pedestrian ways.* In blocks over 1,200 feet long, a pedestrian way or easement may be required in locations deemed necessary to public health, convenience and necessity. Such an easement shall not be less than 15 feet in width.

(D) *Lots.*

(1) *Location.* All lots shall abut by their full frontage on a publicly dedicated street.

(2) *Corner lots.* Corner lots shall be platted at least 15 feet wider than the minimum lot size

required.

(3) *Side lot lines.* Side lines of lots shall be substantially at right angles or radial to the street line.

(4) *Watercourse.* Lots abutting upon a watercourse, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding.

(5) *Features.* In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots or similar conditions, which, if preserved, will add attractiveness and stability to the proposed development.

(6) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels. However, outlots may be used if there is a reasonable likelihood that future subdivision of adjoining land will absorb these outlots into standard lots.

(7) *Lots along thoroughfares.* There shall be no direct vehicular access from residential lots to a major thoroughfare, and residential lots shall be separated from major thoroughfares and railroad rights-of-way by a 25-foot buffer strip, which may be in the form of added depth or width of lots backing on or siding on the thoroughfare or railroad right-of-way. A screen-planting easement shall be granted to the city for the 25-foot buffer strip if it adjoins a major thoroughfare.

(E) *General.* The proposed subdivision shall, in all respects, conform to the city plans.
(1994 Code, ' 12.05)

' 152.06 PUBLIC LAND.

(A) Because a new subdivision creates a need for recreation areas, as well as for streets, the Council may require the dedication of a part of the subdivision for recreation area.

(B) In addition, wherever the city plan shows a proposed public site larger than the area to be dedicated, the preliminary plan and final plat shall show the projected site, and the city shall have one year in which to purchase the additional area.

(C) If the purchase has not been made within the year, the subdivider may proceed to subdivide the additional area.

(1994 Code, ' 12.06)

' 152.07 REQUIRED IMPROVEMENTS.

Before the Council approves a final plat, the subdivider shall give satisfactory assurance of the installation of the following improvements.

(A) *Monuments.* Monuments shall be placed at all intersections of street centerlines, angle points, points of curves and streets and at intermediate points, as shown on the final plat, and as required by the City Engineer. These monuments shall be of materials, size and length as may be determined and approved by the City Engineer. All U.S., state, county or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise positions.

(B) *Streets.* All the streets shall be improved in accordance with the engineering specifications established by the city.

(C) *Curb and gutter.* These shall be provided along all streets.

(D) *Sidewalks.* Sidewalks shall be installed in at the discretion of the City Engineer, Administrator or Council.

(E) *Water mains.* Where connection with the municipal water system is feasible, the public water facilities shall be used.

(F) *Sanitary sewer.* In all cases where trunk-line sanitary sewer facilities are available, the subdivider shall be required to install sanitary sewers, and connect the same to the trunk-line sewers.

(G) *Drainage facilities.* The facilities and easements shall be installed as will adequately provide for the drainage of surface waters.

(H) *Tree planting.* Trees having a trunk diameter (measured 12 inches above the ground), of not less than one and three-quarter inches, shall be planted along all streets where trees do not exist, and not less than one per lot. This requirement will be satisfied, and it is preferable if an equivalent number of the same size exist or are planted in a naturalistic way in the front yards of the lots. The trees shall be planted in at least one cubic yard of growing soil, and shall survive one growing season or be replaced and shall be of a type specified by the city.

(I) *Street name signs.* These shall be placed at all street intersections within or abutting the subdivision.

(J) *Stop signs.* Stop signs shall be placed on all streets intersecting a thoroughfare or collector streets.

(K) *Trunk facilities.* Where a water main, sanitary sewer or storm drain facility should, according to utility plans, be constructed at a larger size to serve areas outside the subdivision, the larger facility should be constructed, the additional cost to be borne by the city.

(L) *Specifications.* All of the required improvements shall conform to engineering standards and specifications, as required by the City Engineer.

(M) *Financing.* Before a final plat is approved by the Council, the subdivider shall submit an agreement and performance bond or cash escrow agreement to assure the following:

(1) The Council shall determine what portion of the cost of all improvements required herein which shall be borne by the subdivider; provided, however, that, in no case, shall the subdivider's share be less than 40%. This agreement shall provide for the payment of the costs of the improvements by the subdivider. In addition to the costs, the agreement shall also provide for the payment of the subdivider's share of the costs of trunk facilities which must be extended to the subdivision. The costs to be determined under provisions of division (K) above;

(2) Guaranteed completion of the required improvements within a two-year period;

(3) Payment by the subdivider for all cost incurred by the city for review and inspection. This shall include the review of plans and specifications by the City Engineer, costs incurred by the City Attorney, as well as other costs of similar nature. These payments shall be in addition to the subdivision fee paid with the submission of the preliminary plan;

(4) The city may elect to install any of the required improvements under the terms of a cash escrow agreement, or on an assessment basis. If the city should decide to so proceed, the improvements shall be installed on the basis of public competitive bidding, and the subdivider shall be a qualified contractor, and entitled to submitting bids for the installation of the improvements;

(5) The performance bond or cash escrow agreement shall be equal to one and one-half times the subdivider's share of the total cost of the required improvements, as estimated by the City Engineer; and

(6) If the required improvements are not completed within the two-year period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the city and applied to the cost of the required improvements. Any balance remaining after these improvements have been made, shall be returned to the owner or subdivider.

(1994 Code, ' 12.07)

' 152.08 OTHER PROVISIONS.

(A) *Variances and exceptions.* Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this chapter, the Council upon the recommendation of the Planning Commission, shall have the power to vary the requirements of this chapter in harmony with the general purpose and intent thereof, so that the public health, safety and general welfare may be secured and substantial justice done. In particular, small subdivisions, where one lot is divided into two or three lots, the submission of topographic maps, soil tests, other data and fee may not be necessary if the Council, upon the recommendation of the Planning Commission, so determines. Minor subdivision of larger areas, where a tract of land over five acres is divided into two parcels, shall be exempted from all the provisions of this chapter; however, a dimensioned map of such a subdivision shall be filed with the City Clerk within 30 days after the subdivision has been made.

(B) *Building permits.* No building permit shall be issued by any governing official for the construction of any building, structure or improvement on any land henceforth subdivided until all

requirements of this chapter have been fully complied with.
(1994 Code, ' 12.08)

' 152.09 VIOLATIONS.

Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the 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.
(1994 Code, ' 12.99) Penalty, see ' 10.99

CHAPTER 153: ZONING CODE/LAND USE REGULATIONS

Section

General Provisions

- 153.01 Purpose
- 153.02 General provisions
- 153.03 Rule
- 153.04 Definitions
- 153.05 Performance standards
- 153.06 Administration
- 153.07 Miscellaneous
- 153.08 Zoning district boundaries
- 153.09 Enforcement
- 153.10 Tree Board; provisions
- 153.11 Violations

District Provisions

- 153.25 Districts
- 153.26 Zoning map
- 153.27 Minimum requirements
- 153.28 Exceptions and additions to above minimum requirements
- 153.29 Permitted uses
- 153.30 Accessory and special uses in Residence Districts
- 153.31 Accessory and special uses in Business and Industrial Districts
- 153.32 Agriculture uses
- 153.33 Automobile service uses
- 153.34 Equipment sales and service uses
- 153.35 Health/medical uses
- 153.36 Home occupations
- 153.37 Manufacturing uses
- 153.38 Miscellaneous business uses
- 153.39 Office/financial uses
- 153.40 Public utility uses
- 153.41 Retail shopping uses
- 153.42 Special uses in mining districts

Chisholm - Land Usage***Wetlands Regulations***

- 153.55 Purpose
- 153.56 Wetland Overlay Map
- 153.57 Wetland Overlay District
- 153.58 Wetland alterations
- 153.59 Roads, parking areas and other impervious surfaces
- 153.60 Sewage disposal, county permit required; nonconforming uses
- 153.61 Definitions
- 153.62 Administration
- 153.63 Property exempt

GENERAL PROVISIONS**153.01 PURPOSE.**

(A) This chapter is being enacted in order to protect and promote the public health, safety and general welfare of the people of the city.

(B) Specifically, the provisions are designed to achieve, among others, the following objectives:

- (1) Civic beauty;
- (2) Adequate light, air and safety from fire for occupants of structures;
- (3) Conservation of the value of land and buildings;
- (4) A balanced tax base as between residential and business uses;
- (5) Stability of residential neighborhoods;
- (6) A minimum of congestion in the public streets;
- (7) Compatibility between different land uses; and
- (8) Reasonable standards to which structures and uses shall conform.

(Ord. passed 2-6-2012)

153.02 GENERAL PROVISIONS.*(A) Lots and buildings.*

(1) *Compliance with this chapter.* No building or premises may hereafter be used or occupied, and no building permits shall be granted that do not conform to the requirements of this chapter.

(2) *Street frontage required.* No lot shall contain any building used as a dwelling unless it has a minimum lot size of 6,000 square feet, abuts at least 50 feet on a street, or has a permanent exclusive non-obstructed easement of access not less than 50 feet to a street.

(3) *Accessory buildings.* No accessory building or structure, unless an integral part of the principal building, shall be erected, altered or moved within eight feet of the principal building in the R-1 and R-2 District.

(4) *Relocated structures.* Before any house or other structure is moved onto a vacant lot, the Building Official shall determine whether the structure will be compatible with other development in the area. If the Building Official determines that the structure, in its present condition, would depreciate the area, and not meet building code, he or she shall so state in writing, and shall list the improvements and code requirements necessary to make the structure acceptable for relocation.

(5) *Required area not to be reduced.* No lot, yard or parking area shall be so reduced in area or dimension as to make any such area or dimension less than the minimum required by this chapter and if already less than the minimum required, it shall not be further reduced.

(6) *Annexations.* Future annexations of territory to the city will be automatically zoned as R-2 Residential Districts, until a time as it is deemed desirable to change the zoning assignment.

(7) *Foundation requirements.* Dwellings shall be placed on a building code compliant, permanent foundation. No dwelling shall be mounted on a wheel and axle undercarriage.

(B) Permitted encroachments. The following shall not be considered as encroachments on setback and height requirements:

(1) In any yards: off-street open parking spaces, terraces, awnings, canopies, steps, decks, chimneys, flag poles;

(2) In front, side and rear yards: fences, walls and hedges be no higher than six feet in height. In cases of a corner lot, no fence, wall or hedge shall be higher than three feet for a distance of 33 feet from the intersection of property lines of the two streets. No fence, wall or hedge may be permitted to encroach on adjoining property lines. Fences, walls, hedges and trees will be well maintained. Fences, walls and hedges shall be set back two feet from property lines not having a registered survey with registered survey stakes, and five feet from alley rights-of-way. In the case of where houses are less than ten feet apart the fence shall not divide the two properties, but must be returned to the house in the front as well as the back. A fence installed on the property owners' land within the two feet setback shall be determined

by a registered land surveyor to be obtained at the property owner=s expense and provided to the Building Official prior to construction. **ENCROACHMENT** shall be defined as that part of any fence, wall, driveway, tree, tree branch or hedge, on or across a neighbor=s property line. The use of trees as a fence shall not be permitted;

(3) In rear yards: recreational and laundry drying equipment, arbors and trellises, balconies, breezeways, open porches, decks, detached outdoor living rooms; or

(4) Height limitations shall not apply to barns, silos and other structures on farms; to church spires, belfries, cupolas and domes; monuments; water towers; fire and hose towers; observation towers; chimneys and smokestacks; flag poles; telephone poles; electric power transmission facilities; wireless transmission towers; television antennas and parapet walls extending not more than four feet over the limiting height of the building.

(C) *Nonconforming uses.* The lawful use of any land or building existing at the time of the adoption of this chapter may be continued, even if the use does not conform to the regulations of this chapter; provided:

(1) No such nonconforming use of land shall be enlarged or increased, or occupy a greater area of land than that occupied by the use on the effective date of this chapter;

(2) The nonconforming use shall not be moved to any other part of the parcel of land upon which the same was conducted on the effective date of this chapter;

(3) A nonconforming use of a building existing on the effective date of this chapter may be extended throughout the building; provided, no structural alteration except those required by provisions of the city code, ordinance, law or other regulations are made therein;

(4) If the nonconforming use consists of a substantial building and ceases for a continuous period of one year, any subsequent use of the building shall be in conformity to the use regulations specified by this chapter for the district in which the building is located;

(5) Any structure which represents a nonconforming use shall not be rebuilt or reconstructed to its former use and physical dimensions if damaged 50% or more by fire, wind, earthquake or explosion according to the estimate of the Building Official and approved by the Planning Commission;

(6) Any nonconforming use of land, with or without a structure, having an assessed value as of the effective date of this chapter of \$500 or less, may be continued for a period of three years after the effective date of this chapter, whereupon the nonconforming use shall cease; and

(7) A nonconforming use may be changed to a different, nonconforming use in the same zoning classification (e.g., a food store to a hardware store).

(D) *Requirements as minimum.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Wherever this chapter imposes greater restrictions than are imposed or required by other provisions of law or by other rules or regulations, the provisions of this

chapter shall govern.
(Ord. passed 2-6-2012)

‘ **153.03 RULE.**

All measured distances, as used in this chapter, shall be to the nearest integral foot. If a fraction is one-half foot or less, the integral foot next below shall be taken.
(Ord. passed 2-6-2012)

‘ **153.04 DEFINITIONS.**

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

ACCESSORY USE OR STRUCTURE. The use or structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental thereto.

APARTMENT. A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family.

AUTO-WRECKING YARD. Any open space where three or more inoperative vehicles are stored which are not registered, and which do not possess current state auto licenses.

BASEMENT. As defined in the Building Code.

BOARDING HOUSE (ROOMING OR LODGING HOUSE). A building containing lodging rooms accommodating, for compensation, three or more persons, but not exceeding 12, who are not of the keeper=s family. Lodging may be provided with or without meals.

BUILDING. Any structure which is built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind which is permanently affixed to the land.

BUSINESS. Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials, or where services are offered for compensation.

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

CLUB or LODGE. A club or lodge which is a non-profit association of persons, who are bona fide members paying annual dues, use of premises being restricted to members and their guests. It shall be permissible to serve food and meals on the premises, providing adequate dining room space and kitchen facilities are available. Serving of alcoholic beverages to members and their guests shall be allowed,

providing the serving is secondary and incidental to the operation of the dining room for the purpose of serving food and meals and, providing further, that the serving of alcoholic beverages is in compliance with the applicable federal, state and municipal laws.

DOG KENNEL. Any place where four or more dogs over six months of age are boarded, bred and/or offered for sale.

DWELLING. A residential building or portion thereof, but not including hotels, motels, boarding or rooming houses, tourist homes or trailers.

FAMILY.

(1) An individual or two or more persons related by blood, marriage or adoption, living together; or

(2) A group of not more than five persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to a particular use, including accessory storage areas located within selling or working space, such as counters, racks or closets; and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices; however, the ***FLOOR AREA*** shall not include: basement floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The ***FLOOR AREA*** of a residence shall include 50% of the area of attached garages and enclosed breezeways or porches, but shall not include basement area.

GARAGE, PRIVATE. An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises, and in which no business service or industry is carried on; provided, that not more than one-half of the space may be rented for the private vehicles of persons not resident on the premises, except that all the space in a garage of one or two-car capacity may be so rented. Such a garage shall not be used for more than one commercial vehicle. The load capacity of the commercial vehicle shall not exceed one ton.

GARAGE, PUBLIC. A building or portion of a building, except any herein defined as a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire, and in which any sale of gasoline, oil and accessories is only incidental to the principal use.

GARAGE, REPAIR. A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of the vehicles, auto-wrecking establishments or junk yards.

HOME OCCUPATION. Any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit, and not in an accessory building.

HOTEL. A building which provides a common entrance, lobby, halls and stairway, and in which lodging is offered with or without meals to thirteen or more guests.

JUNK YARD. An open area where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A **JUNK YARD** includes an auto-wrecking yard, but does not include uses established entirely within enclosed buildings.

LODGING ROOM. A room rented as sleeping and living quarters, but without cooking facilities, and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room, which provides sleeping accommodation, shall be counted as one **LODGING ROOM**.

LOT (OF RECORD). A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this chapter, or approved by the city as a lot subsequent to the date, and which is occupied by or intended for occupancy by one principal building or principal use, together with any accessory buildings and the open spaces, as required by this chapter, and having its principal frontage upon a street.

LOT, CORNER. A lot situated at the junction of or abutting on two or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is 135 degrees or less.

LOT, FRONT OF. The boundary abutting a public street right-of-way having the least width. The owner of a corner lot may select either street lot line as the front lot line.

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 line.

LOT, WIDTH. The horizontal distance between the side lot lines at the front setback line.

MOTEL (TOURIST COURT). A building or group of detached, semi-detached or attached buildings containing guest rooms or dwellings, each of which has a separate outside entrance leading directly from the outside of the building, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

NONCONFORMING USE. Any building, structure or land lawfully occupied by a use, or lawfully established at the time of the effective date of this chapter, or amendments thereto, which does not conform, after the effective date of this chapter, or amendments thereto, with the use regulations therein.

OFF-STREET LOADING SPACE. A space accessible from a street, alley or driveway for the use of trucks while loading or unloading merchandise or materials. The space shall be of a size so as to accommodate one truck of the type typically used in the particular business.

OPEN SALES LOT. Any land used or occupied for the purpose of buying and selling second-hand passenger cars and/or trucks, motor scooters, motorcycles, boats, trailers, aircraft construction equipment and monuments, and for the storing of same prior to sale.

PARKING SPACE. A suitably surfaced and permanently maintained area on privately-owned property, either within or outside of a building of sufficient size to store one standard automobile.

PUBLIC STABLES. A stable where horses are kept for remuneration, hire or sale.

REST HOME (NURSING HOME). A private home for the care of children or the aged, or infirm or place of rest for those suffering bodily disorders. Such a home does not contain equipment for surgical care or for the treatment of disease or injury, nor does it include maternity care or care for mental illnesses or infirmities.

SERVICE STATION. A place where gasoline, kerosene or other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public, and deliveries are made directly into motor vehicles. Includes greasing and oiling and the sale of automobile accessories on the premises. Also includes minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding one and one-half tons capacity. It shall not include general repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair overall painting or paint job; vehicle steam cleaning.

SETBACK. The minimum horizontal distance between a building and street easement or lot line.

SIGN. A name, identification, description, display, illustration, structure or device which is affixed to, or painted, or represented directly or indirectly upon a building or other outdoor surface or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business, and may be a single-faced, double-faced or AV@-type structure.

SIGN, ADVERTISING. A sign which directs attention to a business, commodity, service or entertainment, not necessarily conducted, sold or offered upon the premises where the sign is located or to which it is affixed.

SIGN, BUSINESS. A sign which directs attention to a business or profession or to the primary commodity, service or entertainment sold or offered upon the premises where the sign is located or to which it is attached.

SIGN, FLASHING. Any illuminated sign on which the artificial light is not maintained stationary, and/or constant in intensity and color at all times when the sign is in use.

SIGN, GROSS SURFACE AREA. The entire area within a single continuous perimeter enclosing the extreme limits of the sign, and, in no case, passing through or between any adjacent elements of same; however, the perimeter shall not include any structural elements lying outside the limits of the sign, and not forming any integral part of the display. In computing square foot area, only one side of a double-face of AV@-type structure shall be considered.

SIGN, IDENTIFICATION. A sign identifying a resident, school, church or other non-business use.

SIGN, ILLUMINATED. Any sign which has characters, letters, figures, design or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

SIGN, PEDESTAL. A sign erected upon a single post or shaft.

SIGN, TEMPORARY. A sign that is not solidly affixed to the ground or to a building.

STRUCTURE. Anything erected, the use of which required more or less permanent location on the ground, or attached to something having a permanent location on the ground. This shall include signs.

TRAILER PARK. Any premises on which are parked one or more trailers, or any premises used or held out for the purpose of supplying to the public a parking space for one or more of the trailers; does not include sales lots, on which, automobiles or unoccupied trailers, new or used, are parked for purposes of inspection or sale.

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

YARD, FRONT. The portion of the yard extending from the front lot line to the setback line, and extending for the full width of the lot.

YARD, REAR. The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line, and extending for the full width of the lot.

YARD, SIDE. The yard extending along the side lot line between the front and rear yards.
(Ord. passed 2-6-2012)

153.05 PERFORMANCE STANDARDS.

The performance standards established in this section are designed to encourage high quality residential and business development by providing assurance that neighboring land uses will be compatible. The performance standards are also designed to prevent and eliminate those conditions that cause blight. All future development in the city shall be required to meet these standards. The standards shall also apply to existing development where so stated. The Building Official shall be responsible for enforcing these standards, and may require the submission of information showing compliance or non-compliance with the standards. Before any building permit is approved, the Building Official shall determine whether the proposed use is likely to conform to the performance standards. The developer shall supply additional data about the proposed use (such as equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage and the like), where required to do so by the Building Official. It may occasionally be necessary for a developer or business to employ specialized

consultants to demonstrate that a given use will not exceed the performance standards.

(A) *Exterior storage.*

(1) In R Residential Districts, all materials and equipment shall be stored within a building except materials currently being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of passenger automobiles and children's play equipment.

(2) In all other districts, no materials or equipment may be stored outside except those directly related to the principal use or those being used for construction on the premises.

(B) *Refuse.* In all areas, all waste material, debris, refuse or garbage shall be kept in an enclosed building, or properly contained in a closed container designed for that purpose. The owner of vacant land shall be responsible for keeping the land free of refuse. All owners of lands within the city shall keep the boulevards adjacent to their lands free and clear of all refuse, debris and waste materials.

(C) *Screening.*

(1) Screening shall be required in all zones where:

(a) Any off-street parking area contains more than six parking spaces and is within 30 feet of an adjoining residential zone; or

(b) Where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential zone.

(2) Where any business or industrial use (i.e., structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property.

(3) Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Building Official).

(4) In all districts, all exterior storage shall be screened. The exceptions are:

(a) Retail merchandise being displayed in front of the structure;

(b) Materials and equipment being used for construction on the premises; and

(c) Merchandise located on service station pump islands.

(5) Where any business or industrial use (i.e., structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as

determined by the Building Official).

(D) *Landscaping.*

(1) In all districts, except RB, all developed uses shall provide a landscaped yard along all streets. This yard shall be kept clear of all structures, storage and vehicle parking. In the residential zones, the owner shall provide a landscaped yard, which shall be at least equal to the setback regulations for any building located upon the property. In Limited Business and Industrial Districts, the yard shall be at least 20 feet in depth along all streets, measured from the street right-of-way. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot.

(2) In all districts, the owner shall install and maintain the boulevard immediately adjacent to and in front of his or her property to the same extent and in the same manner as his or her own yard.

(E) *Maintenance.* In all districts, all structures requiring landscaping and fences, shall be maintained so as not to be unsightly to the adjoining areas.

(F) *Glare.* In all districts, the source of any light shall not be visible in the adjoining public streets or within any adjoining property used or zoned for residential purposes.

(G) *Signs.*

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

ABANDONED SIGN. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

AWNING. A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.

AWNING SIGN. A building sign or graphic printed on or in some fashion attached directly to the awning material.

BALLOON SIGN. A sign consisting of a bag made of lightweight material supported by helium, hot or pressurized air which is greater than 24 inches in diameter.

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

BUILDING SIGN. Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.

CABINET SIGN. Any wall sign that is not of channel or individually mounted letter construction.

CANOPY. A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

CANOPY SIGN. Any sign that is part of or attached to a canopy, made of fabric, plastic or structural protective cover over a door or entrance. A **CANOPY SIGN** is not a marquee and is different from service area canopy signs.

CHANGEABLE COPY SIGN. A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. **CHANGEABLE COPY SIGNS** do not include signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

COMMERCIAL SPEECH. Speech advertising a business, profession, commodity, service or entertainment.

ELEVATION. The view of the side, front or rear of a given structure(s).

ELEVATION AREA. The area of all walls that face any lot line.

ERECT. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

FLAG. Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia or other symbolic devices.

FLASHING SIGN. A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling or sparkling.

FREESTANDING SIGN. Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

FRONTAGE. The line of contact of a property with the public right-of-way.

GRADE. The final ground elevation after construction. Earth mounding criteria for

landscaping and screening is not part of the final grade for sign height computation.

GROUND SIGN. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign.

HEIGHT OF SIGN. The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

HOTEL, MOTEL, MOTOR HOTEL. Any building or combination of buildings contain six or more rooms used for sleeping purposes by guest on a transient basis.

ILLUMINATED SIGN. Any sign which contains an element designed to emanate artificial light internally or externally.

INTERIOR SIGN. A sign which is located within the interior of any building, or within an enclosed lobby or court of any building, and a sign for and located within the inner or outer body, court or entrance of any theater.

ISSUING AUTHORITY. The Planning Commission.

LEGALLY ESTABLISHED NONCONFORMING SIGN. Any sign and its support structure lawfully erected prior to the effective date of this section which fails to conform to the requirements of this section. A sign which was erected in accordance with a variance granted prior to the adoption of this section and which does not comply with this section shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

MARQUEE. Any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN. Any building sign painted, mounted, constructed or attached in any manner, on a marquee.

MONUMENT SIGN. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding four feet.

MULTIPLE TENANT SITE. Any site which has more than one tenant and each tenant has a separate ground level exterior public entrance.

NON-COMMERCIAL SPEECH. Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

OFF-PREMISE SIGN. A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. For purposes of this section, easements and other appurtenances

shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

ON-PREMISE MESSAGES. Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

PARAPET (WALL). That portion of building wall that rises above the roof level.

POLE SIGN. See **PYLON SIGN.**

PORTABLE SIGN. Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

PORTE COCHERE. A roofed structure or roof-like cover, extending from the entrance of a building and which provides shelter over a doorway.

PRINCIPAL BUILDING. The building in which the principal primary use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

PROJECTING SIGN. Any sign which is affixed to a building or wall in a manner that its leading edge extends more than two feet beyond the surface or such building or wall face.

PROPERTY OWNER. Legal owner of property as officially recorded by the county.

PUBLIC NOTICES. Official notices posted by public officers, employees or their agents in the performance of their duties or as directed by such officers, employees or agents.

PUBLIC STREET RIGHT-OF-WAY. The planned right-of-way for a public street.

PYLON SIGN. Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

RESIDENTIAL DISTRICT. Any district zoned for residential uses.

ROOF. The exterior surface and its supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering sections of the Minnesota Building Code.

ROOF LINE. The upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade.

ROOF SIGN. Any sign erected and constructed wholly on and above the roof of a

building, supported by the roof structure and extending vertically above the highest portion of the roof.

ROOF SIGN, INTEGRAL. Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six inches.

ROTATING SIGN. A sign or portion of a sign which turns about on an axis.

SETBACK, FRONT. The minimum horizontal distance permitted between the public right-of-way and a structure on the premises. In instances in which a property fronts on more than one street, front setbacks are required on all street frontages.

SETBACK, REAR. The minimum horizontal distance permitted between the property line opposite the principal street frontage and a structure on the premises.

SETBACK, SIDE. The minimum horizontal distance permitted between the side lot line and a structure on the premises.

SHIMMERING SIGNS. A sign which reflects an oscillating sometimes distorted visual image.

SIGN. Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

SIGN FACE. The surface of the sign upon, against or through which the message of the sign is exhibited.

SIGN STRUCTURE. Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

SITE. A plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated, and/or approved to function as an integrated unit.

STRINGER. A line of string, rope, cording or an equivalent to which is attached a number of pennants.

SUSPENDED SIGN. Any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

TOTAL SITE SIGNAGE. The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

VISIBLE. Capable of being seen by a person of normal visual acuity (whether legible or

not) without visual aid.

WALL. Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of 60 degrees or greater with the horizontal plane.

WALL SIGN. Any building sign attached parallel to, but within two feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WINDOW SIGN. Any building sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

(2) *Administration and enforcement.*

(a) *Permit required.*

1. No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. A city application for a permit shall be completed, and to include the following:

A. A complete set of plans showing the necessary elevations, distances, size and details to fully and clearly represent the construction and place of the signs;

B. Type of sign (such as, wall sign, monument sign and the like);

C. Certification by applicant indicating the application complies with all requirements of this division; and

D. If the proposed sign is along a state trunk highway or interstate highway, the application shall be accompanied by proof that the applicant has obtained a permit from the state for the sign.

2. The issuing authority shall approve or deny the sign permit in an expedited manner no more than 60 days from the receipt of the complete application, including applicable fee. All permits not approved or denied within 60 days shall be deemed approved. If the permit is denied, the issuing authority shall prepare a written notice of within ten days its decision, describing the applicant=s appeal rights under state statute, and send it by certified mail, return receipt requested, to the applicant.

(b) *Exemptions.* The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this division or any other law or ordinance regulating the same.

1. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign

painting elsewhere than directly on a building.

2. Signs six square feet or less in size.

(c) *Fees.* Sign permit fees are set by the latest city-approved fee schedule.

(d) *Repairs.* Any sign located in the city which may now be or hereafter become out of order, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced, reconstructed or moved contrary to the provisions of this division, shall be removed or otherwise properly secured in accordance with the terms of this division by the owners thereof or by the owners of the grounds on which the sign shall stand, upon receipt of proper notice so to do, given by the issuing authority. No rotten or other unsafe sign shall be repaired or rebuilt except in accordance with the provisions of this division and upon a permit issued by the issuing authority.

(e) *Removal.* In the event of the failure of the owner or person, company or corporation having control of any sign, or the owner of the ground on which the sign is located, to remove or repair the sign within 60 days after the use is terminated, a notice shall be given by the city, and the sign may be removed by the city at the expense of the owner or manager of the sign, or the owner of the ground upon which the sign stands.

(f) *Violations.* Violation of this division is a misdemeanor. Each day that the violation continues is a separate offense.

(3) *Size.* No sign shall exceed 250 square feet in area.

(4) *Regulations.*

(a) *Generally.* Except as hereinafter provided, no signs shall be erected or maintained at any angle to a building or structure which sign is placed, extends or projects over the sidewalk, street or highway easement. No sign which is erected or maintained flat against any building on Lake Street shall extend or project more than two feet over the street easement.

(b) *Exceptions.* The provisions of this division do not prohibit the erection and maintenance of signs, either illuminated or un-illuminated, which are on the sides of a marquee which is firmly attached to and a part of a theatre or other building, providing such signs are an integral part of the marquee and do not project above or below the marquee; or the erection and maintenance of signs, not illuminated, which are attached to the marquee and which do not project more than 16 inches above the marquee.

(5) *Below marquee.* No sign, either illuminated or non-illuminated, may project below a marquee.

(6) *Electrical signs.* Electrical signs must be installed in accordance with the current Electrical Code and a separate permit from the Building Official must be obtained prior to placement.

(7) *Unauthorized signs.* The following signs are unauthorized signs:

Chisholm - Land Usage

(a) Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic-control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(b) All off-premise signs.

(c) Signs painted, attached or in any other manner affixed to trees, rocks or similar natural surfaces, or attached to public utility poles, bridges, towers, or similar public structures.

(d) Portable signs.

(e) Changeable copy signs.

(8) *Setbacks in yards.* Signs shall conform to building yard regulations for the zoning district in which the signs are located except as otherwise specified in this section.

	<i>Residential</i>	<i>RB</i>	<i>GB</i>	<i>LB</i>	<i>EB</i>	<i>I</i>	<i>Abutting County Road</i>
Front yard	1'	1'	1'	1'	1'	10'	10'
Side yard	5'	5'	5'	5'	5'	10'	10'
Rear yard	5'	10'	10'	10'	10'	10'	10'
Rear yard - abutting R District 20'							

(9) *Area.* The area within the frame shall be used to calculate the square footage except that the width of a frame exceeding 12 inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame, the dimensions for calculating the square footage shall be the area extending six inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures, suspended by balloons or kites or on persons, animals or vehicles are considered a sign and are included in calculating the overall square footage.

(10) *Canopies, marquees and fixed awnings.* Canopies, marquees and fixed awnings are an integral part of the structure to which they are attached. They are allowed in the Business and Industrial Districts if they meet following requirements and the applicable square footage requirements.

(a) An awning, canopy or marquee may not project into the street or road easement;

(b) Awnings, canopies or marquees may have no part of the structure other than supports nearer the ground surface than eight feet;

(c) The architectural style of the awning, canopy or marquee may be consistent with the building being served;

(d) Awnings, canopies or marquees built over the public right-of-way street or road easement must be included in a liability insurance policy holding the city free of all responsibility.

(11) *Illumination.* External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property.

(12) *Height.* The top of a sign, including its superstructure, if any, shall be no higher than the roof of the building to which such sign may be attached or 35 feet above ground level, whichever height is less; except that the height of any changeable sign which is attached to or an integral part of a functional structure, such as a water tower, smoke stack, wireless transmitting tower, beacon or similar structure shall be no higher than such structure. Signs, including any superstructure standing or erected free of any building or other structure, shall not exceed an overall height of 35 feet from ground level and shall be located on land in an area which is landscaped or if such land is part of an approved parking area,

it shall be surfaced or paved as required in the zoning code.

(13) *Retroactive affect.* This division shall apply to all sign applications applied for and/or pending prior to its enactment.

(14) *Non-commercial speech.* Notwithstanding any other provisions of this division, all signs of any size containing non-commercial speech may be posted from August 1 in any general election year until ten days following the general election and 13 weeks prior to any special election until ten days following the special election.

(15) *Specific regulations by zoning district.*

(a) *Permitted signs by district.*

1. *Residential Districts.*

A. Within Residential Zoning Districts, signs are permitted as follows: district maximum sign area of single sign total area of all signs R-1, R-2, five square feet per surface; ten square feet or when greater than ten feet in from the property line, shall be no greater than 12 square feet per surface 24 square feet.

B. The following types of signs are not permitted in residential zoning districts: awning signs, balloon signs, canopy signs, flashing signs, marquee signs, pole signs, pylon signs and shimmering signs.

2. *Retail Business Districts.*

A. Within Business Zoning Districts, signs are permitted as follows: district maximum sign area of single sign, two square feet per front foot of building abutting a public right-of-way.

B. Sandwich board signs shall be no wider than 26 inches and no taller than 60 inches above the surface of the sidewalk, located on the building side of the sidewalk (away from parked cars).

C. Sandwich board signs are allowed only when the sidewalk is clear of snow and ice, and shall be taken off the sidewalk easement if it is snowing out.

D. Sandwich boards are limited to one per business.

E. Sandwich board signs are allowed on the Lake Street sidewalk only from 8:00 a.m. to 8:00 p.m.

F. The owner of a sandwich board sign must supply the city hall office personnel with an up to date copy of liability insurance covering the sandwich board sign to be placed on the sidewalk easement. That file shall be available to the City Administrator at any time during normal city hall working hours.

G. Sandwich boards shall be non-illuminated.

3. *Industrial Districts.* Within Industrial Zoning Districts, signs are permitted as follows: district maximum sign area of single sign, four square feet per front foot of lot plus one square foot per foot of side yard abutting a public right-of-way. Least width of frontage shall be considered front yard.

(b) *Permitted signs: General Business District.*

1. *Wall signs.* Each tenant other than those in multi-tenant buildings may have one flat wall sign, not extending more than 18 inches from the face of the building, except that such signage may extend from the face of the roof over a covered walk. Such wall signs shall not exceed 15% of the area of the wall to which the sign is attached, to a maximum of 96 square feet.

2. *Monument signs.* Uses other than those in multi-tenant buildings may have a monument sign that shall not exceed 80 square feet per surface area, and 15 feet in height, and is setback a minimum 20 feet from the property lines.

3. *Multi-tenant signs.* Each tenant in a multi-tenant building may have a flat wall sign, not extending more than 18 inches from the face of the building. The aggregate area of such signs shall not exceed 5% of the area of the wall to which they are attached.

4. *Multi-tenant monument signs.* One monument sign shall be permitted for each multi-tenant building provided the surface area of the sign does not exceed 100 square feet per side, eight feet in height, and is setback in no case less than 20 feet from the property lines. The area may be increased to a maximum of 150 square feet per side for developments of over 20 acres.

5. *Canopies and awnings.* The design of canopies shall be in keeping with the overall building design in terms of location, size and color. No canopies with visible wall hangers shall be permitted. Signage on canopies may be substituted for allowed building signage and shall be limited to 25% of the canopy area. Internally illuminated canopies must be compatible with the overall color scheme of the building.

(16) *Non-conforming signs; compliance.* It is recognized that signs exist within the zoning districts which were lawful before this division was enacted, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this division that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this division to permit legal nonconforming signs existing on the effective date of this division, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

Chisholm - Land Usage

(a) No sign shall be enlarged or altered in a way which increases its nonconformity.

(b) Should such sign or sign structure be destroyed by any means to an extent greater than 50% of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this division.

(c) Should the sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

(d) No existing sign devoted to a use not permitted by the Zoning Code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which is it located.

(e) When a structure loses its nonconforming status all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

(17) *Noncommercial speech; substitution clause.* The owner of any sign which is otherwise allowed by this division may substitute noncommercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

(H) *Parking.*

(1) *Surfacing and drainage.* Off-street parking areas shall be improved with a durable and dustless surface. The areas shall be so graded and drained as to dispose of all surface water accumulation within the area, following MPCA regulations. These requirements shall also apply to open sales lots for cars, trucks and other equipment.

(2) *Location.* All accessory off-street parking facilities required herein shall be located as follows:

(a) Spaces accessory to one and two-family dwellings on the same lot as the principal use served;

(b) Spaces accessory to multiple-family dwellings on the same lot as the principal use served, or within 400 feet of the main entrance of the principal building served;

(c) Spaces accessory to uses located in a Business or Industrial District within 800 feet of a main entrance to the principal building served;

(d) There shall be no off-street parking space within three feet of any street right-of-way;

and

(e) There shall be no parking of motor vehicles or heavy equipment or trailers of any kind upon the boulevards within the city.

(3) *Access.* All off-street parking spaces shall have access off driveways, and not directly off the public street.

(4) *Determination of areas.* A parking space shall be not less than 300 square feet of standing and maneuvering area. When application of those regulations results in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded. Fractions over one-half shall count as one additional space.

(5) *Truck parking in residential areas.* No commercially licensed trailer or heavy equipment shall be parked or stored in a platted residential district except when loading, unloading or rendering a service.

(6) *Other parking in residential areas.* Parking on residential areas (off-street and on-street) shall be limited to the use of the residents of those homes. The number of vehicles parked on or in front of a residential lot shall not exceed the number of persons residing on the premises and having automobile drivers= licenses.

(7) *Sale of parking areas.* Property that constitutes required off-street parking area may not be separated, through sale or other means, from the property containing the principal use for which the parking area is required.

(8) *Off-street spaces required.* (One space equals 300 square feet).

(a) One and two-family residences: one space per dwelling unit.

(b) Multiple dwellings: one space per dwelling unit.

(c) Clubs and lodging houses: one space for each two bedrooms.

(d) Churches, theaters, auditoriums, mortuaries and other places of assembly: one space for each five seats, or for each ten feet of pew length.

(e) Hospitals: one space for each four beds and additional space for every employee.

(f) Business and professional offices (except medical and dental clinics): one space for each 400 square feet of floor space.

(g) Medical and dental clinics: three spaces per doctor or dentist.

(h) Retail shopping: one space for each 210 square feet of retail floor space.

(i) Motels: one space for each unit and for each employee.

(j) Restaurants: one space for each eight seats.

(k) Service stations: three spaces for each enclosed bay and one space for each full-time employee.

(l) Bowling alleys: three spaces per lane.

(m) Drive-ins: at least 15 spaces for those serving food or refreshments, and at least ten spaces for all others.

(n) Other business and industry: one space for every two employees (based upon maximum planned employment during any work period), or one space for each 800 square feet of floor area, whichever requirement is the greater.

(9) *Joint facilities.* Required parking facilities serving two or more uses may be located on the same lot or in the same structure; provided that the total number of parking spaces furnished shall be not less than the sum of separate requirements for each use. The Planning Commission may approve the joint use of parking facilities by the following uses or activities under the following conditions:

(a) For the purposes of this section, the following uses are considered as daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing wholesale and similar uses;

(b) The following are to be considered as nighttime or Sunday uses: auditoriums incidental to a public or parochial school, churches, bowling alleys, dance halls, theaters, bars or restaurants;

(c) Up to 50% of the parking facilities required for daytime uses may be supplied by the off-street parking facilities provided by nighttime uses, and vice-versa; and

(d) Conditions required for joint uses:

1. The proposed joint parking space is within 500 feet of the use it will serve.

2. The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

3. A properly drawn legal instrument executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the Building Official.

(I) *Off-street loading.*

(1) 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, there shall be provided off-street loading spaces on the basis of the following minimum requirements:

<i>Square Feet of Aggregate Gross Floor Area</i>	<i>Minimum Required Number of Berths</i>
Up to 7,200	0
7,200 to 16,000	1
16,000 to 40,000	2
For each additional 40,000	1 additional

(2) The size of the berths shall depend upon the size of the trucks to be used.

(3) No loading berth of vehicles over two-ton capacity shall be closer than 100 feet to any residential district unless completely enclosed by building walls not less than eight feet in height.

(4) Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 7:00 p.m. and 7:00 a.m.

(J) *Traffic control.* The traffic generated by any use shall be channelized and controlled in a manner that will avoid: congestion on the public streets; traffic hazards; and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business and industrial areas shall, in all cases, be forward moving with no backing into streets.

(K) *Pedestrian traffic.* A sidewalk shall be provided with any new development along a street designated as a pedestrian walkway in the City Plan.

(L) *Drainage.* No land shall be developed, and no use shall be permitted that results in water run-off, flooding or erosion on adjacent properties. The run-off shall be properly channeled into a storm drain, watercourse, ponding area or other public facility meeting those requirements set forth by the State Pollution Control Agency (MPCA) and the State Building Code.

(M) *Explosives.* No activities involving the storage, utilization or manufacture of materials or products which could decompose by detonation shall be permitted within the corporate boundary of the city, except such as are specifically licensed by the state for use within the city by approval of the city engineer.

(N) *Chemicals, smoke and wastes.* All wastes shall be disposed of in a manner that is not dangerous to public health and safety; those regulated noise, odors, vibration, smoke, air pollution, dangerous waste production and disposal shall meet those requirements set forth by the State Pollution Control Agency (MPCA).

(Ord. passed 2-6-2012)

153.06 ADMINISTRATION.

Chisholm - Land Usage

(A) *Amendments to text of this chapter.* Minor amendments may be adopted by the Council upon recommendation of the Planning Commission without prior newspaper publication. Other amendments shall require a public hearing to be held by the Planning Commission with notice of the hearing published, as required by state law. The Council shall determine whether any proposed amendment is a minor amendment.

(B) *Rezoning.* The procedure for changing zoning district boundaries (rezoning) shall be as follows.

(1) The Planning Commission, Council or property owner may initiate a rezoning. Property owners wishing to initiate a rezoning of their property shall fill out a zoning form, copies of which are available at the City Hall. The zoning form shall be accompanied by a fee of \$125, to be used for the costs of processing the application. The zoning form shall be filed with the City Clerk.

(2) The City Clerk shall set a hearing on the application, and shall have notice of the hearing published as required by state law. Property owners within 350 feet of the property in question shall be notified, although failure by any property owner to receive the notification shall not invalidate the proceedings.

(3) The hearing on the rezoning application shall be held by the Planning Commission at the date and time specified in the notice of the hearing.

(4) The Planning Commission shall determine whether the proposed change conforms to its general land use plan. It shall make its report to the Council on or before the next regular meeting of the Planning Commission following the date of the hearing.

(5) The Council must take action on the application within 60 days following referral by the Planning Commission. Four members of the Council must vote in favor of the application for its approval. The person making the application shall be notified of the Council's action.

(C) *Special use permits.* A special use is one that may or may not be compatible with other uses in the district within which it is located. The compatibility must be judged on the basis of the particular circumstances, and may require the imposing of conditions. The procedure for issuance of special use permits is as follows.

(1) The person applying for a special use permit shall fill out and submit to the City Clerk a zoning form, copies of which are available at the City Hall, together with a fee of \$125.

(2) The City Clerk shall refer the application to the Planning Commission, and shall have notice of the hearing published as required by state law. Property owners within 350 feet of the property in question shall be notified, although failure of any property owner to receive the notification shall not invalidate the proceedings.

(3) The Planning Commission shall consider the petition at its next regular meeting, but not earlier than seven days after the referral from the City Clerk.

(4) The petitioner or his or her representative shall appear before the Planning Commission in order to answer questions concerning the proposed special use.

(5) The Planning Commission will consider possible adverse effects of the proposed special use, and what additional requirements may be necessary to prevent the adverse effects.

(6) The Planning Commission shall make its written findings of fact and decision within 30 days and notify all persons who appear in writing. The decision shall be subject to review by the Board of Adjustments and Appeals. No building permit shall issue and no work commenced until the time for appeal from the decision has expired.

(7) The Council must take action on the application within 60 days after receiving the report of the Planning Commission. If it grants the special use permit, the Council may impose conditions it considers necessary to protect the public health, safety and welfare. Four members of the Council must vote in favor of the application for its approval.

(D) *Variances.* Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this chapter, a variance may be granted. The difficulties or hardships must have to do with the characteristics of the land, distances and not of the property owner.

(1) A person desiring a variance shall fill out and submit to the City Clerk a Azoning form@, copies of which are available at the City Hall, together with a fee of \$125.

(2) The City Clerk shall refer the application to the Planning Commission, and shall set the date at which the matter shall be considered, and shall have notice of the hearing published as required by state law. Property owners within 350 feet of the property in question shall be notified, although failure of any property owner to receive the notification shall not invalidate the proceedings.

(3) The petitioner shall appear before the Planning Commission in order to answer questions.

(4) The Planning Commission shall make its written findings of fact and decision within 30 days and notify all persons who appear in writing. The decision shall be subject to review by the Board of Adjustments and Appeals. No building permit shall issue and no work commenced until the time for appeal from the decision has expired.

(Ord. passed 2-6-2012)

153.07 MISCELLANEOUS.

(A) No filling station, public garage or gasoline distributing station shall be located within 300 feet of a school, church, hospital or other public meeting place having a seating capacity of more than 50 persons. No school, church, hospital or other public meeting place, having a seating capacity of more than 50 persons, shall be built or located within 300 feet of a filling station, public garage or gasoline distributing station.

(B) Accessory buildings:

(1) No accessory buildings shall be used for residential or dwelling purposes;

(2) No accessory buildings shall be placed closer than five feet from either an alley line or an inside property line when located in the rear portion of the lot, except as is otherwise provided in ' 153.28. Any accessory building placed in the rear of a corner lot shall have a side yard adjacent to the street or avenue equal to that of the main building. When located upon any other portion of the lot, it shall conform to the State Building Code and other applicable provisions of this chapter; and

(3) Before the Building Official shall issue a permit for the erection or alteration of a structure, the Building Official shall determine that the parcel has been platted as a residential lot. If the land has not been so platted, the Building Official shall refuse to issue a building permit until a time as the City Planning Commission, and City Council has approved construction pursuant to motion, or the land is currently platted for the use pursuant to state statutes.

(Ord. passed 2-6-2012)

' **153.08 ZONING DISTRICT BOUNDARIES.**

The boundaries of the districts established by this chapter are delineated on the zoning map; and the map and all notations, references and data shown thereon are hereby adopted and made a part of this chapter and will be on permanent file, and for public inspection, in the City Hall. All amendments to the zoning map are generally described in the chapter of the city code relating to un-coded ordinances in effect. It shall be the responsibility of the Building Official to maintain the map, and amendments thereto shall be recorded thereon within 30 days after official publication of amendments.

(Ord. passed 2-6-2012)

' **153.09 ENFORCEMENT.**

This chapter shall be administered and enforced by the Building Official, Zoning Official and the City Engineer. The Building Official, Zoning Official and City Engineer may institute in the name of the city any appropriate actions or proceedings against a violator as provided by statute and this chapter. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. passed 2-6-2012)

' **153.10 TREE BOARD; PROVISIONS.**

The city hereby establishes the formation of a Tree Board, its powers, duties and provisions regulating the planting, care, maintenance and removal of trees and shrubs.

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

PARK TREES. Trees, shrubs, bushes and all other woody vegetation growing in public parks and all other areas owned by the city.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation growing either side of all streets, avenues, rights-of-way within the city.

(B) *Establishment of a Tree Board.*

(1) A Tree Board is hereby created and established for the city which shall consist of five members, who shall be appointed for terms of five years by the Mayor with approval of the Council.

(a) The City Administrator or his or her representative and the Superintendent of Parks and Recreation shall be ex-officio members of this Board. Members of the Board shall serve without compensation. The Board shall choose its own officers, make its own rules and regulations and shall keep minutes of its proceedings. A majority of the members shall constitute a quorum for the transaction of any business.

(b) Nothing in this section shall be deemed to conflict with state statutes, respecting the operation of a municipal park board.

(2) It shall be the responsibility of the Board to develop policies for street and park tree planting, removal and maintenance in accordance with the Master Street Tree Plan and update the plan as necessary. The Master Street Tree Plan shall state the design and intent, such as replacement and areas of planting. The Board shall make recommendations to the Council for variances to this section or the Master Street Tree Plan.

(a) All action taken by the Board shall be within the budget constraints of the city. The Board may, subject to approval by the Council, organize volunteer community efforts to raise funds for tree planting on boulevards or for other activities and set fees to carry out the requirements of this section.

(b) The planting, maintenance and/or removal of park trees shall be determined by the Tree Board. The Board shall report its activities to the Council semi-annually each year.

(C) *Species of trees to be planted.* No species may be planted on public property within the city without the prior written permission of the Tree Board or the city, through Council action. Prior to the Board taking action, it shall review all requests for planting to assure that the species are appropriate. The Board shall submit written reports to the Council on those matters of special requests by the Council prior to taking official action.

(D) *Interference and review.*

(1) It is unlawful for any person to prevent, delay or interfere with the Tree Board or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this section.

(2) The Council shall have the right to review the conduct, acts and decisions of the Tree

Board. Any person may appeal from any ruling or order of the Tree Board to the Council who may hear the matter and make the final decision.

(E) *Spacing and sizing.*

(1) Definitions of trees shall be as follows: **SMALL TREES** shall be defined as any plant material that will grow to a height of 30 feet; **MEDIUM TREES** shall be defined as any plant material that will grow to a height of 50 feet; **LARGE TREES** shall be defined as any plant material that will grow in excess of 50 feet.

(2) The spacing of street trees will be in accordance with the species and size classes listed by the Tree Board and no trees may be planted closer together than as follows: small trees 30 feet; medium trees 40 feet; large trees 50 feet, except in special plantings designed or approved by a landscape architect registered in the state. It is unlawful for any person to plant any tree or shrub in an area reserved for a sidewalk as defined by the City Engineer.

(F) *Distance from street corners and fire hydrants.* No street tree shall be planted closer than 35 feet of any intersection. No street tree shall be planted closer than 15 feet of any fire hydrant.

(G) *Utilities.* No street trees other than those species listed as small trees or medium trees by the Tree Board may be planted under or within 20 lateral feet of any overhead utility service containing two or more wires, or over or within ten lateral feet of any underground water line, sewer line, transmission line or other utility.

(H) *Public tree care.* The city shall have the right with appeal of the Board to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, rights-of-way, on squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of the public grounds. The Tree Board may cause or order to be removed, any tree or part thereof which is in an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines or is affected with any injurious fungus, insect or other pest. This division does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with this section.

(I) *Tree topping, board review and permit issuance.* It is unlawful for any private party or city employee to top any street tree, park tree or other trees on city property without a permit from the Tree Board. **TOPPING** is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to a degree so as to remove the normal canopy and disfigure the tree. Any planting, pruning, removal, topping or maintenance of any public trees, park or street trees by private or city employees will first be reviewed by the Tree Board, who shall decide upon the action to be taken and/or issuance of a permit.

(J) *Pruning, corner clearance.* Every owner of any tree on private property overhanging any street or right-of-way within the city shall prune the branches so that the branches shall not obstruct the view on any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. The owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or

shrub on private property when it interferes with proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(K) *Tree removal.* The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when the trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the city. The City Administrator or his or her representative will notify in writing the owners of the trees. Removal shall be done by the owners at their own expense within 30 days after the date of service of notice. In the event of failure to comply with the provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner=s property tax notice.

(L) *Removal of stumps.* All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(M) *Arborist license, nursery license and bond professional services.*

(1) It is unlawful for any party to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be set by the Council, however, no license shall be required of any public service company or city employee doing the work in the pursuit of his or her public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of the endeavors as herein described. This will not prevent any property owner from removing his or her own boulevard trees after obtaining a permit from the city.

(2) Trees purchased by the city for public use shall be obtained from a licensed nursery issued by the Department of Agriculture.

(N) *Destruction of trees on public property.* It is unlawful for any person to remove, alter or destroy any street tree or park tree without the prior authorization of the Council.

(O) *Right of review by the Council.* Any person aggrieved by any ruling or order of the Tree Board may appeal to the Council which shall hear the matter and make a final decision. The Council may modify, affirm or reverse any determination to the Tree Board.

(Ord. passed 2-6-2012) Penalty, see ' 10.99

' 153.11 VIOLATIONS.

Every person violates a section, division, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to when the 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.

(Ord. passed 2-6-2012) Penalty, see ' 10.99

DISTRICT PROVISIONS**153.25 DISTRICTS.**

(A) *R-1 Residence District.* All lands now zoned as residential other than the lots as come under the R-2 Residence District.

(B) *R-2 Residence Districts.* This district shall contain the Windy Hill Addition, Roosevelt Park Gardens Addition and Wenton Addition together with all future subdivisions platted and accepted hereafter.

(C) *EB Existing Business Districts.* Selected scattered businesses existing on the effective date of this chapter have the opportunity to continue in business and expand, if desired. Expansion, however, must be by special use permit to prevent harmful effects upon adjacent residential areas, and by complying with the residential lot requirements contained in this chapter.

(D) *LB Limited Business Districts.* These are areas that are particularly exposed to residential neighborhoods, and are thus suitable only to those businesses having relatively little incompatibility with residential use.

(E) *RBD Retail Business Districts.* These areas contain concentrated numbers of retail shopping outlets to serve residential neighborhoods and the general community. The central business district and shopping centers are examples.

(F) *GB General Business Districts.* These areas are designed for those businesses that tend to service other businesses and industry rather than the homeowner. They also tend to be less compatible with residential areas than other types of business. Because of these two factors, businesses in this zoning classification are concentrated, and are as insulated as possible from residential areas.

(G) *I Industrial Districts.* These are areas which, because of availability to thoroughfares and railroads, suitable topography and isolation from housing areas, are appropriate for manufacturing, warehousing, storage of bulk petroleum products, and similar uses generally considered as industrial.

(H) *M Mining Districts.* These are areas which because of their mineral content are appropriate only for mining and the removal of the ore deposits.

(I) *PU Public Use Districts.* These are areas which are now presently owned by any public body or agency or areas which have been dedicated to public use and shall include all buildings, lands and facilities presently used or owned by any public body, including the city, the School District and the Housing and Redevelopment Authority and any other public body now in existence or hereinafter created.

(Ord. passed 2-6-2012)

153.26 ZONING MAP.

(A) The properties within the above described zoning districts are described in 153.08.

(B) The various zoning districts are also shown on a zoning map, which is maintained in the city offices.

(C) The zoning map is for the convenience of the public.

(D) Any error or omission in the map shall not affect the legality of the district boundaries as described in this chapter or future amendments to this chapter.

(Ord. passed 2-6-2012)

153.27 MINIMUM REQUIREMENTS.

(A) The minimum requirements in each district are as follows:

<i>Lot Area Per Dwelling Unit (Square Feet)</i>			
	<i>R-1 District</i>	<i>R-2 District</i>	<i>LB Districts</i>
1-family structures	6,000	8,200	6,000
2-family structures	4,500	6,500	4,500
3-family structures	3,500	4,500	3,500
Apartment buildings with 5 families and over			
Efficiency units	1,800	1,800	1,800
1-bedroom units	2,300	2,300	2,300
2-bedroom units	2,800	2,800	2,800

<i>Floor Area Per Dwelling Unit (Square Feet)</i>			
	<i>R-1 District</i>	<i>R-2 District</i>	<i>LB Districts</i>
1-family structures	750	960	750
2-family structures	750	750	750
Structures housing three or more families			
Efficiency units	500	500	500

Chisholm - Land Usage

1-bedroom units	600	600	600
2-plus bedroom units	750	750	750

<i>Nonresidential Lot Area (Square Feet)</i>		
<i>R-1 District</i>	<i>R-2 District</i>	<i>LB Districts</i>
-	-	6,000

<i>Nonresidential Floor Area (Square Feet)</i>		
<i>R-1 District</i>	<i>R-2 District</i>	<i>LB Districts</i>
-	-	1,000

<i>Front Yard Setback (Feet)</i>		
<i>R-1 District</i>	<i>R-2 District</i>	<i>LB Districts</i>
30 feet	30 feet	30 feet

<i>Side Yard Setback (Feet)</i>			
	<i>R-1 District</i>	<i>R-2 District</i>	<i>LB Districts</i>
Corner lot	5 feet	20 feet	20 feet
Residential garage from adjacent lot	2 feet	5 feet	5 feet

<i>Rear Yard Setback (Feet)</i>			
	<i>R-1 District</i>	<i>R-2 District</i>	<i>LB Districts</i>
Dwelling	30 feet	40 feet	30 feet
Height (feet)	35	35	35
Lot width (feet)	50	75	50
Least horizontal dimension	20 feet	20 feet	20 feet

<i>Lot Area per Dwelling Unit (Square Feet)</i>			
	<i>RB Districts</i>	<i>GB Districts</i>	<i>I Districts</i>
1-family structures	-	-	-
2-family structures	-	-	-
3-family structures	-	-	-
Apartment buildings with 5 families and over			
Efficiency units	-	-	-
1-bedroom units	-	-	-
2-bedroom units	-	-	-
Floor area per dwelling unit (square feet)			
1-family structures	-	-	-
2-family structures	-	-	-
Structures housing three or more families			
Efficiency units	-	-	-
1-bedroom units	-	-	-
2-plus bedroom units	-	-	-
Nonresidential lot area (square feet)	6,000	-	15,000

<i>Lot Area per Dwelling Unit (Square Feet)</i>			
	<i>RB Districts</i>	<i>GB Districts</i>	<i>I Districts</i>
Nonresidential floor area (square feet)	3,000	-	-
Front yard setback (feet)	25 feet	25 feet	35 feet
Side yard setback (feet)			
From street in case of corner lot	-	20 feet	20 feet
Residential garage from adjacent lot	-	-	
Other	-	10 feet	10 feet
Rear yard setback (feet)	35 feet	35 feet	35 feet
Height (feet)	50 feet	50 feet	50 feet
Lot width (feet)	50 feet	50 feet	50 feet

(B) *Exceptions.*

(1) Provided, however, that the lot widths of plats already accepted by the Council are hereby validated; and, provided further, that three or more family structures can be constructed in the R-2 Residence District only upon approval of the Planning Commission.

(2) Provided, further, however, that those areas presently zoned as Retail Business District between Second Street North and Second Street South, shall have a front yard setback of one foot and a rear yard setback of five feet provisions of this chapter to the contrary notwithstanding.
(Ord. passed 2-6-2012)

153.28 EXCEPTIONS AND ADDITIONS TO ABOVE MINIMUM REQUIREMENTS.

(A) *Front setbacks.* Where adjoining structures existing on the effective date of this chapter have a different front setback from that required, the front setback of a new structure shall conform to the prevailing setback in the immediate block. The Building Official shall determine the necessary front yard setback in those cases; however, in no case shall a building be required to setback more than 60 feet, except where an industrial district is adjacent to a residential district.

(B) *Setbacks adjacent to residential areas.* Where a business district is adjacent to or across the street from a residential district, the minimum building setback from the lot line or street facing the residential district shall be 30 feet. In the case of industrial districts, the minimum setback shall be 100 feet.

(C) *Setbacks along thoroughfares.* Along streets designated as Amajor arterial@ in the Planning

Commission's Guide Plan, the minimum front setback for single family residences on lots fronting the major arterial thoroughfares shall be not less than 30 feet from the right-of-way line and on lots fronting streets which make the major arterial thoroughfares, the minimum side setback for single family residences shall be 15 feet from the right-of-way line.

(D) *Height.* In residential districts, multiple dwellings and places of public assembly, such as churches and schools, are exempt from height limitations, except that the setback from any residential lot shall be at least equal to the height, and the distance between any two structures must be no less than the sum of the heights of the two structures.

(E) *Shopping centers.* A shopping center must be shown in an over-all plan. Before the area is zoned for this purpose, the following conditions must be met:

(1) Submission of a plot plan, showing structures, parking, driveways, landscaping and screening; and

(2) Demonstration that the developers are financially able to carry out the project, and that they will begin construction within 18 months after Council action on the proposal.
(Ord. passed 2-6-2012)

153.29 PERMITTED USES.

(A) The permitted uses in each district are as follows:

(1) All districts:

- (a) Agriculture uses;
- (b) Public facilities; and
- (c) Public utility uses.

(2) Residential Districts:

- (a) Single and multi-family residence;
- (b) Home occupation uses; and
- (c) Accessory and special uses in Residence Districts.

(3) Existing Business Districts: any use existing on the premises on the effective date of this chapter;

Chisholm - Land Usage

- (4) Limited Business Districts:
 - (a) Office-financial uses;
 - (b) Health-medical uses;
 - (c) Residences;
 - (d) Churches; and
 - (e) Accessory and special uses in Residential and Business Districts.

- (5) Retail Business Districts:
 - (a) Office-financial uses;
 - (b) Health-medical uses;
 - (c) Retail shopping uses; and
 - (d) Accessory and special uses in business districts.

- (6) General Business Districts:
 - (a) Equipment sales and service uses;
 - (b) Automobile service uses;
 - (c) Office-financial uses;
 - (d) Miscellaneous business uses;
 - (e) Retail shopping uses;
 - (f) Wholesale businesses;
 - (g) Rental for enclosed storage; and
 - (h) Accessory and special uses in general service districts.

- (7) Industrial Districts:
 - (a) Manufacturing uses;
 - (b) Research;
 - (c) Motor freight terminals;

- (d) Railroad switching yards;
- (e) Warehousing;
- (f) Wholesale business;
- (g) Nurseries and greenhouses;
- (h) Accessory and special uses in industrial districts; and
- (i) Bulk storage of petroleum products.

(8) Mining Districts:

- (a) Mining; and
- (b) Accessory and special uses in mining districts.

(9) Public Use Districts:

- (a) Public facilities; and
- (b) Public utility uses.

(B) *Exceptions.* Except as provided for under ' 153.02(C), no building or premise may be devoted to uses other than those listed above. Generalized use categories listed above are defined in detail in the following divisions.

(Ord. passed 2-6-2012)

' 153.30 ACCESSORY AND SPECIAL USES IN RESIDENCE DISTRICTS.

(A) Accessory uses:

- (1) Conservatories for plants and flowers, not including any business, trade or industry;
- (2) Excavation incidental to construction on the premises;
- (3) Identification signs in accordance with performance standards governing signs (see ' 153.05);
- (4) Private garages and accessory buildings in R-1 and R-2 Districts shall not exceed one story in height and shall not cover more than 18% of the principal property. On lots greater than 9,600 square feet, the maximum footprint for private garages and accessory buildings shall not exceed 1,728 square

feet. Garages and accessory buildings shall not exceed a sidewall height of ten feet, or a total building height not to exceed 1.7 times the wall height; and

(5) The renting of rooms by a resident family for lodging purposes only, and for the accommodation of not more than two roomers in a single-family dwelling.

(B) Special uses:

(1) Boarding houses, lodging houses and tourist homes in R-1 Residence District only;

(2) Cemeteries;

(3) Churches and private schools, elementary and high, provided that any principal building shall be located 30 feet or more from any other lot in a residential district;

(4) Electric power substation;

(5) Hospitals, sanatoriums and rest homes;

(6) Off-street parking for adjacent nonresidential uses, provided the parking is restricted to passenger automobiles, and is used only from 8:00 a.m to 9:00 p.m.;

(7) Temporary stockpiling of materials to be used in construction;

(8) Two-family and multiple-family dwelling:

(a) Provided the structure shall not be a conversion, and shall be initially designed as a two-family or multiple-family structure;

(b) The design is compatible with the neighborhood; and

(c) Internal driveways are not less than 20 feet wide, 28 feet if parallel parking is permitted.

(9) Transitional use. A residential lot or lots immediately adjacent to a non-residential use (i.e., industry and business) and a major thoroughfare, or railroad may be used for a medical or dental clinic, rest home, office, mortuary or home occupation, provided:

(a) Nonresidential traffic is not channeled into a minor residential street;

(b) The structure design, landscaping and screening are harmonious with adjacent residences;

(c) There are no signs visible to adjacent residences;

(d) The Planning Commission shall find that the special use, if granted, would contribute to the stability of the neighborhood; and

(e) A periodic review of the conditional use permit may be required.
(Ord. passed 2-6-2012)

' 153.31 ACCESSORY AND SPECIAL USES IN BUSINESS AND INDUSTRIAL DISTRICTS.

(A) Accessory uses:

- (1) Business signs in accordance with performance standards governing signs (see ' 153.05);
- (2) Dwelling for watchman and family; and
- (3) In industrial areas: restaurants, cigar and candy counters, and similar uses, provided the uses are primarily for the use of employees in the immediate area.

(B) Special uses in all Business Districts:

- (1) Carnival or circus for a period not to exceed 21 days;
- (2) Religious meeting or tent or other temporary structure for a period not to exceed 60 days;
- (3) Heliports; and
- (4) Expansion of uses in EB Existing Business Districts.

(C) Special uses in Limited Business Districts:

- (1) Clubs and lodges, non-profit;
- (2) Mortuaries; and
- (3) Private colleges and institutions.

(D) Special uses in Shopping Center and Retail Business Districts:

- (1) Commercial recreation, such as bowling;
- (2) Fuel and ice sales offices;
- (3) Restaurants with live entertainment and dancing;
- (4) Service stations; and
- (5) Taxi stand.

(E) Special uses in Industrial Districts (I):

- (1) Excavation businesses (such as sand and gravel pits and black dirt operations);
- (2) Directional signs;
- (3) Open storage, where the storage is primary use;
- (4) Heliports;
- (5) Railroad storage and switching yards;
- (6) Service stations;
- (7) Exterior storage as a primary use; and

(8) Bulk storage for petroleum products shall be permitted in Industrial Districts only.
(Ord. passed 2-6-2012)

' 153.32 AGRICULTURE USES.

Private fruit growing and gardening for family use only: non-commercial tree, shrub, plant or flower nursery without building.
(Ord. passed 2-6-2012)

' 153.33 AUTOMOBILE SERVICE USES.

Auto laundry, drive-in businesses, where people are served in automobiles; eating establishments; motels (tourist courts); outdoor advertising; refreshment drive-ins; public garages; repair garages; seasonal produce stands; service stations.
(Ord. passed 2-6-2012)

' 153.34 EQUIPMENT SALES AND SERVICE USES.

Auto laundry; boat sales; building materials establishments where dimension lumber, millwork, cabinets and other building materials are kept for sale; bicycle sales and repair; commercial parking lot; household appliance repair; machinery sales; motor vehicle sales, including motorcycles; open sales lot; outdoor storage and sale of major machinery and equipment; plumbing showrooms and shops; repair garages; sign shops; trailer sales and rental; used car lots.
(Ord. passed 2-6-2012)

' 153.35 HEALTH/MEDICAL USES.

Hospital for human beings; dental services; medical services or clinic; nursing; convalescent home; orphans= home; rest home; sanitarium.

(Ord. passed 2-6-2012)

' 153.36 HOME OCCUPATIONS.

Any occupation engaged in by the occupant of a dwelling, provided:

(A) No retail business other than that conducted by mail is conducted on the premises;

(B) There is no manufacturing or repair;

(C) No stock in trade shall be kept and sold on the premises;

(D) No person not residing on the premises shall be employed;

(E) No mechanical equipment too large to be carried and not customarily found in the home shall be employed;

(F) No interior or exterior alterations shall be made to the structure;

(G) The entrance to the space devoted to the occupation shall be within the dwelling;

(H) There is no exterior display or sign except those normally permitted in a residence district;

(I) There shall be no exterior storage of material or equipment; and

(J) The home occupation is conducted entirely within a building.

(Ord. passed 2-6-2012)

' 153.37 MANUFACTURING USES.

All manufacture, compounding, processing, packaging, treatment or assembly of products and materials (under performance standards as described in ' 153.05).

(Ord. passed 2-6-2012)

' 153.38 MISCELLANEOUS BUSINESS USES.

Animal hospitals, but not dog kennels; building contractors (yards); carpenters, electrical, plumbing, heating, sheet metal shop; commercial greenhouses; commercial recreation (bowling alley, dance hall, golf driving range, pool or billiard parlor, skating rink, sports arena, tavern, theater); exterminating shops; dry cleaning and laundry processing; live bait sales; linen, towels, draperies, and similar supply services; mortuaries; music studios; printing shops employing not more than ten persons, exclusive of office help.

(Ord. passed 2-6-2012)

' 153.39 OFFICE/FINANCIAL USES.

Banks; general offices; governmental office; insurance office; personal loan agency; professional office; real estate office; taxicab office, but not taxi stand; travel agency or transportation ticket office; telephone exchange; utility office.

(Ord. passed 2-6-2012)

' 153.40 PUBLIC UTILITY USES.

Electric power transmission lines, but not substation; gas pipe lines; telephone facilities; water pumping, reservoir and distribution facilities; railroad trackage, but not including storage and switching yards.

(Ord. passed 2-6-2012)

' 153.41 RETAIL SHOPPING USES.

Stores and shops selling the following goods and services: antiques, art and school supplies; auto accessories; bakeries; barber shop; beauty parlor; bicycles; books and stationery; candy; cameras and photographic supplies; carpets and rugs; catering establishments; china and glassware; Christmas tree sales; clothes pressing; clothing and costume rental; custom dressmaking; department stores and junior department stores; drugs; dry goods; electric and household appliances; sales and repair; florists; food; furniture; furrier shops; garden supplies (year-round operation only); gifts; hardware; hats; hobby shops for retail of items to be assembled or used away from the premises; household appliances; hotels and apartment hotels; interior decorating; jewelry, including watch repair; laboratories; medical and dental research and testing; laundry and dry cleaning pick-up, processing to be done elsewhere; laundromat; leather goods and luggage; locksmith shops; musical instruments; office supply equipment; optometrists; paint and wallpaper; photography studios; restaurants, when no entertainment or dancing is provided; shoes; sporting goods; tailoring; theater, except open air drive-in; tobacco; toys; variety stores; wearing apparel.

(Ord. passed 2-6-2012)

' 153.42 SPECIAL USES IN MINING DISTRICTS.

(A) All types of mining operations can be carried on in the mining districts; provided, however, that no mining operations by means of stripping off the surface soil, or the building, locating or extending of any dump shall be carried on within 500 feet of any residential or commercial area within the city; provided further, however, that the Planning Commission may grant special permission to allow the mining operations within a distance of less than 500 feet from any residential or commercial area subject to restoration of the premises by the mining company if the Planning Commission deems it proper for the general welfare of the public.

(B) The Planning Commission shall have the authority to set whatever standards and requirements it deems necessary to ensure the performance of all terms of the special permit.

(C) No mining operations of any type shall be conducted in the residential districts without the permission of the Planning Commission in each case, which may be granted subject to the restoration of the premises as the Planning Commission may deem proper for the general welfare of the public.

(D) No special permit shall be granted without a hearing on the notice as the Planning Commission may determine.

(Ord. passed 2-6-2012)

WETLANDS REGULATIONS

' 153.55 PURPOSE.

The wetlands in the city are hereby declared to be a valuable natural resource of the city. It is hereby recognized that the wetlands act as natural retention areas that protects against flooding and aid in the replenishment of ground water. The wetland areas further provide a valuable wildlife habitat. The express purpose of this subchapter is to guide the use, development and utilization of the retention capacity and wildlife habitat provided by the wetlands. In addition, the purpose of this subchapter is to preserve water quality within the city and to promote the general health, safety and welfare.

(Ord. passed 2-6-2012)

' 153.56 WETLAND OVERLAY MAP.

(A) The wetlands of the city are as shown on the official wetland overlay map of the city which, together with all explanatory matter therein and thereon, is hereby incorporated by reference and declared to be part of this subchapter.

(B) A certified copy of the official wetland overlay map of the city and any amendments thereto shall be filed with the County Recorder.

(1) In case of any conflict between the map and the provision of this subchapter with respect to the location, size or boundary of any wetland, the map shall govern.

(2) In case of any conflict between the map and the provisions of this subchapter with respect to any other matter, the latter shall govern.

(C) The Wetland Overlay District also includes: 300 feet either side from the normal high-water mark of Longyear Creek, on the creek section specified on the wetland overlay map.
(Ord. passed 2-6-2012)

153.57 WETLAND OVERLAY DISTRICT.

(A) The wetlands of the city are hereby designated as Wetland Overlay District. The purpose of the Wetland Overlay District is to provide for the wise utilizations of wetland areas in order to prevent flooding, preserve water quality and preserve local vegetation and wildlife habitat within the city.

(B) Uses:

(1) *Permitted uses.* All uses permitted in the zone district indicated on the official zoning map underlying this Wetland Overlay District subject to the general provisions of this chapter;

(2) *Special uses.* All uses allowed with a special use permit in the zone district indicated on the official zoning map underlying this Wetland Overlay District subject to the general provisions of this chapter; and

(3) *General provisions.* The following standards shall apply to all wetlands within the city. Where the requirements of the underlying zone district as shown on the official zoning map are more restrictive than those set forth herein, the most restrictive standards shall apply:

(a) *Unsewered areas.*

	<i>R-1</i>	<i>R-2</i>
Lot area (square feet)	40,000	40,000
Lot width at building line (linear feet)	100 feet	100 feet
Building setback from roads and highways (linear feet) state/county	50 feet	50 feet
Municipal or private	20 feet	20 feet
Building setback from normal high-water mark		
Principal structure	50 feet	50 feet
Accessory structure	30 feet	30 feet

	<i>R-1</i>	<i>R-2</i>
Elevation of lowest floor above highest known water level (linear feet)	3	3
Building height limitation (linear feet)	35	35
Total lot area covered by impervious surface (%)	30	30
Sewage system elevation above highest groundwater level on bedrock (linear feet)		3

(b) *Sewered areas.* All provisions for unsewered areas shall apply to sewered areas, except for the following, which shall supersede the provisions applied to unsewered areas:

	<i>R-1</i>	<i>R-2</i>
Lot area (square feet)	7,500	10,000
Lot width at building line (linear feet)	75 feet	75 feet

(C) Substandard lots:

(1) *Unsewered areas.*

(a) Lots of record on the effective date of this subchapter which do not meet the minimum requirements of area or lot width at the building line may be allowed as building sites, provided:

1. The lot and the use are permitted in the applicable zone district shown on the official zoning map underlying the Wetland Official District;
2. The lot is in separate ownership from abutting lands; and
3. The sanitary and dimensional requirements of this subchapter are complied with insofar as is practicable.

(b) In no event, however, shall a substandard lot be allowed as a building site under this section unless it shall be:

1. Not less than 26,000 square feet in area; and
2. Be not less than 100 feet wide at the building line.

(2) *Sewered areas.*

(a) Lots of record on the effective date of this section which do not meet the minimum requirements of area and lot width at the building line may be allowed as building sites, provided:

1. The lots and the use are permitted in the applicable zone district shown on the official zoning map underlying the Wetland Overlay District;

2. The lot is in separate ownership from abutting lands; and

3. The sanitary and dimensional requirements of this section and other applicable portions of this chapter are complied with insofar as is practicable.

(3) *Permit required.* Notwithstanding the provisions of divisions (C)(1) and (2) above, no substandard lot meeting the requirements of divisions (C)(1) and (2) above, as the case may be, shall be allowed as a building site unless a special use permit is granted authorizing the use of the lot as a building site.

(Ord. passed 2-6-2012)

153.58 WETLAND ALTERATIONS.

(A) *Removal of natural vegetation.* The removal of natural vegetation shall be restricted to prevent erosion into public waters, to conserve nutrients in the soil, and to preserve wetland aesthetics. Removal of natural vegetation in the Wetland Overlay District shall be subject to the following provisions.

(1) Selective removal of natural vegetation shall be allowed.

(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 division shall not apply to permitted uses which normally require the removal of natural vegetation.

(B) Grading and filling.

(1) It is unlawful for any person to grade or fill in the wetlands unless the grading or filling is authorized by a special use permit. It is also unlawful for any person to alter the natural topography of any wetland unless the alteration is authorized by a special use permit. Any permit granted shall be subject to the following conditions:

(a) That the smallest amount of bare ground is exposed for as short a time as feasible;

(b) That temporary ground cover, such as mulch, is used, and permanent ground cover, such as sod, is planted;

(c) That adequate methods to prevent erosion and trap sediment is employed;

(d) That fill is stabilized to accept engineering standards;

(e) That adequate methods are employed to reduce the runoff and/or flow of water on or over the affected wetland so that the grading, filling or alteration of the natural topography does not contribute to downstream flooding;

(f) That adequate methods are employed to preserve water quality so that the grading, filling or alteration of the natural topography will not detrimentally affect the quality of the water in the city;

(g) That adequate methods are employed for the preservation or establishment of local vegetation that provides wildlife habitation and screening; and

(h) That the fill used will consist of suitable material free from toxic pollutants in other than trace quantities.

(2) In reviewing any application for a special use permit under this division, the permit issuing authority shall give appropriate consideration to whether the proposed activity is primarily dependent on being located in the wetlands of the city and whether feasible alternative sites are available.

(3) The requirements of divisions (B)(1)(e), (f) and (g) above would be satisfied by the construction of a retention basin that: is designed and engineered to meet those requirements set by the DNR and/or the Army Corps of Engineers to assure that the development would have no appreciable effect on downstream Flooding; is designed and engineered with water quality improvement features such as filtration or skimming devices; and is designed and engineered to utilize local vegetation for screening and to provide a wildlife habitat.

(4) Copies of all permits issued under this division shall be mailed to the St. Paul District of the United States Army Corp of Engineers as soon as is possible after issuance.
(Ord. passed 2-6-2012) Penalty, see ' 10.99

' 153.59 ROADS, PARKING AREAS AND OTHER IMPERVIOUS SURFACES.

The placement of roads, parking areas and other impervious surfaces shall be controlled in order to retard the run-off of surface waters and excess nutrients. Water run-off shall meet those requirements set by the DNR and/or the Army Corps of Engineers.
(Ord. passed 2-6-2012)

' 153.60 SEWAGE DISPOSAL, COUNTY PERMIT REQUIRED; NONCONFORMING USES.

(A) The disposal of sewage, commercial, industrial and agricultural wastes as defined in state statutes, and amendments thereto, within the wetlands of the city shall be subject to the standards, criteria, rules and regulations of the State Pollution Control Agency, the State Department of Health and any applicable county or city regulations. In particular, the State Pollution Control Agency regulations

shall govern the installation, use and inspection of septic systems within the wetlands of the city.

(B) No building permit for construction within any unsewered portions of any wetland shall be issued unless the applicant for the building permit has obtained from the County Health Department a sewage disposal permit and a certificate indicating that the sewage system complies with the requirements of the above-described regulation.

(C) Any use of a sewage, commercial, industrial and agricultural disposal system existing on the effective date of this subchapter and lawful under the provisions of any city, county or other ordinance, may be continued, although the use does not conform to the provisions of this section for a period of time not to exceed five years from the effective date of this section; provided that no such nonconforming use described in this division (C) shall be continued unless the owner shall have completed a material amount of construction or shall otherwise have acquired a vested right with respect to the use. Any other uses of structures or lots existing at the effective date of this subchapter that do not conform to the provisions of this subchapter shall be governed by the provisions of this chapter.

(Ord. passed 2-6-2012)

' 153.61 DEFINITIONS.

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

GARDENS. Gardens utilized for personal or domestic use which do not exceed 15% of a total lot area are permitted uses.

NORMAL HIGH-WATER MARK. A mark delineating the highest water level, which has been maintained for a sufficient period of time to leave evidence thereof upon the landscape. The **NORMAL HIGH-WATER MARK** is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

(Ord. passed 2-6-2012)

' 153.62 ADMINISTRATION.

Except as otherwise specifically provided in this section, the provisions of this chapter now existing and as hereinafter amended shall govern in all respects the administration of this subchapter, including without limiting the generality of the foregoing, the granting of variances and the issuance of special use permits.

(Ord. passed 2-6-2012)

' 153.63 PROPERTY EXEMPT.

All real property hereinbefore delineated shall be subject to all conditions of this section, except that restrictions provided by this section shall not apply to record owners of real estate on file at the time of the enactment of this section where the property is on developed lots and, further, this section shall not govern construction on these lots when the construction pertains to the construction of improvements or additions to existing structures.

(Ord. passed 2-6-2012)

