

PART II LAND DEVELOPMENT ORDINANCES

Chapter 101 - GENERAL AND ADMINISTRATIVE PROVISIONS

Chapters 102—104 - RESERVED

Chapter 105 - BUILDINGS AND BUILDING REGULATIONS

Chapters 106—108 - RESERVED

Chapter 109 - SHORELAND MANAGEMENT

Chapters 110—113 - RESERVED

Chapter 114 - SUBDIVISIONS

Chapters 115—117 - RESERVED

Chapter 118 - ZONING

Chapter 101 GENERAL AND ADMINISTRATIVE PROVISIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - RESERVED

ARTICLE I. IN GENERAL

[Sec. 101-1. Application of chapter 1.](#)

[Sec. 101-2. Fees.](#)

[Sec. 101-3. Unified site plan \(USP\).](#)

[Secs. 101-4—101-24. Reserved.](#)

Sec. 101-1. Application of chapter 1.

The provisions of chapter 1 of this Code apply to this part.

Sec. 101-2. Fees.

- (a) *Established.* Fees for building permits, rezoning, variance, conditional use permit, or zoning amendment shall be established by the city council. The city council may review and revise the schedule of fees periodically.
- (b) *Payment required.*
 - (1) No permit shall be issued, or rezoning, variance, conditional use permit, subdivision or amendment request shall be considered until all fees are paid in full. All fees are payable at the time of submission of required application materials to the city. The city shall not accept applications made by an applicant having any past due fees or charges due until the account is made current.
 - (2) All costs to the city exceeding the original fees in processing or reviewing an application shall be born by the applicant. Such costs may include, but are not limited to additional city staff time, mailing costs, consultant fees, or any other professional services the city deems necessary to provide sufficient review of application materials. All such additional fees shall be paid prior to the issuance of any permit, rezoning, variance, conditional use permit, or amendment.
 - (3) All applications made after any construction or improvements have begun shall pay two times the original application fees as prescribed by the schedule of fees adopted by the city council.
- (c) *Exemption.* Municipal corporations and governmental agencies shall be exempt from the fee requirements as prescribed by this chapter.

(Ord. No. 12282005, § 8.4, 1-25-2006)

State law reference— Official control fees, Minn. Stats. § 462.353, subds. 4, 5.

Sec. 101-3. Unified site plan (USP).

- (a) *Required.* A unified site plan (USP) shall be required for all variance applications, plats, and rezoning of particular tracts as required by the Mississippi Headwaters Board Management Plan (2002), section G, as revised.
 - (b) *Standards.* The following standards of the USP are required:
 - (1) Retain or recreate original hydrologic conditions by minimizing the use of pavements and impervious surfaces and retaining original runoff volume and velocities.
 - (2) Confine development and construction activities to the least critical areas by avoiding critical areas such as long, steep slopes, erodible soils, and fragile vegetation.
 - (3) Fit development to terrain.
 - (4) Preserve and utilize the natural drainage system.
 - (5) Establish and/or maintain a vegetative buffer zone of at least ten feet at the water's edge.
 - (6) Utilize natural vegetation landscaping.
 - (7) The applicant shall provide evidence of compliance with all federal, state, and local permits or requirements, specifically: the Clean Water Act, Phase II permit for stormwater management, ISTS, and all other applicable requirements.
 - (c) *USP criteria.* The following information shall be required for all unified site plans:
 - (1) Date of submittal.
 - (2) Property owner's name, address, telephone number, parcel ID number, township range, section, and subsection.
 - (3) Description of proposed construction.
 - (4) Existing vegetative cover.
 - (5) Existing and proposed shoreline buffer strips.
 - (6) Soil type.
 - (7) Structure setback from OHWM.
 - (8) Septic system setback from OHWM.
 - (9) Amount of excavation within shore impact zone and outside impact zone.
 - (10) Percent slope at building line.
 - (11) Significant topographic features that affect the project drainage patterns and vegetative buffers.
 - (12) Type of vegetation that will be removed or changed for construction purposes or landscaping plans.
 - (13) Percent of impervious surfaces such as roofs, sidewalks, driveways, parking areas.
 - (14) Erosion control measures during construction.
 - (15) Erosion control measures after construction.
 - (16) Material adverse effect and suitability analysis if required under section G.4 of the Mississippi Headwaters Board Management Plan (2002), as revised.
- (Ord. No. 12282005, § 8.7, 1-25-2006)

Secs. 101-4—101-24. Reserved.

ARTICLE II. RESERVED [\(1\)](#)

[Secs. 101-25—101-27. Reserved.](#)

Secs. 101-25—101-27. Reserved.

FOOTNOTE(S):

--- (1) ---

Editor's note— Ord. No. 0909-C2009, § 1, adopted Jan. 10, 2010, repealed art. II, §§ 101-25—101-27, entitled "Planning Commission", which derived from Ord. No. 11262003, § 1, adopted May 26, 2004; and Ord. No. 12282005, §§ 8.2(A), (B), adopted Jan. 25, 2006. [\(Back\)](#)

Chapters 102—104 RESERVED

Chapter 105 BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - STATE BUILDING CODE

ARTICLE III. - BUILDING NUMBERS

ARTICLE IV. - RENTAL UNIT REGISTRATION AND INSPECTION

ARTICLE I. IN GENERAL

[Secs. 105-1—105-18. Reserved.](#)

Secs. 105-1—105-18. Reserved.

ARTICLE II. STATE BUILDING CODE ^[1]

[Sec. 105-19. Codes adopted by reference.](#)

[Sec. 105-20. Application, administration and enforcement.](#)

[Sec. 105-21. Permits fees.](#)

[Secs. 105-22—105-45. Reserved.](#)

Sec. 105-19. Codes adopted by reference.

The Minnesota Building Code, as adopted pursuant to Minn. Stats. §§ 16B.59—16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the state through the building codes and standards division, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this chapter. The Minnesota Building Code is hereby incorporated in this chapter as if fully set out herein.

(Ord. No. 05142003, § 1, 6-11-2003)

Sec. 105-20. Application, administration and enforcement.

- (a) The application, administration, and enforcement of the code shall be in accordance with state building code.
- (b) The code enforcement agency of this municipality is called the administration department.
- (c) This code shall be enforced by the state-certified building official designated by this municipality to administer the code.

(Ord. No. 05142003, § 2, 6-11-2003)

Sec. 105-21. Permits fees.

Permit fees shall be assessed for work governed by this code in accordance with the fee schedule established by the city.

(Ord. No. 05142003, § 3, 6-11-2003)

Secs. 105-22—105-45. Reserved.

FOOTNOTE(S):

--- (1) ---

State Law reference— State building code, Minn. Stats. § 16B.59 et seq.; authority to regulate construction of buildings, Minn. Stats. § 412.221, subd. 28. [\(Back\)](#)

ARTICLE III. BUILDING NUMBERS [\[2\]](#)

[Sec. 105-46. Numbering system adopted; penalty.](#)

[Sec. 105-47. City clerk-treasurer authorized to implement section.](#)

[Sec. 105-48. City divisions.](#)

[Sec. 105-49. Assignment and posting of numbers.](#)

[Sec. 105-50. Structure identification requirements.](#)

[Secs. 105-51—105-73. Reserved.](#)

Sec. 105-46. Numbering system adopted; penalty.

- (a) For the purpose of providing for the health, safety and general welfare of the residents, a uniform system of numbering properties and principal buildings is hereby adopted for the use in the city, as indicated on certain maps identified as the city.
- (b) Any person violating this article by failing to affix proper numbering system or affixing unauthorized numbers is guilty of a petty misdemeanor punishable by the amount of \$25.00 for such offense.

(Ord. No. 61, § 5, 4-5-1999)

Sec. 105-47. City clerk-treasurer authorized to implement section.

The city clerk-treasurer is hereby authorized to implement this section by preparing all necessary maps and assigning numbers and by disseminating information regarding number designations by any appropriate means.

(Ord. No. 61, § 4, 4-5-1999)

Sec. 105-48. City divisions.

For the purpose of assigning numbers, the city shall be divided between east and west by State Hwy. #75 also known as Atlantic Avenue. The city shall be divided between north and south by First Street.

(Ord. No. 61, § 1, 4-5-1999)

Sec. 105-49. Assignment and posting of numbers.

Each platted block or equivalent thereof shall be assigned 100 numbers which shall be progressive in both directions from each of the divided streets. All numbers on the south side of any street shall be even numbers and the north side of any street shall be odd numbers. All numbers on the east side on any street shall be even numbers and the west side of any street shall be odd numbers.

- (1) All buildings shall hereafter be identified by reference to the uniform numbering system adopted herein. All existing numbers of property and buildings that come in conflict with the renumbering of buildings shall be changed to conform to the uniform numbering system herein adopted within 60 days of publication.
- (2) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such buildings shall bear a separate number.
- (3) Numbers indicating the official numbers for each principal building of each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located. If a house or principle building is obscured from view of the street of address by accessory buildings, trees, shrubbery or other visual obstruction, the numbers must be displayed from a permanent mounting on the property so they are clearly visible from the street of the address.

(Ord. No. 61, § 2, 4-5-1999)

Sec. 105-50. Structure identification requirements.

All buildings within the city limits that have been assigned designated numbers shall place numbers on the buildings as follows:

- (1) All numbers shall be a minimum of five inches in height.
- (2) Numbers shall be visible from the street.
- (3) Within 60 days of notification of assigned numbers, owner shall permanently place on structure, the assigned number.
- (4) The numbers shall be made of metal, glass, plastic or other durable material.

(Ord. No. 61, § 3, 4-5-1999)

Secs. 105-51—105-73. Reserved.

FOOTNOTE(S):

--- (2) ---

State Law reference— Authority to number lots, Minn. Stats. § 412.221, subd. 18. [\(Back\)](#)

ARTICLE IV. RENTAL UNIT REGISTRATION AND INSPECTION

[Sec. 105-74. Definitions.](#)

[Sec. 105-75. Purpose and findings.](#)

[Sec. 105-76. Registration requirements.](#)

[Sec. 105-77. Exemptions.](#)

[Sec. 105-78. Manner of registration renewal.](#)

[Sec. 105-79. Transfer of property.](#)

[Sec. 105-80. Posting of registration.](#)

[Sec. 105-81. Fees.](#)

[Sec. 105-82. Maintenance of records.](#)

[Sec. 105-83. Maintenance standards.](#)

[Sec. 105-84. Inspections and investigations.](#)

[Sec. 105-85. Conduct on registered premises.](#)

[Sec. 105-86. Failure to grant registration, revocation, suspension or failure to renew registration.](#)

[Sec. 105-87. Summary action.](#)

[Sec. 105-88. Applicable laws.](#)

[Sec. 105-89. Written notices; means of delivery.](#)

Sec. 105-74. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the city council or such person as the city council designates, in writing, to carry out the responsibilities of the administrator as provided by this article.

Dwelling means any building or other permanent or temporary structure, including a manufactured or mobile home which is wholly or partly used, or intended to be used, for living or sleeping by human occupants.

Local property manager means a natural person residing within 50 miles of the city who is authorized by the rental unit owner to make decisions for the owner about rental, occupancy and maintenance of the rental unit.

Registration holder means a person or entity to whom registration for a rental unit is issued under this article.

Rent, lease, let or sublet means the leasing of a rental unit to a nonowner for a fixed or nonfixed period of time, and shall include installment sales, purchases, and other similar arrangements whereby nonpayment of a periodic payment means the occupants may be evicted without the necessity of either a statutory mortgage foreclosure procedure, a statutory termination of contract for deed procedure, or a statutory repossession procedure.

PART II LAND DEVELOPMENT ORDINANCES

Rental unit or residential rental unit means any house, apartment, condominium, townhouse, manufactured home, mobile home, mobile or manufactured home lot, room, or group of rooms, constituting or located within, a dwelling and forming a habitable unit.

Shall and *must* as used in this article are each mandatory.

Should and *may* as used in this article are each permissive or directory.

(Ord. No. 679, § 2, 2-18-2004)

Sec. 105-75. Purpose and findings.

- (a) The city council finds that there is a need for periodic municipal inspection of residential rental units in the city to ensure that such units meet city and state safety, health, fire and zoning laws and codes in order to promote the public health, safety and welfare of the community at large and the residents of rental units within the city.
- (b) The city council finds that a municipal registration program is appropriate to effectively enforce residential rental unit maintenance standards and correct or prevent law violations, nuisances and other disturbances and disorders involving residential rental unit within this city.
- (c) The city council finds that an effective means of implementing the foregoing registration of all residential rental units with the city and inspection of such units from time to time as determined appropriate in the exercise of discretion by staff and personnel of the city and in response to complaints involving such units.

(Ord. No. 679, § 1, 2-18-2004)

Sec. 105-76. Registration requirements.

- (a) No person or entity may hereafter occupy, allow to be occupied or rent, lease, let or sublet a rental unit, to another person or entity for occupancy unless that rental unit is registered for occupancy pursuant to a valid and current rental unit registration issued by the Cass Lake city council, or administrator.
- (b) Each rental unit must have an owner, or local property manager designated by the owner, who resides within 50 miles of the city.
- (c) All rental agreements or leases used to rent, let, lease or sublet any rental unit to another person or entity for occupancy shall include and incorporate by reference, as a condition of the occupancy or tenancy, all of terms, provisions and requirements of section 105-80, and sections 105-83 through 105-88. All tenants or other occupants under any rental agreements or leases used to rent, let, lease or sublet any rental unit shall be provided a written notice that the terms of the rental agreement or lease include and incorporate all of the terms, provisions and requirements of section 105-80, and sections 105-83 through 105-88, and such written notice shall recite verbatim the terms, provisions and requirements of section 105-80, and sections 105-83 through 105-88
- (d) Any person or entity desiring to rent, let, lease or sublet to any rental unit shall apply for registration by using forms furnished by the administrator for that purpose. The forms must provide information required by the administrator, including the following:
 - (1) The name, address, and phone number (and FAX number, if owner has one) of the property owner.
 - (2) Name, address, and phone number (and FAX number, if manager has one) of a designated local property manager.
 - (3) The street address of the rental property.
 - (4) The number and types of units within the rental property (dwelling units or sleeping rooms).

PART II LAND DEVELOPMENT ORDINANCES

- (5) The maximum number of occupants permitted for each dwelling unit or sleeping room.
- (6) The name, phone number, FAX number and address of the person authorized to make, or order, made repairs or services for the property if in violation of city or state codes, if the person is different than the owner or local property manager.
- (7) The full name of renter occupying the property and updated by the property owner as each resident moves in or out.

(Ord. No. 679, § 3, 2-18-2004)

Sec. 105-77. Exemptions.

This article does not apply to campus dormitory and campus residence units owned, operated or managed by a governmental entity or agency, hospital units or rooms, nursing homes, retirement homes or other similar rental space which is otherwise registered by the state or the city.

(Ord. No. 679, § 4, 2-18-2004)

Sec. 105-78. Manner of registration renewal.

Registration shall be required each calendar year and may be issued on a calendar year basis prior to January 1 of each successive year for the first two years; than every other year. The city will annually mail registration renewal forms to rental unit owners or their designated local property managers on or about October 1 of each year. Registration renewal forms must be delivered to the city clerk-treasurer no later than November 15 each year. Failure of the city to mail renewal forms and failure of an owner or local property manager to receive a renewal form, does not excuse or waive the registration required by this section.

(Ord. No. 679, § 5, 2-18-2004)

Sec. 105-79. Transfer of property.

Every new owner of a rental unit, whether fee owner or contract purchases, shall furnish to the city clerk-treasurer the new owner's name, address, phone number and fax number and the name, address, phone number and fax number of the new owner's designated local property manager before taking possession of the rental property upon closing the transaction. No new registration fee is to be required of the new owner during the year in which such possession takes place, provided that the previous owner has paid all registration fees and has complied with all requirements of this article, state law and corrected any violations of health, zoning, fire or safety codes of the city or state law. If any change in the type of occupancy as originally registered is contemplated by the new owner, a new registration application will be required.

(Ord. No. 679, § 6, 2-18-2004)

Sec. 105-80. Posting of registration.

Each rental unit registration holder must post the rental unit registration in a conspicuous spot near the front entry to the rental unit in a public corridor, hallway or lobby, must retain a copy of the rental unit registration on file and must be able to produce said copy upon demand. Failure to post the registration and keep the registration posted is a misdemeanor, but is not grounds for termination of registration.

(Ord. No. 679, § 7, 2-18-2004)

PART II LAND DEVELOPMENT ORDINANCES

Sec. 105-81. Fees.

The fees are per unit for rental unit registration, registration renewal, late fees and inspection shall be as established by the city. Failure to pay appropriate fees will result in the city assessing such amounts to the property value through the county.

(Ord. No. 679, § 8, 2-18-2004)

Sec. 105-82. Maintenance of records.

All records, files and documents pertaining to rental unit registration and rental unit inspections may be obtained by the city clerk-treasurer and will be available to the public as allowed, permitted or required by city ordinance.

(Ord. No. 679, § 9, 2-18-2004)

Sec. 105-83. Maintenance standards.

Every rental unit must be maintained in compliance with the building code, dwelling maintenance standards, blight ordinance and noise ordinance of the city, state nuisance statutes, state building codes, state dwelling maintenance standards, state health code, and state fire code, respectively as now in force and hereafter amended, revised or replaced, and in compliance with all other standards, ordinances, laws and regulations governing use, occupancy, construction and maintenance of property and conduct of persons in or on that property. Rental unit registration does not constitute certification of compliance with such codes, standards, ordinances or statutes by the city.

(Ord. No. 679, § 10, 2-18-2004)

Sec. 105-84. Inspections and investigations.

- (a) All inspections will be completed by the city building official, so as all inspections will be completed in a uniform manner.
- (b) Cass Lake fire department personnel, law enforcement, the city health officer, and the city respective designees and representatives are hereby authorized to make inspections reasonably necessary to the enforcement of this article.
- (c) All persons authorized herein to inspect shall have the authority to enter, with 24-hour notice given to property owner, any rental unit or structure containing a rental unit, registered or required to be registered, for the purpose of enforcing this article. All registration holders shall, as a condition of registration, consent to such entries for inspection without warrant and all registration holders shall include, as a condition of any lease or rental agreement with any tenant or occupant that such tenants or occupants consent to such entries for inspection without warrant.
- (d) Written notice of a violation of this article may be given to the registration holder by certified mail directed to the address of the registration holder as shown by the administrator's registration application file. Said notice may contain a compliance order stating that compliance with this article shall be made immediately and, in that case, the notice shall advise the registration holder that the property may be reinspected in not less than 30 days. Contract labor scheduled within 30 days, if schedule conflicts, an extension may be filed in the city administration office. Proof of scheduled labor required.
- (e) A registration holder may appeal to the city council the requirements of any compliance order by filing a written appeal with the office of the city clerk-treasurer no later than ten days after the date of issuance of the compliance order. The compliance order will be sent by certified registered mail with a receipt. The city clerk-treasurer should schedule a hearing within ten days after filing of the notice of appeal. Enforcement of the compliance order shall be stayed pending the decision of the city

PART II LAND DEVELOPMENT ORDINANCES

council on the appeal. Failure to attend the hearing waives the registration holders right to the appeal.

- (f) Any person who fails to comply with a compliance order after right of appeal has expired, and any person who fails to comply with a modified or affirmed compliance order within the time set therein, upon conviction therefor, shall be punished by a fine not to exceed \$700.00 and/or by imprisonment not to exceed 90 days, together with the cost of prosecution. Each day of such failure to comply shall constitute a separate punishable offense be guilty of a misdemeanor.

(Ord. No. 679, § 11, 2-18-2004)

Sec. 105-85. Conduct on registered premises.

- (a) It is the responsibility of the registration holder to require and ensure that occupants of the registered premises conduct themselves in such a manner as to not cause the premises to be disorderly or to be used, occupied or maintained in violation of law or ordinance. For the purposes of this section, a rental unit is disorderly and in violation of law, code, statute or ordinance when any of the following activities occur in, on or at the registered premises:
 - (1) Conduct which constitutes a violation of state statutes relating to nuisances.
 - (2) Conduct which constitutes a violation of state statutes relating to noise.
 - (3) Conduct which constitutes disorderly conduct in violation of Minn. Stats. § 609.72.
 - (4) Conduct which constitutes a violation of laws relating to possession of controlled substances pursuant to Minn. Stats. ch. 152.
 - (5) Conduct which constitutes a violation of any city ordinance or state law relating to minors possessing or consuming alcohol, or relating to providing, furnishing or serving alcohol to minors, or relating to sale of alcoholic beverages.
 - (6) Conduct which constitutes a violation of state laws or city ordinances relating to prostitution, indecent exposure or acts related to prostitution as defined by state law.
 - (7) Conduct which constitutes a violation of city ordinances and state laws relating to weapons or firearms.
 - (8) Conduct which constitutes a violation of city ordinances or state laws relating to assault, specifically including domestic assaults and criminal sexual conduct.
 - (9) Conduct which constitutes a violation of ordinances or laws relating to contributing to the need for protection, services or delinquency of a minor.
 - (10) Conduct which constitutes a violation of any other federal, state or local code, ordinance or regulation and which is reasonably likely to threaten or harass tenants or visitors to rental units, or to residents, visitors or occupants of neighboring properties.
 - (11) Conduct which constitutes a violation of any other federal, state or local code, ordinance or regulation.
- (b) The administrator shall administer this section of the Code and may delegate administration to a designee authorized in writing by the city council.
- (c) If the administrator determines that a violation of this section has occurred, then the administrator will give notice of the violation to the registration holder and the renters of the rental unit, and will direct that the registration holder take steps to prevent further violations.
- (d) If another violation of this section occurs within 90 days of the incident for which notice was given as provided in subsection (c) of this section, then the city council will give notice of the violation to the registration holder and the renters of the rental unit, and will direct that the registration holder take steps to prevent further violations. The city council will also, at that time, request that the registration holder submit to the city clerk-treasurer, within ten days of the city council's mailing of the notice of

PART II LAND DEVELOPMENT ORDINANCES

violation provided in this section, a report itemizing all actions taken by the registration holder in response to all notices of violations as to the rental unit within the preceding 90 days.

- (e) If a third violation of this section occurs within 90 days after the last of any two or more previous violations for which notices were given pursuant to this section, and the registration holder has not sufficiently taken action to prevent further violations, then the rental unit registration for the premises may be denied, revoked, suspended or not renewed:
 - (1) Action to deny, revoke, suspend or not renew a rental unit registration may be initiated by the city council who shall give to the registration holder a written notice of hearing before the city council to consider such denial, revocation, suspension or nonrenewal.
 - (2) A notice of intent to deny, revoke, suspend or not renew registration shall specify all violations of this section and shall state the date, time, place and purpose of the hearing provided by this section.
 - (3) The hearing held pursuant to this section shall occur no later than 30 days after notice.
 - (4) Following the hearing, the city council may deny, revoke, suspend or not renew registration for all or any part of the registered premises or may grant conditional registration upon such terms and conditions as the administrator finds necessary to accomplish the purpose of this section.
- (f) No adverse registration action may be imposed where the violation of this section occurred during the tendency of unlawful detainer eviction proceedings brought under Minn. Stats. ch. 566, or within 30 days of notice given by the registration holder to a tenant to vacate the premises at which the violation occurred. Unlawful detainer eviction proceedings or a notice to vacate the premises will not, however, bar adverse registration action unless diligently pursued by the registration holder. Action to deny, revoke, suspend or not renew registration for violation of this section may be postponed or dismissed by the city council at any time if it appears to the council that the registration holder has taken appropriate remedial action.
- (g) The standard of proof to be used in determinations by the administrator as to conduct constituting violations under this section is a fair preponderance of evidence in support of such a determination. It is not necessary that criminal charges be brought to support a determination of violation of this section or a determination that conduct constituting a violation of this section has occurred. It is necessary, in determining a violation of this section, that law enforcement officers be called to the rental unit in response to a complaint and that a police report and investigation of the same be prepared.
- (h) For the purpose of this article, a violation under this section includes violations by the rental unit renters or occupants, or by their visitors or guests, in or at the rental unit of the renters or tenants, or in, at or upon its curtilage, including anywhere on the property grounds and premises of an apartment building, home or mobile home park at which the rental unit is situated.

(Ord. No. 679, § 12, 2-18-2004)

Sec. 105-86. Failure to grant registration, revocation, suspension or failure to renew registration.

- (a) The city reserves the right to not register a rental unit unless it complies with the requirements of this article.
- (b) Any registration issued under this article is subject to the right, which is hereby expressly reserved by the city, to deny, suspend, revoke or not renew the same should the registration holder or their agents, employees, representatives or lessees directly or indirectly fail to comply with the requirements of this article or operate or maintain the rental dwellings contrary to the provisions of this article, any other ordinance of the city, any special permit issued by the city, or the laws of the state; provided, however, registration shall not be denied, suspended, revoked or not renewed if the registration holder complies with a compliance order in a reasonably timely manner as determined by the city council.

PART II LAND DEVELOPMENT ORDINANCES

- (c) The city council shall notify the applicant that registration has been denied, or the registration holder that registration is being suspended, revoked or not renewed. The suspension, revocation or nonrenewal shall occur 35 days after the date of the notification order, or at such later date as set out in the notification.
- (d) A determination by the city council to deny, suspend, revoke or not-renew registration of a rental unit may be appealed to the city council by filing with the city clerk-treasurer a written notice of appeal within 15 days of the date on which the city council mails such determination to the applicant or registration holder. In that event, the appeal will be heard by the city council at its next meeting occurring at least 15 days after the filing of the notice of appeal.
- (e) At any appeal of a determination by the city council under this article, the registration holder or applicant, local property manager for the registration holder or applicant, or an attorney representing them, may appear and make a presentation to the city council. After the hearing, the council may uphold, reverse or modify the decision based upon the provisions of this article and upon the protection of the public health, sanitation, safety or general welfare of the community at large or the residents of rental units within the city. The city council shall issue written findings and determination within 31 days of the hearing.

(Ord. No. 679, § 13, 2-18-2004)

Sec. 105-87. Summary action.

- (a) As a condition of receiving rental unit registration, each registration holder is presumed to agree and consent that when the conduct of any registration holder or registration holder's agent, representative, employee or lessee, or the condition of their rental unit, or the property in or on which it is located, is detrimental to the public health, sanitation, safety and general welfare of the community at large, or residents of the rental units so as to constitute a nuisance, fire hazard, or other unsafe or dangerous condition and thus give rise to an emergency, the city council shall have the authority to summarily condemn or close individual rental units or such areas of the rental dwelling as the council deems necessary.
- (b) Notice of summary condemnation shall be posted at the units or areas affected and shall describe the units or areas affected. No person shall remove the posted notice, other than the fire marshal, city council, or their designated representative.
- (c) Any person aggrieved by the decision or the action of the city council or fire marshal set out in this section, may appeal the decision following the procedures set out in this article. The hearing shall be conducted in the same manner as provided in this article, however, the date of the hearing may be expedited with the consent of the registration holder.

(Ord. No. 679, § 14, 2-18-2004)

Sec. 105-88. Applicable laws.

Registration holders are subject to all of the ordinances of the city and state relating to rental dwellings, and this article shall not be construed or interpreted to supersede or limit any other applicable ordinance or law.

(Ord. No. 679, § 15, 2-18-2004)

Sec. 105-89. Written notices; means of delivery.

Notices from the city required by this article shall be effective if personally delivered or if mailed to the addressee by certified mail, return receipt requested, to the address shown in the city file pertaining to the rental unit involved in the notice.

(Ord. No. 679, § 18, 2-18-2004)

Chapters 106—108 RESERVED

Chapter 109 SHORELAND MANAGEMENT [\(1\)](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

ARTICLE III. - SHORELAND CLASSIFICATION SYSTEM AND USE DISTRICTS

ARTICLE IV. - ZONING AND WATER SUPPLY AND SANITATION

ARTICLE V. - SUBDIVISIONS AND PLATTING

ARTICLE VI. - PLANNED UNIT DEVELOPMENT

FOOTNOTE(S):

--- (1) ---

State Law reference— Shoreland development, Minn. Stats. § 103F.201 et seq.; municipal shoreland management, Minn. Stats. § 103F.221. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 109-1. Definitions.](#)

[Sec. 109-2. Policy.](#)

[Sec. 109-3. Jurisdiction.](#)

[Sec. 109-4. Compliance.](#)

[Sec. 109-5. Enforcement.](#)

[Sec. 109-6. Interpretation.](#)

[Sec. 109-7. Abrogation and greater restrictions.](#)

[Sec. 109-8. Nonconformities.](#)

[Secs. 109-9—109-34. Reserved.](#)

Sec. 109-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All distances, unless otherwise specified, shall be measured horizontally.

PART II LAND DEVELOPMENT ORDINANCES

Accessory structure or facility means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

Bluff means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least 25 feet above the ordinary high-water level of the water body;
- (3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high-water level averages 30 percent or greater; and
- (4) The slope must drain toward the water body.

Bluff impact zone means a bluff and land located within 20 feet from the top of a bluff.

Boathouse means a structure designed and used solely for the storage of boats or boating equipment.

Building line means a line parallel to a lot line or the ordinary high-water level at the required setback beyond which a structure may not extend.

Commercial planned unit developments are typical uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

Commercial use means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Commissioner means the commissioner of the department of natural resources.

Conditional use means a land use or development as defined by article that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning chapter exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

Deck means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

Duplex, triplex, and quad means a dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling site means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling unit means any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Extractive use means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minn. Stats. §§ 93.44—93.51.

Forest land conversion means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Guest cottage means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

PART II LAND DEVELOPMENT ORDINANCES

Hardship means the same as that term is defined in Minn. Stats. ch. 462.

Height of buildings means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

Industrial use means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Intensive vegetation clearing means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Lot means a parcel of land designated by plat, metes and bounds, registered land survey, auditor's plot, or other accepted means, and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Lot width means the shortest distance between lot lines measured at the midpoint of the building line.

Nonconformity means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

Ordinary high-water level means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.

Planned unit development means a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Public waters means any waters as defined in Minn. Stats. § 105.37, subds. 14 and 15, and Minn. Stats. § 103G.005, subd. 15.

Residential planned unit development means a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Semipublic use means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Sensitive resource management means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high-water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

Sewage treatment system means a septic tank and soil absorption system or other individual or cluster type sewage treatment system described and regulated in this chapter.

PART II LAND DEVELOPMENT ORDINANCES

Sewer system means pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Shore impact zone means land located between the ordinary high-water level of a public body of water and a line parallel to it at a setback of 50 percent of the structure setback.

Shoreland means land located within the following distances from public waters: 1,000 feet from the ordinary high-water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shoreland may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

Significant historic site means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the state register of historic sites, or is determined to be an unplatted cemetery that falls under the provisions of Minn. Stats. § 307.08. An historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state archaeologist or the director of the state historical society. All unplatted cemeteries are automatically considered to be significant historic sites.

Steep slope means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Structure means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subdivision means land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

Surface water-oriented commercial use means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Toe of the bluff means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

Top of the bluff means the higher point of a 50-foot segment with an average slope exceeding 15 percent.

Variance means the same as that term is defined or described in Minn. Stats. ch. 462.

Water-oriented accessory structure or facility means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Wetland means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular, No. 39 (1971 Edition).

(Code 1983, § 9.02, subd. 7)

Sec. 109-2. Policy.

The uncontrolled use of shorelands of the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it

PART II LAND DEVELOPMENT ORDINANCES

is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The state legislature has delegated responsibility to local governments of the state to regulate the subdivision, use and development of shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. The responsibility is hereby recognized by the city.

(Code 1983, § 9.01, subd. 2)

Sec. 109-3. Jurisdiction.

The provisions of this chapter shall apply to shorelands of the public water bodies as classified in sections 109-65 and 109-66. Pursuant to Minn. Rules, parts. 6120.2500—6120.3900, no lake, pond, or flowage less than ten acres in size in municipalities need be regulated in a local government's shoreland regulations. A body of water created by a private use where there was no previous shoreland may, at the discretion of the governing body, be exempt from this chapter.

(Code 1983, § 9.02, subd. 1)

Sec. 109-4. Compliance.

The use of any shoreland of public waters, the size and shape of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation, and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations.

(Code 1983, § 9.02, subd. 2)

Sec. 109-5. Enforcement.

The council is responsible for the administration and enforcement of this chapter. Any violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to this chapter.

(Code 1983, § 9.02, subd. 3)

Sec. 109-6. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Code 1983, § 9.02, subd. 4)

Sec. 109-7. Abrogation and greater restrictions.

It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other city Code provisions inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(Code 1983, § 9.02, subd. 6)

Sec. 109-8. Nonconformities.

All legally established nonconformities as of the effective date of this chapter may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

(1) *Construction on nonconforming lots of record.*

- a. Lots of record in the office of the county recorder on the effective date of local shoreland controls that do not meet the requirements of article IV of this chapter may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.
- b. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- c. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of article IV of this chapter, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of article IV of this chapter as much as possible.

(2) *Additions and expansions to nonconforming structures.*

- a. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of article IV of this chapter. Any deviation from these requirements must be authorized by a variance pursuant to section 109-38
- b. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level if all of the following criteria and standards are met:
 1. The structure existed on the date the structure setbacks were established;
 2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high-water level setback of the structure;
 3. The deck encroachment toward the ordinary high-water level does not exceed 15 percent of the existing setback of the structure from the ordinary high-water level or does not encroach closer than 30 feet, whichever is more restrictive; and
 4. The deck is constructed primarily of wood, and is not roofed or screened.

(3) *Nonconforming sewage treatment systems.*

- a. A sewage treatment system not meeting the requirements of article IV of this chapter must be upgraded, at a minimum, at any time a permit or variance of any type is required for improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high-water level.
- b. The city council has, by formal resolution, notified the commissioner of its program to identify nonconforming sewage treatment systems. The city will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed two years. Sewage systems installed according to all

PART II LAND DEVELOPMENT ORDINANCES

applicable local shoreland management standards adopted under Minn. Stats. § 103F.211 in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by Minn. Rules ch. 7080 for design on on-site sewage treatment systems, shall be considered nonconforming.

(Code 1983, § 9.30)

Secs. 109-9—109-34. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

[Sec. 109-35. Permits required.](#)

[Sec. 109-36. Notifications to the department of natural resources.](#)

[Sec. 109-37. Certificate of zoning compliance.](#)

[Sec. 109-38. Variances.](#)

[Secs. 109-39—109-64. Reserved.](#)

Sec. 109-35. Permits required.

- (a) A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by this chapter. Application for a permit shall be made to the office of the mayor on the forms provided. The application shall include the necessary information so that the council can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.
- (b) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by this chapter, shall be reconstructed or replaced in accordance with the provisions of this chapter.

(Code 1983, § 9.10, subd. 1)

Sec. 109-36. Notifications to the department of natural resources.

- (a) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner, or the commissioner's designated representative, and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions and/or plats must include copies of the subdivision and/or plat.
- (b) A copy of approved amendments, subdivisions and/or plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative, and postmarked within ten days of final action.

(Code 1983, § 9.10, subd. 4)

Sec. 109-37. Certificate of zoning compliance.

The council shall issue a certificate of zoning compliance for each activity requiring a permit as specified in this chapter. This certificate will specify that the use of land conforms to the requirements of this chapter. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in this chapter.

(Code 1983, § 9.10, subd. 2)

Sec. 109-38. Variances.

- (a) Variances may only be granted in accordance with Minn. Stats. ch. 462. A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.
- (b) The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the department of natural resources has formally recommended denial in the hearings record, the notification of the approved variance required in this chapter shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- (c) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

Secs. 109-39—109-64. Reserved.

ARTICLE III. SHORELAND CLASSIFICATION SYSTEM AND USE DISTRICTS

[Sec. 109-65. Shoreland classification system.](#)

[Sec. 109-66. Land use district descriptions.](#)

[Secs. 109-67—109-90. Reserved.](#)

Sec. 109-65. Shoreland classification system.

The public waters of the city have been classified below as consistent with the criteria found in Minn. Rules, part 6120.3300, and the protected waters inventory map for Cass County, Minnesota. The shoreland area for the water bodies listed below shall be as defined in this chapter and as shown on the official zoning map.

(1) *Lakes.*

Classification	Inventory Identification Number

PART II LAND DEVELOPMENT ORDINANCES

Natural environment lakes	Protected Waters Inventory ID #
Recreational development lakes	Protected Waters Inventory ID #
General development lakes	Protected Waters Inventory ID #
Cass Lake	4 — 30
Pike Bay	11 — 415

(2) *Rivers and streams.*

Classification	
Remote rivers	Legal description
Forested rivers	Legal description
Transition rivers	Legal description
Agricultural rivers	Legal description
Urban rivers	Legal description
Tributary streams	Legal description

All protected watercourses in the city shown on the protected waters inventory map for Cass County, a copy of which is hereby adopted by reference, not given a classification, above, shall be considered tributary.

(Code 1983, § 9.11, subd. 1)

Sec. 109-66. Land use district descriptions.

- (a) *Criteria for designation.* The land use districts in this chapter, and the delineation of a land use district's boundaries on the official zoning map must be consistent with the goals, policies, and objectives or the comprehensive land use plan (when available) and the following criteria, considerations, and objectives:

- (1) General considerations and criteria for all land uses:

PART II LAND DEVELOPMENT ORDINANCES

- a. Preservation of natural areas;
- b. Present ownership and development of shoreland areas;
- c. Shoreland soil types and their engineering capabilities;
- d. Topographic characteristics;
- e. Vegetative cover;
- f. In-water physical characteristics, values, and constraints;
- g. Recreational use of the surface water;
- h. Road and service center accessibility;
- i. Socioeconomic development needs and plans as they involve water and related land resources;
- j. The land requirements of industry which, by its nature, requires location in shoreland areas; and
- k. The necessity to preserve and restore certain area having significant historical or ecological value.

(2) Factors and criteria for planned unit developments:

- a. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
- b. Physical and aesthetic impacts of increased density;
- c. Suitability of lands for the planned unit development approach;
- d. Level of current development in the area; and
- e. Amounts and types of ownership of undeveloped lands.

(b) *Delineation of uses and classifications.* The land use districts provided below, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the official zoning map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minn. Rules. part 6120.3200, subd. 3

(1) *Land use districts for lakes.*

	General Development Lakes	Recreational Development Lakes	Natural Environmental Lakes
<i>Special Protection Uses</i>			
Forest management	P	P	P
Sensitive resource management	P	P	P
Agricultural cropland and pasture	P	P	P
Agricultural feedlots	C	C	C

PART II LAND DEVELOPMENT ORDINANCES

Parks and historic sites	C	C	C
Extractive use	C	C	C
Single residential	C	C	C
Mining of metallic minerals and peat	P	P	P
<i>Residential District Uses</i>			
Single residential	P	P	P
Semipublic	C	C	C
Parks and historic sites	C	C	C
Extractive use	C	C	C
Duplex, triplex, quad residential	P	P	C
Forest management	P	P	P
Mining of metallic minerals and peat	P	P	P
<i>High-Density Residential Uses</i>			
Residential planned unit developments	C	C	C
Single residential	P	P	P
Surface water-oriented commercial ¹	C	C	C
Semipublic	C	C	C
Parks and historic sites	C	C	C
Duplex, triplex, quad residential	P	P	P
Forest management	P	P	P

PART II LAND DEVELOPMENT ORDINANCES

<i>Water-Oriented Commercial Uses</i>			
Surface water-oriented commercial	P	P	C
Commercial planned unit development ²	C	C	C
Public, semipublic	C	C	C
Parks and historic sites	C	C	C
Forest Management	P	P	P
<i>General Use District Uses</i>			
Commercial	P	P	C
Commercial planned unit development ²	C	C	C
Industrial	C	C	N
Public, semipublic	P	P	C
Extractive use	C	C	C
Parks and historic sites	C	C	C
Forest management	P	P	P
Mining of metallic minerals and peat	P	P	P

¹ As accessory to a residential planned unit development.

² Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the planned unit development provisions of this chapter are satisfied.

(2) *Land use districts for rivers and streams.*

	Remote	Forested	Transition	Agricultural	Urban	Tributary
--	--------	----------	------------	--------------	-------	-----------

PART II LAND DEVELOPMENT ORDINANCES

<i>Special Protection Uses</i>						
Forest management	P	P	P	P	P	P
Sensitive resource management	P	P	P	P	P	P
Agricultural cropland and pasture	P	P	P	P	P	P
Agricultural feedlots	C	C	C	C	C	C
Parks and historic sites	C	C	C	C	C	C
Extractive use	C	C	C	C	C	C
Single residential	C	C	C	C	C	C
Mining of metallic minerals and peat	P	P	P	P	P	P
<i>Residential District Uses</i>						
Single residential	P	P	P	P	P	P
Semipublic	C	C	C	C	C	C
Parks and historic sites	C	C	C	C	C	P
Extractive use	C	C	C	C	C	C
Duplex, triplex, quad residential	C	C	C	C	P	C
Forest management	P	P	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P	P	P
<i>High-Density Residential Uses</i>						
Residential planned unit developments	C	C	C	C	C	C

PART II LAND DEVELOPMENT ORDINANCES

Single residential	P	P	P	P	P	P
Surface water-oriented commercial ¹	C	C	C	C	C	C
Semipublic	C	C	C	C	C	C
Parks and historic sites	C	C	C	C	C	C
Duplex, triplex, quadresidential	P	P	P	P	P	P
Forest management	P	P	P	P	P	P
<i>Water-Oriented Commercial Uses</i>						
Surface water-oriented commercial	C	C	C	C	C	C
Commercial planned unit development ¹	C	C	C	C	C	C
Public, semipublic	C	C	C	P	P	P
Parks and historic sites	C	C	C	C	C	C
Forest management	P	P	P	P	P	P
<i>General Use District Uses</i>						
Commercial	C	C	C	C	P	C
Commercial planned unit development ²	C	C	C	C	C	C
Industrial	N	C	N	N	C	C
Public, semipublic	C	C	C	C	P	C
Extractive use	C	C	C	C	C	C

PART II LAND DEVELOPMENT ORDINANCES

Parks and historic sites	C	C	C	C	C	C
Forest management	P	P	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P	P	P

¹ As accessory to a residential planned unit development.

² Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the planned unit development provisions of this chapter are satisfied.

(c) *Use and upgrading of inconsistent land use districts.*

- (1) The land use districts adopted in this chapter as they apply to shoreland areas, and their delineated boundaries on the official zoning map, are not consistent with the land use district designation criteria specified herein. These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the official zoning map or to modify the boundary of an existing land use district shown on the official zoning map.
- (2) When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:
 - a. *For lakes.* When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this chapter on said lake must be revised to make them substantially compatible with the framework in this chapter.
 - b. *For rivers and streams.* When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this chapter must be revised to make them substantially compatible with this chapter. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closed, need be evaluated and revised.
- (3) When an interpretation question arises about whether a specific land use fits within a given "use" category, the interpretation shall be made by the board of adjustment. When a question arises as to whether a land use district's boundaries are properly delineated on the official zoning map, this decision shall be made by the council.
- (4) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The council will direct the mayor to provide such additional information for this water body as is necessary to satisfy subsections (1) and (2) of this section.
- (5) The council must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said water body, are consistent with the enumerated criteria and use provisions of this chapter.

(Code 1983, § 9.11, subd. 2)

Secs. 109-67—109-90. Reserved.

ARTICLE IV. ZONING AND WATER SUPPLY AND SANITATION

[Sec. 109-91. Lot area and width standards.](#)

[Sec. 109-92. Placement, design, and height of structures.](#)

[Sec. 109-93. Shoreland alterations.](#)

[Sec. 109-94. Placement and design of roads, driveways, and parking areas.](#)

[Sec. 109-95. Stormwater management.](#)

[Sec. 109-96. Special provisions for commercial, industrial, public/semipublic, agricultural, forestry and extractive uses and mining of metallic minerals and peat.](#)

[Sec. 109-97. Water supply and sewage treatment.](#)

[Secs. 109-98—109-122. Reserved.](#)

Sec. 109-91. Lot area and width standards.

The lot area, in square feet, and lot width standards, in feet, for single, duplex, triplex and quad residential lots created after the effective date of this chapter for the lake and river/stream classifications are the following:

(1) *Unsewered lakes.*

a. Natural environment:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

b. Recreational development:

	Riparian Lots	Nonriparian Lots
--	---------------	------------------

PART II LAND DEVELOPMENT ORDINANCES

	Area	Width	Area	Width
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

c. General development:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

(2) *Sewered lakes.*

a. Natural environment:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315

PART II LAND DEVELOPMENT ORDINANCES

Quad	130,000	425	65,000	410
------	---------	-----	--------	-----

b. Recreational development:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

c. General development:

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

- (3) *River/stream lot width standards.* There is no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the six river/stream classifications are:

					Urban and Tributary
--	--	--	--	--	---------------------

PART II LAND DEVELOPMENT ORDINANCES

	Remote	Forested	Transition	Agricultural	No sewer	Sewer
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

(4) *Additional special provisions.*

- a. Residential subdivisions with dwelling unit densities exceeding those specified in the tables in subsections (1) and (2) of this section can only be allowed if designed and approved as residential planned unit developments under this chapter. Only land above the ordinary high-water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high-water level and at the building line. The sewer lot area dimensions in subsection (2) of this section can only be used if publicly owned sewer system service is available to the property;
- b. Subdivision of duplexes, triplexes, and quads on natural environment lakes must also meet the following standards:
 1. Each building must be set back at least 200 feet from the ordinary high-water level;
 2. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
 3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
 4. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- c. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in subsections (1), (2), and (3) of this section, provided the following standards are met:
 1. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
 2. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
 3. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
- d. Lots intended as controlled access to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

PART II LAND DEVELOPMENT ORDINANCES

1. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;
2. If docking, mooring, or over-water storage of more than six watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consisting of the following table:

Ratio of Lake Size to Shore Length (acres/mile)	Required Increase in Frontage (feet)
Less than 100	25
100—200	20
201—300	15
301—400	10
Greater than 400	5

3. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
- e. Covenants or other equally effective legal instrument must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public waters, assuming summer, leaf-on conditions.

(Code 1983, § 9.20, subd. 1)

Sec. 109-92. Placement, design, and height of structures.

- (a) *Placement of structures on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to

PART II LAND DEVELOPMENT ORDINANCES

the adjoining setbacks from the ordinary high-water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

- (1) *Structure and on-site sewage system setbacks (in feet) from ordinary high-water level.* The structure and on-site sewage system setbacks (in feet) from ordinary high-water level are set forth below.¹

Classes of Public Waters		Structures		Sewage Treatment System
		Unsewered	Sewered	
Lakes:				
	Natural environment	150	150	150
	Recreational development	100	75	75
	General development	75	50	50
Rivers:				
	Remote	200	200	150
	Forested and transition	150	150	100
	Agriculture, urban, and tributary	100	50	75

¹ One water-oriented accessory structure designed in accordance with subsection (b)(2) of this section may be set back a minimum distance of ten feet from the ordinary high-water level.

- (2) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the water body:

Setback from	Setback (in feet)
Top of bluff	30
Unplatted cemetery	50

PART II LAND DEVELOPMENT ORDINANCES

Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads or streets not classified	20

- (3) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
 - (4) *Uses without water-oriented needs.* Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high-water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- (b) *Design criteria for structures.*
- (1) *High water elevations.* Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or floodproofed must be determined as follows:
 - a. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high-water level, whichever is higher;
 - b. For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high-water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minn. Rules parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used for placing structures and other facilities; and
 - c. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this provision if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation, and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
 - (2) *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure setback in subsection (a) of this section if this water-oriented accessory structure complies with the following provisions:
 - a. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
 - b. The setback of the structure or facility from the ordinary high-water level must be at least ten feet;
 - c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - d. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

PART II LAND DEVELOPMENT ORDINANCES

- e. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
 - f. As an alternative for general development and recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.
- (3) *Stairways, lifts, and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
- a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 - b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 - c. Canopies or roofs are not allowed on stairways, lifts, or landings;
 - d. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 - e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - f. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (b)(3)a to (3)e of this section, are complied with in addition to the requirements of Minn. Rules ch. 1340.
- (4) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- (5) *Steep slopes.* The council must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
- (c) *Height of structures.* All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

(Code 1983, § 9.20, subd. 2)

Sec. 109-93. Shoreland alterations.

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitats:

- (1) *Vegetation alterations.*

PART II LAND DEVELOPMENT ORDINANCES

- a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by section 109-94 are exempt from the vegetation alteration standards that follow.
 - b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in this section, is allowed subject to the following standards:
 - 1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
 - 2. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - (i) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - (ii) Along rivers, existing shading of water surfaces is preserved; and
 - (iii) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- (2) *Topographic alterations, and grading and filling.*
- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
 - b. Public roads and parking areas are regulated by section 109-94
 - c. Notwithstanding subsections (2)a and b of this section, a grading and filling permit will be required for:
 - 1. The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones, and
 - 2. The movement of more than 50 cubic yards of materials outside of steep slopes and shore and bluff impact zones.
 - d. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals:
 - 1. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
 - (i) Sediment and pollutant trapping and retention;
 - (ii) Storage of surface runoff to prevent or reduce flood damage;
 - (iii) Fish and wildlife habitat;
 - (iv) Recreational use;
 - (v) Shoreline or bank stabilization; and

PART II LAND DEVELOPMENT ORDINANCES

- (vi) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others;
- 2. The evaluation, as stated in subsection (2)d.1 of this section, must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the state department of natural resources, or the United States Army Corps of Engineers. The applicant will be so advised;
- 3. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- 4. Mulches or similar materials must be used, where necessary, for temporary base soil coverage, and a permanent vegetation cover must be established as soon as possible;
- 5. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- 6. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- 7. Fill or excavated material must not be placed in a manner that creates an unstable slope;
- 8. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- 9. Fill or excavated material must not be placed in bluff impact zones;
- 10. Any alterations below the ordinary high-water level of public waters must first be authorized by the commissioner;
- 11. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- 12. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high-water level, and the height of the riprap above the ordinary high-water level does not exceed three feet.
- e. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

(Code 1983, § 9.20, subd. 3)

Sec. 109-94. Placement and design of roads, driveways, and parking areas.

- (a) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to soil and water conservation district, or other applicable technical materials.
- (b) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no

alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

- (c) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosions control conditions of this chapter are met. For private facilities, the grading and filling provisions of this section must be met.

(Code 1983, § 9.20, subd. 4)

Sec. 109-95. Stormwater management.

The following general and specific standards shall apply:

(1) *General standards.*

- a. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

(2) *Specific standards.*

- a. Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(Code 1983, § 9.20, subd. 5)

Sec. 109-96. Special provisions for commercial, industrial, public/semipublic, agricultural, forestry and extractive uses and mining of metallic minerals and peat.

(a) *Standards for commercial, industrial, public, and semipublic uses.*

- (1) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
 - a. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

PART II LAND DEVELOPMENT ORDINANCES

- b. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
 - c. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - 1. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - 2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
 - 3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
 - (2) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high-water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- (b) *Agriculture use standards.*
- (1) General cultivation farming, grazing, nurseries, horticulture, truck farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high-water level.
 - (2) Animal feedlots must meet the following standards:
 - a. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high-water level of all public waters basins; and
 - b. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high-water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high-water level setback or encroach on bluff impact zones.
- (c) *Forest management standards.* The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the state nonpoint source pollution assessment forestry and the provisions for water quality in forest management, "best management practices in Minnesota".
- (d) *Extractive use standards.*
- (1) Site development and restoration plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken

PART II LAND DEVELOPMENT ORDINANCES

during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extra active activities end.

- (2) Setbacks for processing machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high-water levels of public waters and from bluffs.
- (e) *Conditional uses.* Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:
 - (1) *Evaluation criteria.* A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
 - a. The prevention of soil erosion or other possible pollution of public waters both during and after construction;
 - b. The visibility of structures and other facilities as viewed from public waters is limited;
 - c. The site is adequate for water supply and on-site sewage treatment; and
 - d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
 - (2) *Conditions attached to conditional use permits.* The council, upon consideration of the criteria listed above and the purposes of this chapter, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:
 - a. Increased setbacks from the ordinary high-water level;
 - b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
 - c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Code 1983, § 9.20, subd.6)

Sec. 109-97. Water supply and sewage treatment.

- (a) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and the state pollution control agency.
- (b) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - (1) Publicly-owned sewer systems must be used where available.
 - (2) All private sewage treatment systems must meet or exceed the state pollution control agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080," which is hereby adopted by reference and declared to be a part of this chapter.
 - (3) On-site sewage treatment systems must be set back from the ordinary high-water level in accordance with the setbacks contained in section 109-92
 - (4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the following criteria. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations. The evaluation criteria is as follows:

PART II LAND DEVELOPMENT ORDINANCES

- a. Depth to the highest known or calculated groundwater table or bedrock;
 - b. Soil conditions, properties, and permeability;
 - c. Slope;
 - d. The existence of lowlands, local surface depressions, and rock outcrops.
- (5) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 109-8

(Code 1983, § 9.20, subd. 7)

Secs. 109-98—109-122. Reserved.

ARTICLE V. SUBDIVISIONS AND PLATTING

[Sec. 109-123. Land suitability.](#)

[Sec. 109-124. Consistency with other controls.](#)

[Sec. 109-125. Information requirements.](#)

[Sec. 109-126. Dedications.](#)

[Sec. 109-127. Platting.](#)

[Sec. 109-128. Controlled access or recreational lots.](#)

[Secs. 109-129—109-154. Reserved.](#)

Sec. 109-123. Land suitability.

Each lot created through subdivision, including planned unit developments authorized under this chapter, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

(Code 1983, § 9.40, subd. 1)

Sec. 109-124. Consistency with other controls.

Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with article IV of this chapter can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of article IV of this chapter, including at least a minimum contiguous lawn area that is free of limited factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tank must not be approved.

(Code 1983, § 9.40, subd. 2)

Sec. 109-125. Information requirements.

Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

- (1) Topographic contours at ten-foot intervals or less from United States geological survey maps or more accurate sources, showing limiting site characteristics;
- (2) The surface water features required by law to be shown on plats, obtained from United States ecological survey quadrangle topographic maps or more accurate sources;
- (3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- (4) Information regarding adequacy of domestic water supply, extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- (5) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
- (6) A line or contour representing the ordinary high-water level, the "toe" and the "top" bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(Code 1983, § 9.40, subd. 3)

Sec. 109-126. Dedications.

When a land or easement dedication is a condition of subdivision approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(Code 1983, § 9.40, subd. 4)

Sec. 109-127. Platting.

All subdivisions that create five or more lots or parcels that are 2½ acres or less in size shall be processed as a plat in accordance with Minn. Stats. ch. 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(Code 1983, § 9.40, subd. 5)

Sec. 109-128. Controlled access or recreational lots.

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in article IV of this chapter.

(Code 1983, § 9.40, subd. 6)

Secs. 109-129—109-154. Reserved.

ARTICLE VI. PLANNED UNIT DEVELOPMENT

[Sec. 109-155. Types of PUDs permissible.](#)

[Sec. 109-156. Processing of PUDs.](#)

[Sec. 109-157. Application for a PUD.](#)

[Sec. 109-158. Site "suitable area" evaluation.](#)

[Sec. 109-159. Residential and commercial PUD density evaluation.](#)

[Sec. 109-160. Maintenance and design criteria.](#)

[Sec. 109-161. Conversions.](#)

Sec. 109-155. Types of PUDs permissible.

Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use district in which they are an allowable use are identified in the land use district descriptions in sections 109-65 and 109-66 and the official zoning map.

(Code 1983, § 9.50, subd. 1)

Sec. 109-156. Processing of PUDs.

Planned unit developments must be processed as a conditional use, except that an expansion to an exiting commercial PUD involving six or less new dwelling units or sites since the effective date of this chapter is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in this section. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

(Code 1983, § 9.50, subd. 2)

Sec. 109-157. Application for a PUD.

The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

- (1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, and alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
- (2) Property owners association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of this section.
- (3) Deed restrictions, covenants, permanent easements or other instruments that properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs, as well as ensure long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in this section.
- (4) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- (5) Those additional documents as requested by the council that are necessary to explain how the PUD will be designed and will function.

PART II LAND DEVELOPMENT ORDINANCES

(Code 1983, § 9.50, subd. 3)

Sec. 109-158. Site "suitable area" evaluation.

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit or dwelling site density evaluation in this section.

- (1) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high-water level at the following intervals, proceeding landward:

Classes of Public Waters	Unsewered (feet)	Sewered (feet)
General development lakes-first tier	200	200
General development lakes-second and additional tiers	267	267
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

- (2) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high-water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(Code 1983, § 9.50, subd. 4)

Sec. 109-159. Residential and commercial PUD density evaluation.

The procedures for determining the "base" density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.

- (1) *Residential PUD "base" density evaluation.* The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analysis herein and the design criteria in this section.
- (2) *Commercial PUD "base" density evaluation.*

PART II LAND DEVELOPMENT ORDINANCES

- a. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
- b. Select the appropriate floor area ratio from the following table:

Average unit floor area (sq. ft.) ¹	Sewered general development lakes; first tier on unsewered general development lakes; urban, agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes; recreational development lakes; transition and forested river segments	Natural environment lakes and remote river segments
200	0.040	0.020	0.010
300	0.048	0.024	0.012
400	0.056	0.028	0.014
500	0.065	0.032	0.016
600	0.072	0.038	0.019
700	0.082	0.042	0.021
800	0.091	0.046	0.023
900	0.099	0.050	0.025
1,000	0.108	0.054	0.027
1,100	0.116	0.058	0.029
1,200	0.125	0.064	0.032
1,300	0.133	0.068	0.034
1,400	0.142	0.072	0.036
1,500	0.150	0.075	0.038

PART II LAND DEVELOPMENT ORDINANCES

¹ For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sizes in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

- c. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- d. Divide the total floor area by tier computed in subsection (2)c of this section, by the average inside living area size determined in subsection (2)a of this section. This yields a base number of dwelling units and sites for each tier.
- e. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in this section.

(3) *Density increase multipliers.*

- a. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in article IV of this chapter are met or exceeded and the design criteria in this section are satisfied. The allowable density increases in subsection (3)b of this section, will only be allowed if structure setbacks from the ordinary high-water level are increased to at least 50 percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.
- b. Allowable dwelling units or dwelling site density increases for residential or commercial planned unit developments.

Density evaluation tiers	Maximum density increases within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(Code 1983, § 9.50, subd. 5)

Sec. 109-160. Maintenance and design criteria.

- (a) *Maintenance and administration requirements.*

PART II LAND DEVELOPMENT ORDINANCES

- (1) Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
 - (2) Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
 - a. Commercial uses prohibited (for residential PUDs);
 - b. Vegetation and topographic alterations other than routine maintenance prohibited;
 - c. Construction of additional buildings or storage of vehicles and other materials prohibited; and
 - d. Uncontrolled beaching of watercraft prohibited.
 - (3) Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:
 - a. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
 - b. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
 - c. Assessments must be adjustable to accommodate changing conditions; and
 - d. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- (b) *Open space requirements.* Planned unit developments must contain open space meeting all of the following criteria:
- (1) At least 50 percent of the total project area must be preserved as open space;
 - (2) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
 - (3) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - (4) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
 - (5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
 - (6) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
 - (7) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
 - (8) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50 percent of the shore impact zone must be preserved in its natural state.
- (c) *Erosion control and stormwater management.* Erosion control and stormwater management plans must be developed and the PUD must:

PART II LAND DEVELOPMENT ORDINANCES

- (1) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
 - (2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUDs 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with article IV of this chapter.
- (d) *Centralization and design of facilities.* Centralization and design of facilities and structures must be done according to the following standard:
- (1) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the state department of health and article IV of this chapter. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
 - (2) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high-water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high-water level must be increased in accordance with this section for development with density increases;
 - (3) Shore recreation facilities, including, but not limited to, swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth of groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of water craft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment may be provided for use by occupants of dwelling units or sites located in other tiers;
 - (4) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, colors, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing or may be required to be provided;
 - (5) Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized; and
 - (6) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in article IV of this chapter and are centralized.

(Code 1983, § 9.50, subd. 6)

Sec. 109-161. Conversions.

Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

PART II LAND DEVELOPMENT ORDINANCES

- (1) Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
- (2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.
- (3) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
 - a. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - b. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
 - c. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
- (4) Existing dwelling unit or dwelling site densities that exceed standards in this section may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

(Code 1983, § 9.50, subd. 7)

Chapters 110—113 RESERVED

Chapter 114 SUBDIVISIONS [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - PLATS AND PLATTING

ARTICLE III. - DESIGN STANDARDS

ARTICLE IV. - REQUIRED IMPROVEMENTS AND STANDARDS

FOOTNOTE(S):

--- (1) ---

State Law reference— Subdivisions, Minn. Stats. § 462.358. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 114-1. Definitions.](#)

[Sec. 114-2. Compliance.](#)

[Sec. 114-3. Purpose.](#)

[Sec. 114-4. Variances.](#)

[Secs. 114-5—114-26. Reserved.](#)

Sec. 114-1. Definitions.

The definitions in section 118-1 apply to this chapter.

Sec. 114-2. Compliance.

Hereafter, all subdivision of lands within the corporate limits of the city shall comply fully with the regulations set forth herein. Plans for commercial or industrial development shall be presented in the same manner as a subdivision.

(Ord. No. 12282005, § 7.1(B), 1-25-2006)

Sec. 114-3. Purpose.

This section is hereby created for the following purposes:

- (1) To maintain consistency of development patterns and subdivision of land.

PART II LAND DEVELOPMENT ORDINANCES

- (2) To provide for the protection of public waters and lands.
- (3) To maintain consistent and accurate land records by establishing standards for surveys and plats.
- (4) To ensure that public improvements are constructed to standards satisfactory to the community and assess those improvements to those benefiting from them.
- (5) To provide for a symbiotic relationship between municipal officials and prospective land subdividers.

(Ord. No. 12282005, § 7.1(A), 1-25-2006)

Sec. 114-4. Variances.

- (a) *Findings.* The city council may approve a variance from the minimum standards of this article (not procedure provisions) when, in its opinion, exceptional and undue hardship may result from strict compliance. In approving any variance, the city council shall prescribe any conditions that it deems necessary to or desirable to the public interest. In making its approval, the city council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be approved when the city council finds that each and every one of the following apply:
 - (1) That there are special circumstances or highly unique conditions affecting the property such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his land.
 - (2) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which the property is situated.
 - (3) That the granting of the variance will not increase the flood hazard or flood damage potential.
 - (4) That the use proposed by the applicant would not result in a stage increase violating the floodplain management law (Minn. Stats. § 103F.101 et seq.) and any applicable requirements imposed by FEMA.
 - (5) That the variance is to correct inequities resulting from an extreme physical hardship such as topography.
 - (6) Hardships relating to economic difficulties shall not be considered for the purpose of granting a variance.
 - (7) That the hardship is not a result of an action by the owner, applicant, or any agent thereof.
 - (8) The variance sought is the least variance required.
- (b) *Procedures.* Request for variance, shall be filed with the city on an official application form. Such application shall be accompanied by a fee as provided for by the city. Whenever an application for a variance has been considered and denied by the city council, a similar application and proposal for the variance affecting the same property shall not be considered again by the city council for at least one year from the date of its denial except as follows:
 - (1) Applications are withdrawn prior to the city council taking action on the matter.
 - (2) If the city council determines that the circumstances surrounding a previous application have changed significantly.
 - (3) If the city council decides to reconsider the matter by a four-fifths vote of the entire city council, whether present, absent, or abstaining.

Secs. 114-5—114-26. Reserved.

ARTICLE II. PLATS AND PLATTING

[Sec. 114-27. Application for approval.](#)

[Sec. 114-28. Preapplication and sketch plan.](#)

[Sec. 114-29. Preliminary plat.](#)

[Sec. 114-30. Final plat.](#)

[Secs. 114-31—114-48. Reserved.](#)

Sec. 114-27. Application for approval.

An application for approval of a proposed subdivision in accordance with the provisions set forth herein must be completed prior to any contract for sale or offer to sell any lots within the proposed subdivision is made, and prior to any building permits issued. The subdivider, or duly authorized agent or representative, shall apply in writing for approval any proposed subdivision in accordance with the procedures set forth within this chapter and under the provisions of section T. of the Mississippi Headwaters Board Management Plan (2002), as revised, and all applications for subdivision shall be accompanied by a unified site plan (USP) as specified under section 101-3 for any subject property is located within the 1,000 shoreline buffer area.

(Ord. No. 12282005, § 7.2(A), 1-25-2006)

Sec. 114-28. Preapplication and sketch plan.

- (a) *Informal meeting with city staff.* All subdividers are encouraged to meet informally with city staff to learn of the requirements and minimum standards set forth herein, and the limitations or restrictions imposed by any other city plans or ordinances.
- (b) *Submittal of sketch plan; contents.* Through the above-mentioned or subsequent informal meetings, a sketch plan shall be presented containing the following data and information:
 - (1) *Existing conditions.*
 - a. The approximate exterior boundary showing the northerly direction drawn to scale of not less than one inch being equal to 100 feet.
 - b. Indication of all floodplains, wetlands, slopes over 12 percent, tree cover and ordinary high water mark.
 - c. Use of adjoining properties including existing street locations, structure locations, electrical, water, and sewer infrastructure locations, and property lines.
 - d. Significant historical sites.
 - (2) *Proposed development.*
 - a. Proposed lots with building setbacks.
 - b. Proposed roadways and walkways.
 - c. Proposed city sewer and water system connections.
 - d. Open space or green space areas.

PART II LAND DEVELOPMENT ORDINANCES

- (c) *Aid and advice of city staff for preliminary plat facilitation.* The subdivider is urged to follow the advice and assistance provided by city staff to provide for a more efficient facilitation of the preliminary plat.

(Ord. No. 12282005, § 7.2(B), 1-25-2006; Ord. No. 0909-C2009, § 2, 1-10-2010)

Sec. 114-29. Preliminary plat.

- (a) A preliminary plat shall be prepared by a registered land surveyor and shall conform to all state statutes and local requirements.
- (b) The land subdivider shall submit ten copies of the preliminary plat to the city clerk at least 20 days prior to the next regularly scheduled city council meeting to be placed on the next regularly scheduled meeting agenda. The subdivider shall pay all required fees to the city at the time of submission of the preliminary plat.
- (c) Prior to the public hearing, the city clerk shall refer copies of the preliminary plat to affected local agencies, appropriate utility companies, county, state, and other public jurisdictions for review and comment. All copies of plats within shoreland areas shall be submitted to the commissioner of the department of natural resources at least ten days prior to the public hearing.
- (d) Provided all of the legal requirements pertaining to the public hearing are met, the public hearing shall take place at the council meeting.
- (e) The subdivider or a duly authorized representative or agent shall be present at the public hearing in which his preliminary plat is considered.
- (f) The city council shall consider the conformity of the proposed subdivision with city plans and regulations and, if necessary require additional technical information. The subdivider shall pay all fees for such technical services.
- (g) The city council shall either approve, conditionally approve, or disapprove of the preliminary plat. Failure of the city council to act upon the preliminary plat shall be deemed approval. If the preliminary plat is disapproved, the city council shall advise the applicant of necessary changes prior to approval. Conditional approval may be granted as deemed appropriate by the city council. Approval of the preliminary plat shall not constitute approval of the subdivision, but approval to proceed in the preparation of the final plat.
- (h) The subdivider shall submit the final plat within one year of the approval of the preliminary plat. Failure to submit the final plat within one year shall nullify and void the approval of the preliminary plat. The subdivider may receive an extension of the said one year time period provided the request is made in writing, and approved by the city council prior to the one year date.
- (i) Should the subdivider amend the preliminary plat as approved, the subdivider shall resubmit the preliminary plat following the original procedures set forth. Unless the city council determines that the changes to the original preliminary plat constitute a new plat, requirements for a public hearing and payment of fees shall be waived.
- (j) A preliminary plat shall contain the following data and information (except as waived by the city council):
 - (1) Evidence of fee ownership of parcel or written concurrence of fee owners showing authority to subdivide the subject parcel.
 - (2) Existing conditions, as follows:
 - a. Boundary line lengths and bearings drawn to exact scale of not less than one inch being equal to 100 feet, taken by a boundary survey by a registered land surveyor with the legal description of the property including north arrow and scale, total acreage, name of fee owner, developer, and surveyor.
 - b. Existing streets, wetlands, structures and property lines located within 300 feet of the proposed parcel.

PART II LAND DEVELOPMENT ORDINANCES

- c. Topography depicting at not more than two-foot intervals or ten-foot intervals taken from USGS mapping information if a field observation is conducted and spot elevations are indicated and any drainageways, 100-year floodplains, wetlands, slopes, and ordinary high water marks are defined.
 - d. Soils as determined by hand borings on a random basis to show elevation to groundwater. At least one boring shall be conducted unless otherwise waived by the city council.
 - e. All significant historical sites.
 - f. Date of boundary survey, topography, and proposed plat.
 - g. Existing zoning of subject area.
- (3) Proposed design, as follows:
- a. Layout of proposed streets, walkways, blocks, lots, and buildings (if known) drawn to scale of not less than one inch being equal to 100 feet.
 - b. Street widths, lot lines, easement widths, and shoreland areas all drawn to nearest five-foot scale.
 - c. Areas of proposed lots.
 - d. Building setbacks from lot lines, ordinary high water mark, and streets.
 - e. Proposed open space or green space areas.
 - f. Proposed areas other than streets or walkways, to be dedicated for public purpose.
 - g. Proposed city sewer and water system connections and extensions.
 - h. Proposed storm drainage system and erosion control measures during construction and post-construction.
 - i. Proposed street standards and profiles.
 - j. Potential locations and elevations of principal and accessory structures.
 - k. Any alterations to vegetation or topography.
 - l. Proposed covenants, if any.
 - m. Name of subdivision and proposed street names.
 - n. Stages of proposed development.
 - o. Proposed zoning of subject area.

(Ord. No. 12282005, § 7.2(C), 1-25-2006; Ord. No. 0909-C2009, § 2, 1-10-2010)

Sec. 114-30. Final plat.

- (a) The final plat shall be prepared by a registered land surveyor and shall comply with all state and local regulations and requirements.
- (b) The subdivider shall submit ten copies of the final plat to the city clerk within 14 days prior to the next regularly scheduled city council meeting. The final plat shall comply with all regulations set forth in subsection (j) of this section.
- (c) The subdivider shall provide a title opinion showing clear title to the subject property upon the request of the city council.
- (d) The city council shall approve, conditionally approve, or disapprove of the final plat.
- (e) The city council shall approve, conditionally approve, or disapprove of the final plat by resolution. The city clerk shall then notify the subdivider, in writing, of the decision made by the city council.

PART II LAND DEVELOPMENT ORDINANCES

- (f) After approval of the final plat by the city council, and signatures of the mayor, clerk, and all other signatures are provided as required by state statutes, the final plat may be filed with the county recorder's office. If the final plat is not so recorded after 90 days after the final plat is approved, such plat shall become null and void. The city council may grant the applicant a 180-day extension on this requirement provided the applicant provides sufficient reason to warrant such action.
- (g) The subdivider shall submit one reproducible Mylar copy of the recorded final plat showing evidence of recording, and make payment of all costs, if any, accrued in verifying final plat materials.
- (h) No changes, revisions, or erasures shall be made in any final plat after final approval of the final plat has been granted by the city council. All changes, revisions, or erasures to the final plat made after final approval of the plat by the city council shall be resubmitted to the city council for approval. Any final plat recorded without complying with this requirement, the said final plat shall be considered null and void and the city council shall institute proceedings to have the plat stricken from the records of the county.
- (i) Final plat requirements are as follows:
 - (1) The scale shall be the same as for the preliminary plat.
 - (2) Identification shall be the same as for the preliminary plat.
 - (3) Property boundaries, the lines and width of all proposed streets and alleys, and any other areas intended for public use.
 - (4) Lines of adjoining streets and alleys with width and names indicated.
 - (5) All lot lines and easements with dimensions indicated.
 - (6) An identification system for all lots and blocks.
 - (7) All data required by state statutes including accurate linear and angular dimensions for all lines, lot areas, angles and curvatures used to describe boundaries, streets, easements, and other features.
 - (8) Any information required by the city council including, but not limited to plans for water supply, sewage disposal, drainage, and flood control as backup data to the final plat.
 - (9) Certification by a registered land surveyor indicating that the land survey was made by a registered land surveyor and that all monuments and markers exist and all dimensions and geodetic details are correct and true.
 - (10) Certification by the owner, or all parties with legal fee ownership, of the adoption of the plat and the dedication of street and other public areas. Such certification shall be notarized.
 - (11) Certification showing all taxes currently due on the property have been paid in full.

(Ord. No. 12282005, § 7.2(D), 1-25-2006; Ord. No. 0909-C2009, § 2, 1-10-2010)

Secs. 114-31—114-48. Reserved.

ARTICLE III. DESIGN STANDARDS

[Sec. 114-49. General standards.](#)

[Sec. 114-50. Street design standards.](#)

[Sec. 114-51. Easements.](#)

[Sec. 114-52. Blocks.](#)

[Sec. 114-53. Lots.](#)

[Secs. 114-54—114-79. Reserved.](#)

Sec. 114-49. General standards.

The design standards within this section shall be considered acceptable minimum requirements in the review of any proposed subdivision by the city council or city staff, except as waived by variance approved by the board of adjustment.

(Ord. No. 12282005, § 7.3(A), 1-25-2006; Ord. No. 0909-C2009, § 2, 1-10-2010)

Sec. 114-50. Street design standards.

- (a) *Generally.* The general design of roadways shall be considered in relation to the proposed uses of the area to be served, to topographic conditions, to reasonable circulation of traffic, and in relation to existing and planned roadways.
- (b) *Unsubdivided land.* In areas adjoining unsubdivided land, the arrangement of streets shall make for proper projection of streets and when the adjoining unsubdivided land is susceptible to future subdivision, roadways shall be carried to the boundaries of the unsubdivided land.
- (c) *Width of new streets.* New streets extending to existing adjoining streets shall project at the same or greater width than the minimum required width.
- (d) *Street widths and grades.* The following street widths and grades shall be observed by the subdivider:

Street Classification ¹	Minimum Width (Row)	Minimum Pavement Width	Minimum Maximum Gradient
Arterials	As determined by the state dept. of transportation	As determined by the state dept. of transportation	As determined by the state dept. of transportation
Collectors—All Types	66 feet or as determined by the county	36 feet ² or as determined by the county	Not to exceed 10% unless otherwise determined by the county
Local	66 feet	24 feet or 36 feet with curb and gutter installed	Not to exceed 10%
Cul-de-sac (radius)	60 feet	24 feet or 36 feet with curb and gutter installed	Not to exceed 10%

¹ Reference for roadway classifications shall be Table 14 of the city comprehensive plan (1998).

² Curb face to curb face.

PART II LAND DEVELOPMENT ORDINANCES

(e) *Local streets and roads.*

- (1) Local streets shall be so aligned that their use by through traffic shall be discouraged.
- (2) Service drives and frontage roads: In the case that a proposed plat is adjacent to a thoroughfare, the city council may require the subdivider to provide local service drives, or frontage roads along the right-of-way of the thoroughfare. The city council may also require the lots within the proposed plat to back along the thoroughfare, which would allow for no access between lots and thoroughfares by pedestrians or vehicles.

(f) *Street jogs.* Street jogs shall be no less than 200 feet from centerline to centerline.

(g) *Street intersections.* Streets shall intersect at right angles, unless otherwise practical, and no intersection shall be at an angle of less than 75 degrees.

(h) *Half streets.* No half streets or connections to partial streets shall be permitted without securing the full required right-of-way.

(i) *Street names.* All proposed streets aligning with existing named streets shall bear the same name as the existing street. No proposed street name shall duplicate any existing street name phonetically, in spelling, etc.

(j) *Private streets and roads.* In no event shall a private street or road be approved for improvement by the city.

(k) *Sidewalks.* In the event the city council deems sidewalks appropriate and necessary, sidewalks of not less than four feet in width shall be provided, and provisions made for disabled persons.

(Ord. No. 12282005, § 7.3(B), 1-25-2006)

Sec. 114-51. Easements.

Easements shall be provided for public utilities, drainage, or as otherwise determined necessary by the city council and shall be of the following minimum widths: ten feet for utilities; 20 feet for storm or sanitary sewers; ten feet for drainageways. Temporary construction easements may be required where installation depths are greater than ten feet. Utility easements shall be kept free of vegetation or structures that could impede future construction, maintenance, or other improvements within easement areas.

(Ord. No. 12282005, § 7.3(C), 1-25-2006; Ord. No. 0909-C2009, § 2, 1-10-2010)

Sec. 114-52. Blocks.

(a) *Length.* Block lengths shall not exceed 1,320 feet and shall be a minimum length of 330 feet unless deemed impractical due to existing property division or topography by the city council.

(b) *Pedestrian walkways.* In the event a block exceeds 600 feet, a pedestrian walkway may be required near the center of the block. Additional walkways providing access to schools, parks, or other areas may be required by the city council at the time of preliminary plat review.

(Ord. No. 12282005, § 7.3(D), 1-25-2006; Ord. No. 0909-C2009, § 2, 1-10-2010)

Sec. 114-53. Lots.

(a) *Lot size and dimensions.* All lot size and dimension requirements shall conform to the provisions of the zoning chapter without variance.

(b) *Layout.* All lot layouts shall be consistent and compatible with the existing layouts of adjoining properties.

PART II LAND DEVELOPMENT ORDINANCES

- (c) *Natural features.* In the proposed subdivision of land, any alteration of natural features, topography, and similar characteristics shall be minimal.
- (d) *Lot remnants.* Any lots, or portions thereof, not in compliance with the minimum requirements set forth in this article shall be added to adjacent lots unless the owner can show plans for conforming future use of such lot remnant.

(Ord. No. 12282005, § 7.3(E), 1-25-2006)

Secs. 114-54—114-79. Reserved.

ARTICLE IV. REQUIRED IMPROVEMENTS AND STANDARDS

[Sec. 114-80. Survey requirements.](#)

[Sec. 114-81. Street improvements.](#)

[Sec. 114-82. Public utilities.](#)

[Sec. 114-83. Sanitary sewer and water distribution improvements.](#)

Sec. 114-80. Survey requirements.

Survey standards shall be the same as those required by state statutes, including the placement of all monuments including block corners, lot corners, and curve points. Such survey and installation shall be the responsibility and at expense of the subdivider or developer. U.S., state, county, or other official benchmarks, monuments, or triangulation points in or adjacent to the proposed subdivision shall be preserved in precise position.

(Ord. No. 12282005, § 7.4(A), 1-25-2006)

Sec. 114-81. Street improvements.

- (a) All streets proposed within the subdivision shall be constructed by the subdivider or developer, or otherwise provided for in a contract between the subdivider or developer with all expenses borne by the subdivider or developer.
- (b) All streets constructed shall comply with the established minimum standards presented in section 114-50
- (c) Storm sewers, culverts, stormwater inlets, and other drainage facilities shall be required where necessary to ensure adequate drainage of stormwater for the subdivision.
- (d) Street signs of the design approved by the city council shall be installed at each street intersection.
- (e) Street lighting shall be installed as required by the city council.

(Ord. No. 12282005, § 7.4(B), 1-25-2006)

Sec. 114-82. Public utilities.

Within any new subdivision, all cable TV, telephone, electric, gas service, or similar utility lines shall be placed underground in accordance with all applicable city ordinances.

(Ord. No. 12282005, § 7.4(C), 1-25-2006)

Sec. 114-83. Sanitary sewer and water distribution improvements.

- (a) Sanitary sewer and water facilities shall be installed in accordance with the specifications approved by the city council upon concurrence with the designated city engineer.
- (b) Where city sewer and water facilities are not yet available for extension into a proposed subdivision, the city council may permit the use of individual water and sewer systems in accordance with all appropriate state and local regulations.

(Ord. No. 12282005, § 7.4(D), 1-25-2006)

Chapters 115—117 RESERVED

Chapter 118 ZONING [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

ARTICLE III. - ZONING DISTRICTS ESTABLISHED; ZONING MAP

ARTICLE IV. - DISTRICT REGULATIONS

ARTICLE V. - PERFORMANCE STANDARDS

ARTICLE VI. - SUPPLEMENTAL REGULATIONS

FOOTNOTE(S):

--- (1) ---

State Law reference— Zoning, Minn. Stats. § 462.357. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 118-1. Definitions.](#)

[Sec. 118-2. Purpose.](#)

[Sec. 118-3. Compliance.](#)

[Sec. 118-4. Nonconforming lots and uses.](#)

[Secs. 118-5—118-24. Reserved.](#)

Sec. 118-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned motor vehicle means as defined in Minn. Stats. § 168B.011, subd. 2.

Accessory use or structure means a land use or structure accessory to the principal use or structure and is incidental and subordinate to the zoning district in which the use or structure is located.

Adult use means any use of property or business such as a bookstore, body painting studio, cabaret, companionship establishment, conversation or rap parlor, health or sports club, hotel or motel, massage parlor, motion picture theater, modeling studio, novelty business, sauna, steam room or bathhouse meeting the following criteria:

PART II LAND DEVELOPMENT ORDINANCES

- (1) The use or business is required to regulate entrance by minors or persons under the age of 18 years due to the actual or simulated sexual nature of the business by state law.
- (2) The use results in the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Agricultural means pertaining to use of land for production of crops, livestock, livestock products in exchange for income including, but not limited to field crops, livestock, livestock products or game farms. The term shall include incidental retail selling by the producer of products raised on the premises, provided the space necessary for parking of vehicles of customers shall be furnished off the public right-of-way.

Agricultural building or structure means any building or structure erected or existing to serve agricultural purposes.

Animal unit means a unit of measure based on the approximate production of wastes from 1,000 pounds of live weight of animals including poultry.

Apartment means existing in either a multiple-family or commercial structure, consisting of a single dwelling unit for occupation by a single-family.

Attorney means the city attorney or his authorized representative.

Automobile court or motel means a combination of two or more detached or semidetached or connected permanent buildings that are used to furnish overnight transient living accommodations and/or oriented toward travelers parking their automobiles.

Basement means any portions of a structure, underground either partially or in whole, but having at least half of its ceiling height below the average grade of the adjoining ground.

Bed and breakfast means a single-family dwelling used in part for rental lodging, providing meals as a part of the rental fee. The owner of the parcel must live on the premises.

Block means a grouping of contiguous lots bound by roadways, boundaries of subdivision lines, property lines and/or bodies of water.

Board of appeals and adjustments means the city council. As provided by Minn. Stats. § 462.357, subd. 6(1), the board of appeals and adjustments shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of the zoning ordinance. Minn. Stats. § 462.357, subd. 6(2) specifies that it is also the responsibility of the board of appeals and adjustments to hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance from which this article is derived.

Buildable area means any site, lot, parcel, or any portions thereof that is not designated a floodplain, natural resources (N-R) zoning district or wetland area, and does not contain slopes in excess of 25 percent slope.

Building means any structure used or intended to be used for storage, shelter or occupancy.

Building height means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height between the eaves and the highest ridge of gable of a pitched or hip, or gambrel roof or ten feet below the peak, whichever is greater.

Building line means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not be extended.

Building permit means a permit authorizing construction or development activity under provisions of this chapter.

PART II LAND DEVELOPMENT ORDINANCES

Building, principal means a building or structure intended to serve the purpose of the principal use of the zoning district in which the building is situated.

Business means any establishment, occupation, employment or enterprise wherein merchandise is manufactured, exhibited, stored or sold, or where services are offered for compensation.

Carport means a vehicle shelter having one or more sides permanently open.

Cemetery means public and private cemeteries as defined in Minn. Stats. ch. 306.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for purposes of religious worship and assembly, owned and controlled by a religious body organized to sustain public worship.

City clerk-treasurer means the person appointed by the city council to manage city affairs.

City council means the governing body duly elected by the people of the city.

Club or fraternal organization means a not-for-profit group or organization catering exclusively to members and their guests.

Commercial use means use of land or buildings for purposes of sale, lease, rental or trade of products, goods or services. For the purposes of this chapter, commercial land uses are categorized as (HC) highway commercial and (TC) town center commercial.

Commissioner means the commissioner of the state department of natural resources.

Common interest community (CIC) means a community defined by Minn. Stats. ch. 515B as a contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for:

- (1) Real estate taxes levied against;
- (2) Insurance premiums payable with respect to;
- (3) Maintenance of; or
- (4) Construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies.

Real estate subject to a master association, regardless of when the master association was formed, shall not collectively constitute a separate common interest community unless so stated in the master declaration recorded against the real estate pursuant to Minn. Stats. § 515B.2-121(f)(1).

Comprehensive plan means the city comprehensive plan and implementation framework (1998) created, adopted, and amended in accordance with Minn. Stats. ch. 462.

Conditional use permit means a permit issued under provisions of this chapter. Conditional use permits may be issued upon recommendation by the planning commission and shall be issued only under the approval of the city council. Criteria for conditional use permits include:

- (1) Conformance with the comprehensive plan;
- (2) The use conforms to existing regulations as provided by this chapter;
- (3) The use is not detrimental to the general health, safety, welfare and moral character of the community; and
- (4) The use is consistent with the general character of the neighborhood in which the proposed use exists.

Condominium means a community defined by Minn. Stats. ch. 515A as real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

PART II LAND DEVELOPMENT ORDINANCES

Deck means a horizontal, unenclosed platform, attached and/or functionally related to the principal use or structure.

District means designated areas of land within the city, which specify uniform regulations for development within that specific area.

Duplex, triplex or quad means structure consisting of two, three or four units respectively; consisting of sleeping, cooking, living and bathroom facilities.

Dwelling means a building, or portion thereof, used exclusively for residence occupancy including one-family (single-family dwelling), two-family (two-family dwelling), and multiple-family units (multiple-family dwelling), but not including mobile homes, hotels, motels, boarding or rooming units.

Dwelling, guest quarters, means any accessory structure, not for sale or lease, with separate bathroom, kitchen and living quarters.

Dwelling, seasonal, means a unit intended for use as a dwelling for a period not to exceed eight months out of the calendar year (12 months).

Dwelling, townhouse, means multiple-family dwelling units sharing a common wall. Ownership is defined by plat or by a condominium plan.

Exterior storage means storage of materials, goods, equipment or similar items not fully enclosed within a structure.

Extractive use means the use of land for removal of materials such as sand, gravel, rock and other nonmetallic materials not regulated under Minn. Stats. §§ 93.44—93.51.

Feedlot means a lot, building, groups of lots, or groups of buildings, or any combination thereof, intended for the housing, feeding, raising or holding of animals.

Fence means any barrier constructed to serve as a divider marker, barrier, or similar function located along or within the boundary of a lot or tract of land.

Filling means the act of depositing earthen material.

Final plat means the final version of a plat, completed in accordance with Minnesota Statutes and the subdivision regulations of the city, considered by the planning commission and approved by the city council, and is to be filed with the county recorder.

Flood fringe means the portion of the floodplain outside of the floodway. Flood fringe is synonymous with "floodway fringe" used in previous flood insurance studies for the city.

Floodplain means the land areas adjoining a watercourse which has been, or hereafter may be covered by a regional flood.

Floodway means the channel of a watercourse and those portions of the adjoining floodplain that are reasonably required to carry and discharge a regional flood.

Forestland conversion means the clear cutting of forestland for a land use other than the reestablishment of a subsequent forestland.

Garage means an accessory portion of principal structure that is used for storage of vehicles, materials and goods, and is not intended to be inhabited. A garage may share a common wall (adjoining garage) with the principal structure or separate from the principal structure (unattached garage).

Grading means changing or altering the existing topography of land.

Green space means public or private property permanently dedicated to park, vegetative buffer, tree coverage, watercourse, sewage disposal or similar uses.

Group care facilities means a facility providing residential services for persons who are handicapped, aged, disabled or undergoing rehabilitation. This includes uses such as homes for the physically handicapped, mentally disabled, chemically dependent, foster children, maternity shelters and halfway houses.

PART II LAND DEVELOPMENT ORDINANCES

Home occupation means incidental and secondary use of property, dwelling unit or accessory structures within a residential zoning district for commercial use pending the use of the property or any structures upon the property does not change the residential character thereof.

Home occupation I means a home occupation which results in less than ten occupation related trips per week with no employees beyond the owner of the property. No advertising on-site or off-site. Use would not generate any additional noise, waste or other nuisances beyond normal residential use.

Home occupation II means a home occupation which results in less than 25 occupation automobile trips per week with no more than two employees in addition to the owner of the property working on-site. The use may include on-site signage and manufacturing or sale of products or storage of equipment on the premises.

Home occupation III means a home occupation which results in less than 60 occupational related automobile trips per week with no more than three employees working on-site. The use may include on-site signage and manufacturing, sale, or storage of products, equipment, etc., on-site.

Hotel means a building, structure or enclosure, or any part thereof, kept, used, advertised, maintained or held out to the public to serve as an enclosure where sleeping accommodations are furnished to the public for periods of generally one week or less.

Impervious surface means the horizontal area of buildings, patios, walkways, driveways, accessory structures or other surfaces impervious to the penetration of stormwater, including gravel drives and parking areas.

Industrial uses means, generally, the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Junk vehicle means as defined by Minn. Stats. § 168B.011, subd. 3.

Junkyard means an area where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, parked, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber products, bottles, and used building materials. Storage of material in conjunction with construction or manufacturing process shall not be included. Such use shall not include garbage. Outdoor storage of three or more automobiles without current licenses shall constitute a junkyard.

Kennel means any structure or premises in which four or more pets are kept for sale, breeding, boarding, profit or similar uses.

Landscaping means planting of trees, grass, shrubs, decorative timbers and materials such as rocks and water displays to add aesthetic beauty to an area of land.

Lot means a parcel of land designated by plat, registered land survey, auditor's plat or other accepted means and separate from other parcels or portions thereof by said description for the purpose of sale, lease, or other separation. The term "lot" shall include the terms "piece" and "parcel".

Lot, corner, means a lot situated at the junction of, and abutting on two or more roadways.

Lot coverage means the part or percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

Lot line means the property line bounding a lot except that where any portion of a lot extends into the public right-of-way shall be the lot line for the purposes of this chapter.

Lot of record means a lot that is a part of a subdivision recorded in the office of the register of deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot, preexisting, means a lot which is one unit of a subdivision plat heretofore duly approved and filed or one unit of an auditor's subdivision, or registered land survey, or a lot created by metes and bounds that has been recorded in the office of the county recorder prior to the effective date of the ordinance from which this chapter is derived.

PART II LAND DEVELOPMENT ORDINANCES

Lot, substandard, means a lot or parcel of land for which a deed has been recorded in the office of the county recorder upon or prior to the effective date of the ordinance from which this chapter is derived, which does not meet the minimum lot area, structure setbacks or other dimensional standards of this chapter.

Lot width means the shortest point between lot lines measured at the midpoint of the building line.

Manufactured home means as provided in Minn. Stats. § 327B.01.

Manufactured home park means as provided in Minn. Stats. § 327.14.

Mississippi Headwaters Board (MHB) was formed in 1980 by the state legislature as a joint powers board of Clearwater, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison Counties under Minn. Stats. §§ 103F.361—103F.377, to enhance and protect the natural, cultural, historic, scientific and recreational values of the headwaters region.

Motel means a group of attached or detached buildings or structures with separate entrances directly to the outside of the building or structure, with parking for each unit, intended for accommodation of transient guests.

Multiple-family means two or more unrelated families living within the same structure or dwelling unit.

Natural drainageway means all areas of land which, by the nature of their contour, collect, store and channel surface or runoff waters.

Nonconforming use means any building, structure or land lawfully occupied by a use established at the time of passage of this chapter or amendments thereto, which does not conform, after the passage of this chapter or amendments thereto.

Nuisance means anything that interferes with the use or enjoyment of property, endangers personal health or public safety, or offensive to the senses including, but not limited to, odor, noise, heat, glare, traffic generation or visual impact.

Nursery means any business growing or selling trees, flowers, decorative plants, shrubs and similar vegetation.

Nursing home means any institution or facility required to be licensed by the state under Minn. Stats. §§ 144.50—144.56.

Off-street parking means a designated space or area of land with impervious surface or all-weather surface used for the parking of vehicles not within a public street or right-of-way.

Official zoning map means the official zoning map of the city zoning ordinance as specified by this chapter.

Ordinary high water mark (OHW) means the mark delineating the highest water level which has been maintained for sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly the point where natural vegetation changes from predominately aquatic to terrestrial.

Parking space means an area of ten feet by 20 feet, surfaced and maintained to accommodate storage of one vehicle.

Permitted use means a land use conforming to the character of a zoning district, which is permitted by this chapter.

Practical difficulties, when used in connection with the granting of variances, means that:

- (1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- (3) The variance, if granted, will not alter the essential character of the locality.

PART II LAND DEVELOPMENT ORDINANCES

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Preliminary plat means a plan prepared in accordance with the subdivision ordinance depicting the proposed subdivision of property by final plat or final floor plan.

Principal structure or use means the single primary structure or use on a lot, as distinguished from accessory uses or structure.

Public waters means any body of water defined by Minn. Stats. § 103G.005 subd. 15, except that the term does not include a pond, lake or flowage of less than ten acres in size or a body of water created by a private user where there was no previous shoreline may be defined as a public water at the discretion of the city.

Recorder means the County Recorder of Cass County, Minnesota.

Recreational vehicle (RV) means a vehicle for recreational use that can be driven, towed or hauled. May be designed to be temporary living space for camping or travel use. RV's shall include travel trailers, camper trailers, truck campers, self-propelled motor homes and similar vehicles.

Restaurant means a business with the principal purpose being the sale of food and beverages to consumers on the premises or for consumer pick up.

Right-of-way (ROW) means a parcel of property dedicated to the public, connecting to other public ROW's, which affords primary access by pedestrians and vehicles abutting properties.

Screening means fencing, earth barrier or vegetation that visually separates one object from another.

Semipublic use means the use of land or buildings by a private not-for-profit organization to provide a public service that is ordinarily open to persons outside the regular constituency of the organization.

Setback means the minimum horizontal distance between a structure or sanitary facility and the normal high water mark or between a structure or sanitary facility and a road, highway or property line.

Shall and *may* are mandatory and permissive, respectively.

Shoreland means land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

Sign means a name, identification, description, display, illustration or device which is affixed to, or represented directly or indirectly, upon a building, structure, or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

Sketch plan means a plan drawn to scale used for planning and discussion purposes only.

Street means a public right-of-way that provides primary vehicular access to abutting property and shall include avenue, road or highway. Street classifications are defined in the city community-based comprehensive plan unless defined by amendment, roadway classification plan, or other road specific plan.

Structure means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes and other similar items.

Subdivider means the owner, agent, person, corporation, partnership or legal entity proposing to subdivide property under his control.

Subdivision means improved or unimproved land or lands which are divided for the purpose of ready sale or lease, or divided successively within a five-year period for the purpose of sale or lease, into three or more lots or parcels of less than five acres each, contiguous in area and which are under common ownership or control.

PART II LAND DEVELOPMENT ORDINANCES

Subdivision by condominium plan means the subdivision of a building or real estate into two or more spaces or parcels of any size under the authority of, and specified by, Minn. Stats. ch. 114A, with documents prepared by a registered land surveyor and duly approved by the planning commission and city council.

Subdivision by plat means the subdivision of land into two or more parcels of any size by the authority of Minn. Stats. ch. 505, with documents prepared by a registered land surveyor and duly approved by the planning commission and city council.

Townhouse dwelling means a type of multifamily housing consisting of dwelling units attached by common party walls. Ownership is defined by plat or condominium plan.

Variance means the permitted deviation of this chapter when a determination by the city council finds that the strict interpretation of this chapter would create practical difficulties. Variances may have attached conditions, and will still keep within the spirit and intent of this chapter and will not create a land use not permitted within a zone.

Warehousing (warehouse) means a structure or building by which the principle use is storage of materials or equipment.

Wetland means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- (1) Have a predominance of hydric soils;
- (2) Are inundated or saturated by surface water or groundwater at frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) Under normal circumstances, support a prevalence of such vegetation.

Yard means a required open space unoccupied and unobstructed by any structure or portion thereof, from 36 inches above the ground level of a graded lot upwards, provided, however, that fences, signs, utility poles, lawn lights, antenna and related minor equipment may be permitted in any yard provided that they do not create a traffic safety hazard and are consistent with this chapter.

Yard, front, means a portion of a yard extending between side lot lines across the front of a lot at the side abutting a street or a body of water.

Yard, rear, means a portion of a yard extending across the rear of a lot between the inner side lot lines.

Yard, side, means a portion of a yard extending from the rear line of the required front yard to the rear lot line.

Zoning district means an area of the city defined on the official zoning map specifying uniform zoning provisions.

Zoning district overlay means a zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district regulations.

Zoning permit means a permit issued by the city through the zoning administrator to allow the construction of a structure or to allow a land use when the provisions of this chapter have been met, when approval of any conditional use permits or variances have been granted and when applicable fees paid in full. A zoning permit may have attached administrative conditions specific to the subject site when called for by this chapter.

(Ord. No. 12282005, § 2.1, 1-25-2006; Ord. No. 0909-A2009, § 1, 9-9-2009; Ord. No. 0909-B2009, § 1, 9-9-2009; Ord. No. 01-2011-9, § 1, 9-14-2011)

Sec. 118-2. Purpose.

The purposes of this chapter are as follows:

- (1) To promote and protect the public health, safety, comfort and general welfare of the people of the city.
- (2) To implement and effectuate the city community-based comprehensive plan.
- (3) To provide for quality natural resources for the enjoyment of the community and for future generations to come.
- (4) To provide for a quality living environment for all property owners and residents by regulating the use of lands, placement and characteristics of structures in relation to surrounding properties.
- (5) To provide for the administration of the provisions of this chapter.

(Ord. No. 12282005, § 1.2, 1-25-2006)

Sec. 118-3. Compliance.

No structure located in the city shall be erected or altered which does not apply with the regulations of this chapter for the zoning use district wherein located, nor shall any structure or premises be used for a purpose other than a use permitted by this chapter in the district wherein located.

(Ord. No. 12282005, § 1.3, 1-25-2006)

Sec. 118-4. Nonconforming lots and uses.

- (a) The lawful use of a building or structure existing at the time of the adoption of the ordinance from which this chapter is derived may be continued, although such use does not conform to the district provisions herein.
- (b) A nonconforming use may be extended throughout the building or structure, provided no structural alterations or changes are made therein, except those required by law or ordinance or such as may be required for safety, or such as may be necessary to secure or ensure the continued advantageous use of the building during its natural life.
- (c) Any nonconforming building or structure damaged more than 50 percent of its current appraised value, exclusive of foundations at the time of damage by fire, collapse, explosion or acts of God or public enemy, shall not be restored or reconstructed and used as before such happening unless a building permit has been applied for within 180 days of when the property was damaged, but, if less than 50 percent damaged above the foundation, it may be restored, reconstructed or used as before provided that it is done within 12 months of such happening and that it be built of like or similar materials, or the architectural design and building materials are approved by the planning commission.
- (d) Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use of a less restricted district.
- (e) In the event that a nonconforming use of any building or building and land is discontinued for a period of one year, the use of the same shall conform thereafter to the uses permitted within the district in which the subject property is located.
- (f) Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.

PART II LAND DEVELOPMENT ORDINANCES

- (g) Any proposed structure which will under this chapter, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of the ordinance from which this chapter is derived, may be completed in accordance with the approved plans, provided construction is started within 60 days of the effective date of the ordinance from which this chapter is derived, is not abandoned for a period of more than 120 days and continues to completion within two years. Such structure and use shall thereafter be a legally nonconforming structure and use.

(Ord. No. 12282005, § 5.10, 1-25-2006)

State law reference— Nonconformities, Minn. Stats. § 462.357, subds. 1.c, 1.e.

Secs. 118-5—118-24. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

DIVISION 2. - AMENDMENTS

DIVISION 1. GENERALLY

[Sec. 118-25. Zoning administrator.](#)

[Sec. 118-26. Board of appeals and adjustments.](#)

[Sec. 118-27. Variances.](#)

[Sec. 118-28. Conditional use permits.](#)

[Sec. 118-29. Building permits.](#)

[Sec. 118-30. Appeals.](#)

[Secs. 118-31—118-48. Reserved.](#)

Sec. 118-25. Zoning administrator.

- (a) *Appointment.* This chapter shall be administered and enforced by a zoning administrator appointed by the city council.
- (b) *Powers and duties.* Duties of the zoning administrator include the following:
- (1) Determine if applications comply with the terms of this chapter.
 - (2) Conduct inspections of building and land use to determine compliance with this chapter.
 - (3) Maintain permanent records of this chapter including, but not limited to, maps, amendments, conditional uses, variances, appeals and applications.
 - (4) Receive, file and forward all applications for appeals, variances, conditional use permits and amendments to designated official bodies.
 - (5) Institute actions or proceedings. The zoning administrator shall notify, in writing, any persons in violation of this chapter, indicating the nature of the violation, action necessary to correct the violation or proceedings against a violator.
 - (6) To communicate with the state department of natural resources as required by this chapter.

(Ord. No. 12282005, § 8.1, 1-25-2006; Ord. No. 0909-B2009, § 2, 9-9-2009)

Sec. 118-26. Board of appeals and adjustments.

- (a) *Composition and organization.* The city council shall serve as the board of appeals and adjustments to perform duties under subsection (b) of this section.
- (b) *Duties.*
 - (1) *Appeals.* The board of appeals and adjustments may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made. The decision of the board of appeals and adjustments is final subject to appeal to the district court.
 - (2) *Variances and conditional use permits.* The board of appeals and adjustments shall approve, conditionally approve or deny all requests for a variance or a conditional use permit under the provisions of this chapter.

(Ord. No. 12282005, § 8.3, 1-25-2006; Ord. No. 0909-B2009, § 3, 9-9-2009)

State law reference— Board of appeals and adjustments, Minn. Stats. §§ 462.354, subd. 2, 462.367, subd. 6.

Sec. 118-27. Variances.

Where the city council finds that practical difficulties may result from strict compliance with this chapter, variances may be granted, provided that such variances will not have the effect of nullifying the intent and purpose of this chapter and provided that the terms of the variance are consistent with the comprehensive plan.

- (1) *Application.*
 - a. Application shall be made for issuance of a variance to the city clerk at least 30 days prior to the scheduled public hearing date on the application form approved for such purposes by the city council. A unified site plan (USP) as specified under section 101-3 shall accompany all applications for variance if the subject property is located within the 1,000 shoreline buffer area.
 - b. All applications for variance shall include a certificate of survey unless waived by the city council, and a detailed proposal with accurate legal description. The application shall not be considered complete until all applicable fees are paid and the application is signed by the fee or contract owner of the property. No application shall be considered by the city to be complete until all past due fees or charges are paid in full by the applicant.
 - c. All property owners of record within 350 feet shall be notified of the public hearing and public notice of the hearing placed in the official newspaper of the city not less than ten days before the public hearing date. In the event a variance is requested within a shoreland/floodplain area the commissioner of natural resources shall be given same notice of the scheduled public hearing not less than ten days before the public hearing date.
- (2) *Review.*
 - a. Variances shall be issued to the property and are not transferable beyond the property in which the variance is issued.
 - b. No application for a variance which has been previously denied shall be resubmitted to the city for at least six months from the date of denial.
 - c. Violation of any condition set forth in the granting of a variance shall constitute a violation of this chapter and thereby terminates the variance.
 - d. Failure by a landowner to act upon a variance within one year of the issuance shall void the variance unless extended by the city council.

PART II LAND DEVELOPMENT ORDINANCES

(Ord. No. 12282005, § 8.5, 1-25-2006; Ord. No. 0909-B2009, § 4, 9-9-2009; Ord. No. 01-2011-9, § 1, 9-14-2011)

Sec. 118-28. Conditional use permits.

(a) Application.

- (1) A complete application for a conditional use permit shall be submitted at least 30 days prior to the scheduled public hearing date on the application form approved for such purposes by the city council. No application shall be deemed complete until all past due fees or charges owned by the property owner are paid in full by the applicant.
- (2) All applications for a conditional use permit shall include a certificate of survey unless waived by the zoning administrator and a detailed proposal with an accurate legal description. The application shall not be considered complete until all applicable fees are paid and the application is signed by the fee or contract owner of the property.
- (3) All property owners of record within 350 feet shall be notified of the public hearing and public notice of the hearing placed in the official newspaper of the city not less than ten days before the public hearing date. In the event a conditional use permit is requested within a shoreland or floodplain area, the commissioner of natural resources shall be given same notice of the scheduled public hearing not less than ten days before the public hearing date.

(b) Review.

- (1) The following shall be considered in reviewing applications for conditional use permits:
 - a. The conditional use is consistent with the uses prescribed within the zoning districts in this chapter.
 - b. The conditional use, including any conditions, conforms to the comprehensive plan.
 - c. The use is compatible within the general vicinity of the property.
- (2) Consideration should also be given to the following:
 - a. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes permitted, nor will it substantially diminish or impair property values within the immediate vicinity.
 - b. The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 - c. The conditional use will not impede or congest traffic along adjacent roadways, and provide for sufficient off-street parking and loading space to serve the proposed use.
 - d. Adequate measures have been taken to mitigate offensive odors, fumes, dust, noise, vibration, lighting, and other potential nuisances to ensure compliance with section 18-4
- (3) The board of appeals and adjustments may impose, in addition to the standards and requirements of this chapter, conditions that it considers necessary to protect the best interest of the general vicinity of which the conditional use is proposed and the entire city. These conditions may include, but are not limited to the following:
 - a. Increasing the required lot size or yard dimension.
 - b. Limiting the height, size or location of buildings.
 - c. Controlling the location and number of vehicle access points, increasing street width, or increasing or decreasing the number of off-street parking spaces.
 - d. Limiting the number, location, size or lighting of signs.

PART II LAND DEVELOPMENT ORDINANCES

- e. Requiring landscaping, open space, screening or other facilities to protect adjacent properties or properties within the general vicinity of the proposed conditional use.

(c) *General requirements and restrictions.*

- (1) A violation of any condition set forth in a conditional use permit shall be a violation of this chapter and thereby terminates the conditional use permit.
- (2) Failure by a landowner to act upon a conditional use permit within one year of the issuance shall void the conditional use permit unless extended by the board of appeals and adjustments or the city council.

(Ord. No. 12282005, § 8.6, 1-25-2006; Ord. No. 0909-B2009, § 5, 9-9-2009)

Sec. 118-29. Building permits.

It shall be unlawful to proceed with construction, alteration, repair, remodeling, enlargement, demolition, removal or replacement prior to obtaining a building permit.

(1) *Application and general requirements.*

- a. Where a proposed use requires action by the board of appeals and adjustments or the city council, or posting of a financial security, said action shall occur, and the conditional use permit, variance, final plat plan, or zoning district change shall be approved, or security posted, prior to the issuance of a building permit.
- b. Requests for a building permit shall be made to the zoning administrator on the application form approved for such purposes by the city council.
- c. Each application shall contain a site plan drawn to scale showing the dimensions of the lot. The size and location of buildings and accessory structures to be erected or moved onto the lot shall be indicated on the site plan. Emergency 911 addressing numbers shall also be indicated on the site plan.
- d. Failure of the applicant to act upon the building permit within one year of the date of issue shall cause the building to become void unless otherwise determined by the zoning administrator.
- e. No building permit shall be issued to any applicant having past due fees or charges to the city until the account is paid in full.
- f. Violation of a building permit or any section of this chapter shall cause a building permit to become void.
- g. All building permits, including any conditional use permits or variances, shall be posted upon the site of the property for which the permit was issued, so as to be visible from the nearest public roadway.

(Ord. No. 12282005, § 8.8, 1-25-2006; Ord. No. 0909-B2009, § 6, 9-9-2009)

Sec. 118-30. Appeals.

Editor's note—

Ord. No. 0909-B2009, § 7, adopted Sept. 9, 2009, repealed § 118-30, which pertained to appeals and derived from Ord. No. 12282005, § 8.10, adopted Jan. 25, 2006.

Secs. 118-31—118-48. Reserved.

DIVISION 2. AMENDMENTS ^[2]

[Sec. 118-49. Amendments and initiation.](#)

[Sec. 118-50. Procedure.](#)

[Secs. 118-51—118-73. Reserved.](#)

Sec. 118-49. Amendments and initiation.

The regulations, restrictions and boundaries set forth in this chapter may be amended, supplemented or repealed in accordance with the provisions of this section. Amendments to change the boundary of any zoning district shall require a four-fifths affirmative vote by the city council. All other amendments shall require a majority vote of the city council.

(1) *Types of amendments.*

- a. A change in zoning district boundary or official zoning map.
- b. A change in zoning district regulation.
- c. A change in any other provision of this title.
- d. A change in the comprehensive plan.

(2) *Initiation of proceedings.* Proceedings for amending this chapter shall be initiated by at least one of the following methods:

- a. By petition by a property owner to rezone their property.
- b. By action of the city council.

(Ord. No. 12282005, § 9.1, 1-25-2006; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-50. Procedure.

- (a) *Application by property owner.* An application for amendment stating the nature of the amendment shall be submitted to the zoning administrator. The application may include maps, surveys, general development plans or any other information pertaining to the application for amendment.
- (b) *Reconsideration of amendments.* No amendment denied by the city council shall be considered for a period of one year after the date of denial unless the city council determines new evidence or a change of circumstances warrant such action.

(Ord. No. 12282005, § 9.2, 1-25-2006; Ord. No. 0909-B2009, § 8, 9-9-2009)

Secs. 118-51—118-73. Reserved.

FOOTNOTE(S):

--- (2) ---

State Law reference— Amendments, Minn. Stats. § 462.357, subds. 2, 3. [\(Back\)](#)

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP

[Sec. 118-74. Establishment of districts and official zoning district map.](#)

[Sec. 118-75. Districts for annexed and unzoned areas.](#)

[Sec. 118-76. District boundaries.](#)

[Secs. 118-77—118-95. Reserved.](#)

Sec. 118-74. Establishment of districts and official zoning district map.

Certain districts are hereby created which shall be shown upon the official zoning district map, adopted by the city council, as amended and revised. Said map and all notations, references and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth by said map were all duly described herein.

Notation	Description
LDR	Low-density residential district
MDR	Medium-density residential district
HDR	High-density residential district
HC	Highway commercial district
TC	Town center commercial district
SSI	Small scale industrial district
LSI	Large scale industrial district
SM	Shoreland management overlay district
PU	Public use
OS	Open space

PART II LAND DEVELOPMENT ORDINANCES

(Ord. No. 12282005, § 3.4, 1-25-2006)

Sec. 118-75. Districts for annexed and unzoned areas.

- (a) *Annexed areas.* Areas hereafter annexed to the city shall be designated to one of the zoning districts specified under this article, and remain within the district until placed wholly or partly in another district by amendment as provided for herein.
- (b) *Unzoned areas.* Areas not included in any district shall be considered reserved for public use and purposes to the extent necessary.

(Ord. No. 12282005, § 3.1, 1-25-2006)

Sec. 118-76. District boundaries.

- (a) Except as otherwise set forth under the provisions of this article, where a district is bounded by a street, highway, alley, river, stream or city limit, the centerline of such feature shall be the boundary. Boundaries following railroad lines shall be construed to be located midway between the main tracks.
- (b) Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (c) Where the actual street or property layout is at variance with that shown on the official zoning map, or in other circumstances not covered by the provisions of this article, that planning commission shall interpret the district boundaries.

(Ord. No. 12282005, § 3.2, 1-25-2006)

Secs. 118-77—118-95. Reserved.

ARTICLE IV. DISTRICT REGULATIONS

[Sec. 118-96. District regulations.](#)

[Sec. 118-97. Land uses.](#)

[Sec. 118-98. Low-density residential district.](#)

[Sec. 118-99. Medium-density residential district.](#)

[Sec. 118-100. High-density residential district.](#)

[Sec. 118-101. Town center commercial district.](#)

[Sec. 118-102. Highway commercial district.](#)

[Sec. 118-103. Small scale industrial district.](#)

[Sec. 118-104. Large scale industrial district.](#)

[Sec. 118-105. Shoreland management overlay district.](#)

[Sec. 118-106. Open space district.](#)

[Secs. 118-107—118-125. Reserved.](#)

PART II LAND DEVELOPMENT ORDINANCES

Sec. 118-96. District regulations.

- (a) The regulation of this article within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly except as hereinafter provided.
- (b) No building, structure or land shall hereafter be used or occupied, and no building structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- (c) No building or other structure shall hereafter be erected or altered: to exceed the height or bulk, to accommodate or house a greater number of families, to occupy a greater percentage of lot area; to have narrower or smaller rear yard, front yard, side yard, or other open spaces, than herein required; or in any other manner contrary to the provision of this article.
- (d) No part of a yard, or other open space, or off-street parking required about or in connection with any building for the purpose of complying with this article, shall be included as part of a yard, open space, or off-street parking or land space similarly required for any other building.
- (e) No yard or lot existing at the time of passage of the ordinance from which this article is derived shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the ordinance from which this article is derived shall meet at least the minimum requirement established by this article.

(Ord. No. 12282005, § 3.3, 1-25-2006)

Sec. 118-97. Land uses.

This chart is intended to serve as general guidance of the compatibility of land uses with the zoning districts provided under this chapter. The city council shall determine the land uses permitted within the zoning districts provided by this article.

(1) *Terms.*

- a. "CP" shall mean the use is permitted upon receiving a conditional use permit under the terms presented within this chapter.
- b. "P" shall mean the use is permitted.
- c. If neither "CP" nor "P" are presented, the use shall be considered not permitted unless otherwise determined by the city council.

(2) *Table.*

Land Uses	Permitted by District									
General	LDR	MDR	HDR	TC	HC	SSI	LSI	OS	PU	
Commercial greenhouses and nurseries				P	P	CP	CP	CP		
Harvesting of wild crops, hunting, fishing and trapping, fish, wildlife, and recreation								P		
Dog kennels and boarding								CP		

PART II LAND DEVELOPMENT ORDINANCES

Public parks and playgrounds	P	P	P	P	CP	CP	CP	P	
Rural agricultural purposes and accessory farm residences								CP	
Sale of agricultural products			CP	P	P	P	P		
Housing Units	LDR	MDR	HDR	TC	HC	SSI	LSI	OS	PU
Manufactured housing not permanently fixed to a foundation			CP						
Manufactured housing permanently fixed to a foundation (minimum size requirements apply)	P	P	P						
Residential apartment in single-family dwelling		P	CP						
Two-family dwelling	P	P	CP						
Multiple-family dwelling (up to four-family dwelling)		P	CP						
Home occupation I	P	CP	CP						
Home occupation II	CP	CP	CP						
Home occupation III	CP	CP	CP						
Multiple-family dwelling (up to twenty-family dwelling)		P	CP	CP	CP				
Retail Sales and Service Businesses	LDR	MDR	HDR	TC	HC	SSI	LSI	OS	PU
Auto sales, rental				CP	P	P	P		
Bakery goods, sales, and baking of goods for retail sale off premises				P	P				
Barbershop/beauty shop	CP	CP	CP	P	P				
Boat marine sales and repair					P	P	P		

PART II LAND DEVELOPMENT ORDINANCES

Book, office supply, and stationary store				P	P				
Candy, ice cream, popcorn, frozen deserts and soft drink shops				P	P				
Churches	P	P	P	CP	CP				P
Delicatessen, and/or convenience store/limited service station				P	P				
Department store				P	P				
Drug store				P	P				
Dry cleaning and laundry pickup stations including pressing/repair				P	P				
Essential service structures	P	P	P	P	P	P	P	P	P
Florist, gift, or novelty store				P	P				
Gas stations/small service stations				P	P				
Golf courses, country clubs, tennis clubs, public swimming pools			CP	CP	CP	CP	CP		
Grocery, fruit or vegetable store				P	P				
Hardware, building supply				P	P	P	P		
Hobby store				P	P	P	P		
Laundromat (self-service)				P	P	P	P		
Liquor store				P					
Meat market not including a processing locker				CP	CP	P	P		
Motels/hotels				CP	P				
Museums and art galleries	CP	CP	CP	P	P				

PART II LAND DEVELOPMENT ORDINANCES

Music store				P	P				
Newsstand				P	P				
Nonprofit clubs and lodges	CP	CP	CP	P	P				
Photographic studio	CP	CP	CP	P	P				
Culture or dance studio	CP	CP	CP	P	P				
Record shop				P	P				
Restaurant, cafe, tearoom				P	P				
Shoe sales and repair				P	P				
Small appliance repair shop				P	P				
Sporting goods stores				P	P				
Studios, art/photo/music				P	P				
Theatres				CP	CP				
Video stores				P	P				
Wearing apparel stores				P	P				
Office, Service	LDR	MDR	HDR	TC	HC	SSI	LSI	OS	PU
Accounting, auditing, bookkeeping	CP	CP	CP						
Advertising offices				P	P				
Banks, financial institutions				P	P				
Business and management consultant offices	CP	CP	CP	P	P				
Business associations				P	P	P	P		

PART II LAND DEVELOPMENT ORDINANCES

Business office	CP	CP	CP	P	P				
Chiropractic offices	CP	CP	CP	P	P				
Civic/social and fraternal association offices	CP	CP	CP	P	P				
Human care clinics				P	P				
Consumer and mercantile credit reporting				P	P				
Contractors offices				P	P				
Daycare centers	CP	CP	CP	P	CP				
Detective and protective service agencies	CP	CP	CP	P					
Educational and scientific research offices				CP	P	P	P		
Employment agency offices				P	P				
Engineering and architectural offices				P	P				
Funeral home	CP			CP	P				P
Government/municipal offices	CP	CP	CP	P	P	P	P		P
Hospitals				CP	P				P
Insurance offices	CP			P	P				
Investment offices	CP			P	P				
Labor union offices				P	P	P	P		
Laboratories				CP	P	CP	P		
Legal offices	CP			P	P				
Loan institutions				P	P				

PART II LAND DEVELOPMENT ORDINANCES

Medical and dental clinic or offices				P	P				
Medical/dental with accessory research and testing				CP	P	CP	P		
Assisted living facility	CP	P	P						
Office services				P	P				
Offices of a general nature (500 or fewer employees)				CP	P	CP	P		
Osteopathic/optometry offices	CP			P	P				
Post office				P	P				
Professional offices (less than 50 employees)				V	P				
Professional offices (less than 1 employee)	CP			P	P	P	P		
Professional membership organizations				P	P	P	P		
Real estate offices	CP	CP	CP	P	P				P
Schools	CP	CP	CP						
Industrial-related	LDR	MDR	HDR	TC	HC	SSI	LSI	OS	PU
Automobile painting, upholstering, major repair				CP	P	CP	P		
Bus terminals				P	P	P	P		
Contractor's yards					CP	CP	P		
Fabrication					CP	CP	P		
Ice, cold storage plants, bottling works						CP	P		
Machine shops					CP	P	P		
Manufacturing					CP	P	P		

PART II LAND DEVELOPMENT ORDINANCES

Paint mixing					CP	P	P		
Paper products including products from previously processed paper						CP	P		
Radio and television studios				CP	P		P		
Scrap yards, junkyards						CP	P		
Warehouse and wholesaling				CP	P	CP			

(Ord. No. 12282005, § 4.10, 1-25-2006; Ord. No. 0909-A2009, § 2, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-98. Low-density residential district.

- (a) *Purpose.* To establish and maintain single-family land uses within the city.
- (b) *Permitted uses.*
 - (1) All uses specified by section 118-97 are permitted within the (LDR) low-density residential district.
 - (2) All uses defined as home occupation I.
- (c) *Conditional uses.*
 - (1) Conditional uses as specified by section 118-97
 - (2) Uses defined as home occupation II or home occupation III.
 - (3) Other residential uses determined by the city council to be of the same general character as the principal uses previously listed and found not to be detrimental to the general public health, safety, moral and community character.
- (d) *Accessory uses.* Uses incidental and accessory to the principal uses are allowed.
- (e) *Lot requirements.*

Lot area (minimum)	10,000 square feet; or 3,500 square feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived.
Lot width (minimum)	75 feet; or 25 feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived.
Lot coverage (maximum)	30%

PART II LAND DEVELOPMENT ORDINANCES

Side yard, setback (minimum)	10 feet (interior lot)
	30 feet (corner lot)
Rear yard, setback (minimum)	None
Front yard, setback (minimum)	30 feet from ROW (local)
	75 feet from ROW (state, county, federal roadways)
Building height (maximum)	30 feet

(Ord. No. 12282005, § 4.1, 1-25-2006; Ord. No. 0909-A2009, § 3, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-99. Medium-density residential district.

- (a) *Purpose.* To establish and maintain land use of a somewhat densely populated, multiple-family character.
- (b) *Permitted uses.* All uses specified by section 118-97
- (c) *Conditional uses.*
 - (1) Conditional uses as specified by section 118-97
 - (2) Uses defined as home occupation I, II or III
 - (3) Other residential uses determined by the city council to be of the same general character as the principal uses previously listed and found not to be detrimental to the general public health, safety, moral and community character.
- (d) *Accessory uses.* Uses incidental and accessory to the principal uses are allowed.
- (e) *Lot requirements.*

Lot area (minimum)	10,000 square feet; or 3,500 square feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived.
Lot width (minimum)	75 feet; or 25 feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived.

PART II LAND DEVELOPMENT ORDINANCES

Lot coverage (maximum)	30%
Side yard, setback (minimum)	10 feet
Rear yard, setback (minimum)	50 feet
Front yard, setback (minimum)	30 feet from ROW (local)
	75 feet from ROW (state, county, federal roadways)
Building height (maximum)	30 feet

(Ord. No. 12282005, § 4.2, 1-25-2006; Ord. No. 0909-A2009, § 4, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-100. High-density residential district.

- (a) *Purpose.* To establish and maintain land use of a higher density multiple-family residential character.
- (b) *Permitted uses.* All uses specified by section 118-97
- (c) *Conditional uses.*
 - (1) Conditional uses as specified by section 118-97
 - (2) Uses defined as home occupation I, II or III.
 - (3) Other residential uses determined by the city council to be of the same general character as the principal uses previously listed and found not to be detrimental to the general public health, safety, moral and community character.
- (d) *Accessory uses.* Uses incidental and accessory to the principal uses are allowed.
- (e) *Lot requirements.*

Lot area (minimum)	6,000 square feet; or 3,500 square feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived
Lot width (minimum)	40 feet; or 25 feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived

PART II LAND DEVELOPMENT ORDINANCES

Lot coverage (maximum)	50%
Side yard, setback (minimum)	5 feet (interior lot)
	10 feet (corner lot)
Rear yard, setback (minimum)	25 feet
Front yard, setback (minimum)	25 feet from ROW (local)
	75 feet from ROW (state, county, federal roadways)
Building height (maximum)	30 feet

(Ord. No. 12282005, § 4.3, 1-25-2006; Ord. No. 0909-A2009, § 5, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-101. Town center commercial district.

- (a) *Purpose.* To establish and maintain a district to provide for downtown businesses to meet the shopping needs of people within, and travelers to the community. In addition, to provide for a commercial district that will provide for the reduced visual impact, traffic congestion and noise impacts on the residential population of the city.
- (b) *Permitted uses.* All uses specified by section 118-97
- (c) *Conditional uses.*
 - (1) Conditional uses as specified by section 118-97
 - (2) Other commercial uses determined by the city council to be of the same general character as the principal uses previously listed and found not to be detrimental to the general public health, safety, moral and community character.
- (d) *Accessory uses.* Uses incidental and accessory to the principal uses are allowed.
- (e) *Lot requirements.*

Lot area (minimum)	6,000 square feet; or 3,500 square feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived.
--------------------	--

PART II LAND DEVELOPMENT ORDINANCES

Lot width (minimum)	40 feet; or 25 feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived.
Lot coverage (maximum)	None
Side yard, setback (minimum)	None
Rear yard, setback (minimum)	10 feet
Front yard, setback (minimum)	5 feet (from ROW)
Building height (maximum)	30 feet

(Ord. No. 12282005, § 4.4, 1-25-2006; Ord. No. 0909-A2009, § 6, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-102. Highway commercial district.

- (a) *Purpose.* To establish and maintain a district to provide for commercial uses of a highway or transportation related nature.
- (b) *Permitted uses.* All uses specified by section 118-97
- (c) *Conditional uses.*
 - (1) Conditional uses as specified by section 118-97
 - (2) Other commercial uses determined by the city council to be of the same general character as the principal uses previously listed and found not to be detrimental to the general public health, safety, moral and community character
- (d) *Accessory uses.* Uses incidental and accessory to the principal uses are allowed.
- (e) *Lot requirements.*

Lot area (minimum)	6,000 square feet; or 3,500 square feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived.
Lot width (minimum)	40 feet; or 25 feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived.

PART II LAND DEVELOPMENT ORDINANCES

Lot coverage (maximum)	75%
Side yard, setback (minimum)	5 feet
Rear yard, setback (minimum)	10 feet
Front yard, setback (minimum)	20 feet from ROW
Building height (maximum)	30 feet

(Ord. No. 12282005, § 4.5, 1-25-2006; Ord. No. 0909-A2009, § 7, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-103. Small scale industrial district.

- (a) *Purpose.* To establish and maintain a district to provide for general industrial uses determined to have a low possibility of having adverse effects on the general health, safety, comfort and welfare of the people of the city.
- (b) *Permitted uses.* All uses specified by section 118-97
- (c) *Conditional uses.*
 - (1) Conditional uses as specified by section 118-97
 - (2) Other general industrial uses determined by the city council to be of the same general character as the principal uses previously listed and found not to be detrimental to the general public health, safety, moral and community character.
- (d) *Accessory uses.* Uses incidental and accessory to the principal uses are allowed.
- (e) *Lot requirements.*

Lot area (minimum)	10,000 square feet; or 3,500 square feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived
Lot width (minimum)	75 feet; or 25 feet for any lot recorded prior to the adoption and publication of the ordinance from which this article was derived
Lot coverage	50%

PART II LAND DEVELOPMENT ORDINANCES

(maximum)	
Side yard, setback (minimum)	10 feet (interior lot)
	30 feet (corner lot)
Rear yard, setback (minimum)	45 feet
Front yard, setback (minimum)	30 feet from ROW (local)
	75 feet from ROW (state, county, federal roadways)
Building height (maximum)	30 feet

(Ord. No. 12282005, § 4.6, 1-25-2006; Ord. No. 0909-A2009, § 8, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-104. Large scale industrial district.

- (a) *Purpose.* To establish and maintain a district to provide for general industrial uses determined to possibly have adverse effects on the general health, safety, comfort and welfare of the people of the city.
- (b) *Permitted uses.* All uses specified by section 118-97
- (c) *Conditional uses.*
 - (1) Conditional uses as specified by section 118-97
 - (2) Other general industrial uses determined by the city council to be of the same general character as the principal uses previously listed and found not to be detrimental to the general public health, safety, moral and community character.
 - (3) Any adult use as defined in section 118-1 shall not be located within 1,320 feet on a straight line to any church or place of worship, school, day care, park, recreational area, residential zoned area or similar area as determined by the city council.
- (d) *Accessory uses.* Uses incidental and accessory to the principal uses are allowed.
- (e) *Lot requirements.*

Lot area (minimum)	105,000 square feet
--------------------	---------------------

PART II LAND DEVELOPMENT ORDINANCES

Lot width (minimum)	200 feet
Lot coverage (maximum)	50%
Side yard, setback (minimum)	50 feet
Rear yard, setback (minimum)	45 feet
Front yard, setback (minimum)	75 feet from ROW
Building height (maximum)	30 feet

(Ord. No. 12282005, § 4.7, 1-25-2006; Ord. No. 0909-A2009, § 9, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-105. Shoreland management overlay district.

- (a) *Purpose.* The city recognizes that the uncontrolled development of shoreland and floodplain areas is imminently detrimental to both the physical resource of the affected body of water and potentially hazardous to the landowner developer due to frequent flooding. The shoreland is established to provide for the protection of natural waters from degradation and protect the human resources of the city from possible adverse effects on the general health, safety, comfort and welfare.
- (b) *Permitted uses.* All uses specified by underlying zoning district shall be permitted.
- (c) *Conditional uses.*
 - (1) Conditional uses as specified by section 118-97
 - (2) Other uses determined by the city council to be of the same general character as the principal uses previously listed and found not to be detrimental to the general public health, safety, moral and community character
- (d) *Accessory uses.* Uses incidental and accessory to the principal uses are allowed.
- (e) *Public waters classification for the city.* The general development lakes are as follows:

<i>DNR ID</i>	<i>Lake Name</i>
11041500	Pike Bay
04003000	Cass

- (f) *Lot requirements.*

PART II LAND DEVELOPMENT ORDINANCES

Lot area (minimum)	30,000 square feet	
Water frontage and width at OHWM and building line (minimum)	LDR	100 feet
	MDR	100 feet
	HDR	100 feet
ISTS setback from OHWM	75 feet	
Building setback from OHWM (minimum)	LDR	100 feet
	MDR	100 feet
	HDR	100 feet
	HC	100 feet
	TC	100 feet
	SSI	200 feet
	LSI	200 feet
Lot coverage (maximum)	30%	
Building height	35 feet	

(Ord. No. 12282005, § 4.8, 1-25-2006; Ord. No. 0909-A2009, § 10, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

State law reference— Shoreland development, Minn. Stats. § 103F.201 et seq.; municipal shoreland management, Minn. Stats. § 103F.221.

Sec. 118-106. Open space district.

- (a) *Purpose.* To establish and maintain a district to provide for the conservation of open lands and natural resources within the city. Conservation of such natural resources will provide for the

PART II LAND DEVELOPMENT ORDINANCES

preservation of natural areas of the city and promote the general health, safety, comfort and welfare of the people of the city. The open space district (OS) may also be used for the buffering of land uses, especially the buffering of residential land uses and commercial or industrial uses.

- (b) *Permitted uses.* All uses specified by section 118-97 are permitted.
- (c) *Conditional uses.*
 - (1) Conditional uses as specified by section 118-97
 - (2) Other general industrial uses determined by the city council to be of the same general character as the principal uses previously listed and found not to be detrimental to the general public health, safety, moral and community character.
- (d) *Accessory uses.* Uses incidental and accessory to the principal uses are allowed.

(Ord. No. 12282005, § 4.9, 1-25-2006; Ord. No. 0909-A2009, § 11, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

Secs. 118-107—118-125. Reserved.

ARTICLE V. PERFORMANCE STANDARDS

[Sec. 118-126. Bond.](#)

[Sec. 118-127. Signs.](#)

[Sec. 118-128. Fences.](#)

[Sec. 118-129. Storage.](#)

[Sec. 118-130. Visual standards.](#)

[Sec. 118-131. Parking and loading.](#)

[Secs. 118-132—118-160. Reserved.](#)

Sec. 118-126. Bond.

Prior to commencement of any construction or improvements maintained by the city, the developer shall, at the option of the city, deposit cash in escrow, furnish a performance bond, or file an irrevocable letter of credit in the amount of 125 percent of the total cost of any water, sanitary sewer, storm sewer, sewage disposal and street construction based upon an estimate provided by an engineer agreeable to both the city council and the developer. The city shall use the bond or financial security to remove or complete construction of common items that are included in the estimate provided and agreed upon by the city and the developer in the event the developer defaults on the development plans. Upon completion of the work and termination of all developer liabilities as agreed upon in the development agreement, the cash remaining in the escrow and all interest earnings shall be returned to the developer, and remaining amounts of any bond or letter of credit shall be terminated.

(Ord. No. 12282005, § 5.1, 1-25-2006)

Sec. 118-127. Signs.

- (a) *Purpose.* To protect the general health, safety, comfort and welfare of the people of the city through the provision of official controls regulating the use of signs within the city. The regulations provided

PART II LAND DEVELOPMENT ORDINANCES

by this article will also provide for the aesthetic quality of the city as well as provide for adequate property identification and advertising of commercial businesses.

(b) *General sign provisions.*

- (1) All permanent signs are considered structures and require a zoning permit.
- (2) Signs for discontinued businesses shall be removed after notification by the zoning administrator.
- (3) Conditional use permits and zoning permits shall consider protecting the sight distance at intersections, driveways and curves.
- (4) All flashing, revolving and intermittently lighted signs are expressly prohibited.
- (5) Residential and commercial signs may not contain elements commonly used by highway departments to alter, direct or caution traffic including, but not limited to, octagonal stop signs, speed limit signs, advisory speed limit signs, community recognition sign panels or other similar regulatory or identification signs.
- (6) All public signs and name directory signs placed by the city, county, businesses or residents related to the laws or ordinances or to provide direction shall be exempt from the provisions of this section.
- (7) A nonconforming sign may be refaced, removed and replaced for maintenance purposes, however the sign shall not be increased in size, the support system shall not be improved, and the sign shall be entirely removed upon the determination by the zoning administrator and city council that the sign is in disrepair or the support system is failing.

(c) *On-site signs.*

- (1) *Residential districts.* No billboards or signs shall be erected in the residential districts except as follows:
 - a. Signs displaying the name only of the property on the premises upon which displayed or the owner or lessee thereof. Such signs shall not exceed four square feet in area.
 - b. Signs not exceeding eight square feet in area pertaining only to the sale, rental, or construction of the premises upon which displayed. Such signs shall be considered temporary and removed within 30 days of the sale, rental or construction of the premises upon which the sign is displayed.
 - c. Signs for home occupations shall not exceed eight square feet.
- (2) *Commercial and industrial districts.* The following provisions apply to signs within the commercial and industrial districts:
 - a. The total of the area of all signs measured in square feet shall not exceed two times the number of lineal feet of each street frontage of each zoning lot.
 - b. No sign shall be located less than ten feet above the street level with the exception of a building identification sign.
 - c. The gross surface of all illuminated signs shall not exceed the lineal feet of frontage of such zoning lot.
 - d. The total allowable sign area shall be reduced by ten percent for each sign in excess of four signs per street frontage.
- (3) *General on-site signs.* Upon the enactment of this section, the following provisions apply:
 - a. Present nonconforming on-site signs are considered permissible nonconforming uses except as provided by this chapter.

PART II LAND DEVELOPMENT ORDINANCES

- b. No sign erected prior to the adoption of the ordinance from which this article was derived shall be rebuilt, altered, or moved to a new location on the property without being brought into compliance with the provisions of this section.
 - (d) *Off-site signs.*
 - (1) The use of off-site signs is expressly prohibited. Any existing off-site signs are considered nonconforming structures.
 - (2) The use of logo signs as specified by Minn. Stats. § 160.80 is permitted along trunk highways.
 - (e) *Other signs.*
 - (1) All political posters or signs in accordance with applicable Minnesota Statutes are considered temporary and allowed provided they are removed within ten days following the election for which they are intended.
 - (2) Private signs are prohibited within public right-of-way (ROW) easements.
- (Ord. No. 12282005, § 5.2, 1-25-2006; Ord. No. 0909-B2009, § 8, 9-9-2009)

State law reference— Status of certain noncommercial signs; Minn. Stats. § 211B.045.

Sec. 118-128. Fences.

Guideline for fences in the City of Cass Lake.

Requirements. The following provisions apply to the construction of fences within the City of Cass Lake:

- (1) Fences shall not exceed six feet in height in side yards and rear yards, and shall not exceed 42 inches in height in front yards.
- (2) With the agreement of the property owner constructing the fence and the adjacent property owner, a fence can be constructed on the property line. Such an agreement shall establish the property line and is to be recorded with the titles of the respective properties. If the landowners cannot agree on the property line, the property owner constructing the fence shall obtain an independent land survey to establish the property line. Absent an agreement with the adjacent land owner, all fences, including footings, shall be located entirely upon the private property of the property owner constructing the fence.
- (3) Fences not meeting the requirements of this section shall require a conditional use permit.
- (4) No fences shall be placed on or extend into the public rights-of-way or onto public property. Structure setbacks do not apply to fences.
- (5) Fences in easements shall not impede the flow of water. If the city needs to utilize the easement, the fence will be removed and relocated at the expense of the property owner.
- (6) Fences shall be constructed out of the usual fence materials including posts and fence of metal, smooth wire, wood, concrete, brick or similar substance, or materials as approved by the planning commission and city council. Barbed wire fences and electric fences are prohibited.
- (7) Every fence shall be constructed in a workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance. Any such fence that is, or has become, dangerous to the public safety, health or welfare, is a public nuisance.
- (8) That side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face abutting property or street right-of-way.

PART II LAND DEVELOPMENT ORDINANCES

- (9) Fences shall not be erected where they create a visual safety hazard as determined by the zoning administrator.
- (10) No person shall construct or cause to be constructed any fence without first acquiring a permit. Alterations to existing fence structures shall not require a permit unless the alterations result in a change of size or dimensions of the fence, a change in height greater than two inches difference, or a change in the materials of which the fence is constructed from.

(Ord. No. 12282005, § 5.4, 1-25-2006; Ord. No. 112602-2009, 8-12-2009)

Sec. 118-129. Storage.

- (a) *Exterior storage.* The following applies to exterior storage of material, equipment, vehicles and other such matter within the city:
 - (1) All materials and equipment shall be stored within a building or fully screened so as to not be visible from adjoining properties and the public right-of-way (ROW) except for the following: Drying laundry, recreational equipment, construction and landscaping materials and equipment currently being used for construction of the premises, wood piles, agricultural equipment used on the premises and off-street parking except as otherwise regulated by this chapter.
 - (2) Abandoned vehicles shall not be stored outside in any district unless otherwise provided in this chapter. Existing abandoned vehicles shall be removed within 30 days after the adoption of the ordinance from which this article was derived.
- (b) *Bulk storage.* All uses associated with the bulk storage of oil, gasoline, liquid propane, liquid fertilizer and similar chemicals and liquids shall comply with the requirements of the state fire marshal. The state pollution control agency, the state department of agriculture and all other applicable agencies and when in excess of normal domestic requirements shall have documentation from those offices stating that the use is in compliance. No storage facility shall be constructed or placed where spillage from the facility would drain to a drainageway or public waters without providing complete containment.

(Ord. No. 12282005, § 5.5, 1-25-2006)

Sec. 118-130. Visual standards.

- (a) No use shall create, maintain or continue any activity which has a strong negative visual impact, offends the morals, or violates any provisions of this article.
- (b) Where any commercial or industrial use is adjacent to property zoned or developed for residential use, that activity shall provide screening along the boundary of residential property. Screening shall also be provided where a commercial or industrial activity is across the street from a residential zone, but not on that side of a commercial or industrial activity considered to be the front as determined by the zoning administrator.
- (c) Junkyards and auto wrecking yards shall be fully (100 percent) screened at least by fences, walls and land forms, in addition to normal landscaping.
- (d) All screening structures shall meet required setbacks as prescribed herein this chapter.

(Ord. No. 12282005, § 5.6, 1-25-2006)

Sec. 118-131. Parking and loading.

- (a) *Off-street parking area and vehicular access.* Off-street automobile parking shall be provided on any commercial, industrial and residential lot on which any new structures are hereafter established in conformance with said districts requirements. The parking area shall be provided with vehicular

PART II LAND DEVELOPMENT ORDINANCES

access to a street, alley or roadway, and shall be required with such use and shall not be reduced or encroached upon in any manner.

- (b) Required off-street automobile parking space shall not be utilized for open storage or for the storage of vehicles which are inoperable, or for sale or rental. If, in the application of these provisions, a fractional number is obtained, no parking space shall be provided for that fraction unless otherwise noted within this chapter. An area 20 feet long and ten feet wide shall constitute one parking space.

(1) *District parking standards.*

- a. Residential (LDR and MDR): Two spaces for each family unit.
- b. Hotel and motel accommodations and multiple family dwellings (HDR) 1½ parking spaces for each rental room or unit.
- c. Commercial (TC and HC):
 1. Theatre, stadium, auditorium, church or place of public assembly: One off-street parking space for every ten seats, based on maximum seating capacity.
 2. Retail store: One off-street parking space for each 750 square feet of gross floor space.
 3. Medical facilities: Four off-street parking spaces for each therapist, doctor or dentist.
 4. Motor fuel stations including service stations: Four off-street parking spaces, plus two off-street parking spaces for each service staff based on maximum possible employees.
 5. Restaurant, cafes, taverns and nightclubs: One off-street parking space for each three seats based on design capacity.
- d. Industrial (SSI and LSI): One off-street parking space per two employees based on maximum number of personnel on the largest shift or one off-street parking space for every 500 feet of gross floor area, whichever provides a greater amount of off-street parking spaces.
- e. Use not specified in this section shall be required to provide off-street parking as determined by the city council.
- f. Off-street parking shall not be closer than ten feet from a lot line.
- g. The driveway angle to the street shall be 90 degrees unless otherwise determined by the city council.
- h. The distance from a driveway to the property line of an adjacent property shall not be less than five feet measured alone.
- i. All off-street parking shall be paved or provided with an all-weather surface and be adequately drained to a pervious surface designed to allow entrapment of silts and nutrients prior to discharge in any public water.
- j. More than five contiguous commercial or industrial off-street parking stalls located adjacent to any residential district shall be landscaped according to a plan approved by the city.

(2) *Loading.*

- a. All required loading berths shall be off-street and shall be located on the same lot as the building to be served. Loading berths shall not infringe upon the required front yard lot requirements.
- b. Any space allocated as a loading berth or maneuvering area shall not be used for the storage of goods, inoperable vehicles, or be included as a part of any space requirements necessary to meet off-street parking area requirements.

PART II LAND DEVELOPMENT ORDINANCES

- c. All loading berths and accesses shall be paved or provided with an all-weather surface and be adequately drained to a pervious surface designed to allow entrapment of silts and nutrients prior to discharge in any public water.
- d. A required loading berth shall not be less than 15 feet wide, 50 feet in length, and 14 feet in height, exclusive of risk and maneuvering space.

(3) *Required loading spaces.*

- a. Retail sales, services stores and stations and offices: One loading berth for each 6,000 feet of floor area.
- b. Manufacturing, fabrication, processing and warehousing: One loading berth for each building greater than 3,000 square feet in gross floor area, and one additional loading berth for each additional 25,000 square feet of gross floor area up to 100,000 square feet of gross floor area, and one loading berth for each 50,000 of gross floor area thereafter.
- c. Uses not specifically noted: as determined by the city council.

(Ord. No. 12282005, § 5.9, 1-25-2006; Ord. No. 0909-B2009, § 8, 9-9-2009)

Secs. 118-132—118-160. Reserved.

ARTICLE VI. SUPPLEMENTAL REGULATIONS

[Sec. 118-161. Planned development.](#)

[Sec. 118-162. Manufactured home park.](#)

[Sec. 118-163. Manufactured homes.](#)

[Sec. 118-164. Extractive uses.](#)

[Sec. 118-165. Home occupations.](#)

Sec. 118-161. Planned development.

(a) *Generally.*

- (1) The planned development alternative is offered as a response to the need of more flexible design approach to the total community environment, and to ensure maximum participation of the planning commission in the creation of individual development within the context of the community-based comprehensive plan.
 - (2) Mixed use planned development, where appropriate, may be allowed providing that the use not allowed within the zoning district does not exceed 35 percent of the building floor area.
 - (3) Provisions of each zoning district set forth in this chapter shall govern within that district unless specifically addressed in this section.
- (b) *Development intensity.* There shall be no requirement for lot size and requirements other than those prescribed by the zoning district provided by this chapter. All development need follow good design practice.
- (c) *Plan approval requirements.* All planned development shall be subject to complete design review by the zoning administrator and city council with special consideration for landscaping, floor plans, architectural design features, dedication of public lands, open space, easements, protective covenants, underground services and utilities and sanitary facilities in addition to other improvements.

PART II LAND DEVELOPMENT ORDINANCES

- (d) *Procedure.* Each request for planned development shall follow the procedure required for subdivision or planned manufactured home development as specified in chapter 114

(Ord. No. 12282005, § 6.1, 1-25-2006; Ord. No. 0909-B2009, § 8, 9-9-2009)

Sec. 118-162. Manufactured home park.

- (a) *General.* Manufactured home parks create demand and reliance upon municipal facilities, including sewer facilities, roads and protective services. Due to the nature of such development and the demand on the community, such development shall be limited to the HDR high density residential zoning district only.
- (b) *Procedure for application for manufactured home park.* The property owner shall apply to the city on a standard application form provided by the city. Such application shall include the development plan and a plot plan showing the following:
- (1) Location and legal description of the proposed site;
 - (2) All streets, lights, driveways, parking areas and sidewalks;
 - (3) A drawing of the proposed foundation, support systems and ties for individual manufactured homes;
 - (4) The size and arrangement of manufactured home lots and the location of all accessory buildings;
 - (5) A detailed landscaping plan displaying landscape design and materials;
 - (6) A stormwater management plan showing the drainage of water during and after construction;
 - (7) Open space areas;
 - (8) All gas, sewer, water, communications and electric lines; and
 - (9) A standard lot plan showing individual lots of not less than 2,000 square feet per lot with at least 20 feet spacing between structures.
- (c) *Approval.* The application is subject to approval by the city council.

(Ord. No. 12282005, § 6.2, 1-25-2006; Ord. No. 0909-A2009, § 12, 9-9-2009; Ord. No. 0909-B2009, § 8, 9-9-2009)

State law reference— Zoning of manufactured homes, Minn. Stats. § 462.357, subd. 1a.

Sec. 118-163. Manufactured homes.

The placement of manufactured homes within the city is subject to the following conditions:

- (1) Such homes shall comply with all zoning regulations for the residential zone in which they are located.
- (2) A building permit and any other required permits shall be obtained for such manufactured home.
- (3) No such home shall have a ground floor space of less than 960 square feet or a width of less than 22 feet if placed outside of a manufactured home park.
- (4) A permanent foundation of concrete, concrete block or wood, or pier foundation configuration, or engineered concrete slab, with an appropriate anchoring system, as specified by the manufacturer of the home and Minn. Rules parts 1350.2500—1350.3800 is required. In addition, permanent foundations and pier foundation configurations must be of sufficient design to cope with existing soil conditions and have frost footings of at least 60 inches in depth.

PART II LAND DEVELOPMENT ORDINANCES

- (5) Any such manufactured home shall have finished work construction from the lowest part of the frame of such home to the ground or concrete which is consistent with manufacturer specifications and state building code with respect to ventilation and access panels. Any exterior finishing material shall be of a type consistent with manufacturer specifications and that any siding used shall be of a conventional exterior residential dwelling-type material. Sheet metal siding of a nonresidential type is prohibited.
- (6) Such home shall have a pitched roof covered with shingles or tile and have eaves of not less than six inches.
- (7) All manufactured homes shall have available for inspection, the manufacturer's instructions specifying how said home is to be situated on a permanent foundation.
- (8) All exterior and bearing stud walls are to be of at least two inches by four inches in construction.
- (9) All tongues and undercarriages must be removed.

(Res. No. 08-2007, 2-14-2007; Ord. No. 0909-A2009, § 13, 9-9-2009)

State law reference— Zoning of manufactured homes, Minn. Stats. § 462.357, subd. 1.a.

Sec. 118-164. Extractive uses.

- (a) *General requirements.* All extractive uses shall require a conditional use permit and are to be permitted only in areas specified by this chapter. The conditional use permit shall be issued only after the applicant has submitted a site plan, a completion plan, and a haul route with provisions for road restoration. No processing machinery shall be allowed within 1,000 feet of any residential district and within 200 feet of the OHW of any public water.
- (b) *Restoration of extracted lands.* Upon completion of extraction the landowner shall be responsible for shaping and replacing natural overburden and topsoil upon the site. The haul route and all other roadways damaged or otherwise impacted by the extraction shall be restored to their condition prior to the beginning of the extraction operation.

(Ord. No. 12282005, § 6.3, 1-25-2006)

Sec. 118-165. Home occupations.

- (a) *Generally.* All home occupation uses within the city shall require a conditional use permit. Conditional use permits issued for home occupational use shall not be transferable to the purchaser, renter or property.
- (b) *Requirements and standards.*
 - (1) Home occupation uses must be incidental to the principle use of the property in residential districts.
 - (2) The number of employees and business hours shall be specified by the conditional use permit granting the home occupation.
 - (3) All other provisions of this chapter apply to home occupations.

(Ord. No. 12282005, § 6.4, 1-25-2006)