

TITLE XV: LAND USAGE

Chapter

- 150. GENERAL PROVISIONS; CODES**
- 151. SHORELAND MANAGEMENT**
- 152. SUBDIVISIONS**
- 153. HERITAGE PRESERVATION ORDINANCE**
- 154. ZONING ORDINANCE**
- 155. URBAN STORM WATER POLLUTION CONTROL
FOR NEW DEVELOPMENTS AND SIGNIFICANT
REDEVELOPMENTS**
- 156. FLOODPLAIN MANAGEMENT ORDINANCE**
- 157. RENTAL PROPERTY REGISTRATION
ORDINANCE**

CHAPTER 150: GENERAL PROVISIONS; CODES

Section

Minnesota State Building Code

- 150.01 Adopted by reference
- 150.02 Application, administration and enforcement
- 150.03 Permits and fees
- 150.04 Violations and penalties
- 150.06 Building Code optional chapters
- 150.07 Effective date

Electrical Code

- 150.15 Definitions
- 150.16 Safety standards
- 150.17 License required
- 150.18 Inspection
- 150.19 Crimes

Housing Code

- 150.30 Short title
- 150.31 Application
- 150.32 Definitions
- 150.33 Sanitation facilities
- 150.34 Rooming houses; additional sanitation standards
- 150.35 Ventilation, light and heating
- 150.36 Space and occupancy
- 150.37 Safe and sanitary maintenance
- 150.38 Responsibility of owners, operators, occupants
- 150.39 Rooming houses
- 150.40 Unfit dwellings
- 150.41 Inspection of dwellings
- 150.42 Enforcement
- 150.43 Hearing

Plumbing Code

- 150.55 Plumbing Code adopted
- 150.56 Permit required
- 150.57 Permit fees
- 150.58 Plumbers' insurance
- 150.59 Street excavations

MINNESOTA STATE BUILDING CODE

§ 150.01 ADOPTED BY REFERENCE.

The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to M.S. Chapter 16B.59 to 16B.75, as they may be amended from time to time, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration through the Building Codes and Standards Division, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this subchapter. The Minnesota State Building Code is hereby incorporated in this subchapter as if fully set out herein.

(Prior Code, § 2-1-1) (Ord. 672, passed 8-18-2003)

§ 150.02 APPLICATION, ADMINISTRATION AND ENFORCEMENT.

(A) The application, administration and enforcement of the code shall be in accordance with Minnesota State Building Code. The Code shall be enforced within the extraterritorial limits permitted by M.S. § 16B.62, subd. 1, as it may be amended from time to time, when so established by this subchapter.

(B) The code enforcement agency of this municipality is called the Code Enforcement Officer.

(C) This Code shall be enforced by the Minnesota Certified Building Official designated by this municipality to administer the code, M.S. § 16B.65, subd. 1, as it may be amended from time to time.

(Prior Code, § 2-1-2) (Ord. 672, passed 8-18-2003)

§ 150.03 PERMITS AND FEES.

(A) The issuance of permits and the collection of fees shall be as authorized in M.S. § 16B.62, subd. 1, as it may be amended from time to time.

(B) Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the municipality in ie: City Resolution No. 03-7-204. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with M.S. § 16B.70, as it may be amended from time to time.
(Prior Code, § 2-1-3) (Ord. 672, passed 8-18-2003)

§ 150.04 VIOLATIONS AND PENALTIES.

A violation of the code is a misdemeanor.
(Prior Code, § 2-1-5) (Ord. 672, passed 8-18-2003) Penalty, see § 10.99
Statutory reference:
Similar provisions, see M.S. § 16B.69

§ 150.05 BUILDING CODE OPTIONAL CHAPTERS.

The Minnesota State Building Code, established pursuant to M.S. §§ 16B.59 to 16B.75, as they may be amended from time to time, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.
(Ord. 672, passed 8-18-2003)

§ 150.07 EFFECTIVE DATE.

The effective date of this subchapter is September 2, 2003.
(Ord. 672, passed 8-18-2003)

ELECTRICAL CODE

§ 150.15 DEFINITIONS.

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

BOARD OF ELECTRICITY. The State Board of Electricity created pursuant to M.S. § 326.241, as it may be amended from time to time, under the Minnesota Electrical Act, cited under M.S. § 326.248, as it may be amended from time to time.

CLASS A JOURNEYMAN ELECTRICIAN. A person having the necessary qualification, training and experience in wiring for, installing or repairing special classes of electrical wiring, apparatus or equipment or for special classes of electrical wiring installations, who is licensed as such by the State Board of Electricity.

CLASS A MASTER ELECTRICIAN. A person having the necessary qualifications, training experience and technical knowledge to properly plan, lay out and supervise the installation of wiring, apparatus and equipment for electric light, heat, power and other purposes, who is licensed as such by the State Board of Electricity.

ELECTRICAL CONTRACTOR. Any person, as herein defined, who undertakes or offers to undertake for another to plan for, lay out, supervise and install or to make additions, alterations and repairs in the installation of wiring, apparatus and equipment for electric light, heat and power for a fixed sum, price, fee, percentage or other compensation, and who is licensed as such by the State Board of Electricity.

NATIONAL ELECTRICAL CODE. Rules and regulations for the installation of electrical wiring and apparatus for electric light, heating or power, as the same are now or may be hereafter established or amended, and the rules and regulations of the code are hereby adopted as part of this chapter, in all respects, the same as if they were set forth at length herein.

SPECIAL ELECTRICIAN. A person having the necessary qualification, training and experience in wiring for, installing or repairing special classes of electrical wiring, apparatus or equipment or for special classes of electrical wiring installations, who is licensed as such by the State Board of Electricity.

(Prior Code, § 2-2-1) (Ord. 426, passed 4-7-1980)

§ 150.16 SAFETY STANDARDS.

All electrical wiring, apparatus and equipment for electric light, heat and power shall comply with the rules and regulations of the Railroad and Warehouse Commission, the Commissioner of Insurance or the Industrial Commission, as applicable, and be installed in conformity with accepted standards of construction for safety to life and property. For the purposes of this subchapter, the regulations and safety standards stated at the time the work is done in the then most recently published edition of the National Electrical Code as approved by the United States of America Standards Institute, and the National Electrical Safety Code as issued by the National Bureau of Standards, shall be prima facie evidence of accepted standards of construction for safety to life and property; provided further, that in the event a Minnesota Building Code is formulated pursuant to M.S. § 16B.61, as it may be amended from time to time, containing approved methods of electrical construction for safety to life and property, compliance with the methods of electrical construction of the Minnesota Building Code shall also constitute compliance with this section.

(Prior Code, § 2-2-2) (Ord. 426, passed 4-7-1980)

§ 150.17 LICENSE REQUIRED.

No individual, partnership, corporation or other business association shall engage in the construction, installation or alteration of any electrical work, electric wiring, fixtures or apparatus within the city without first having filed with the Assistant City Administrator a certified copy of the current license issued by the Minnesota State Board of Electricity or other evidence of that license as may be provided by the State Board of Electricity.

(Prior Code, § 2-2-3) (Ord. 426, passed 4-7-1980) Penalty, see § 10.99

§ 150.18 INSPECTION.

(A) *Required inspection.* Every new electrical installation in any construction, remodeling, replacement or repair, except minor repair work as the same is defined by the Minnesota Board of Electricity by rule or regulation, and incorporated herein by reference, shall be inspected by the City Inspector for compliance with accepted standards of construction for safety to life and property.

(B) *Procedure.*

(1) At or before commencement of any installation required to be inspected the electrical contractor, electrician or owner making the installation shall submit to the city a request for inspection, in a form prescribed by the city, together with the inspection fees required for the installation.

(2) If the Inspector finds that the installation is not in compliance with accepted standards of construction for safety to life and property as required by § 150.16, he or she shall by written order condemn the installation or noncomplying portion thereof, or order service to the installation disconnected, and shall send a copy of his or her order to the Board. If the installation or the noncomplying part thereof is such as to seriously and proximately endanger human life and property, the order of the Inspector shall require immediate condemnation or disconnection. In all other cases, the order of the Inspector shall permit a reasonable opportunity for the installation to be brought into compliance with accepted standards of construction for safety to life and property prior to the effective time established therein for condemnation or disconnection.

(3) Copies of each condemnation or disconnection order shall be served personally or by mail upon the property owner, and the electrical contractor or electrician making the installation and any other persons as the Board by rule or regulation may direct. An aggrieved party may appeal any such condemnation or disconnection order by filing with the Board a notice of appeal within 10 days after:

(a) Service upon him or her of the condemnation or disconnection order, if the service is required; or

(b) Filing of the order with the Board, whichever is later. Thereupon the appeal shall proceed and the order of the Inspector shall have the effect, not inconsistent herewith, as the order by its terms and the rules and regulations of the Board may provide. The Board may stay enforcement of the order of the Inspector pending an appeal when justified by the circumstances.

(C) *Duty of electrical utility.* No electrical installation subject to inspection shall be newly

connected or reconnected for use until there is filed with the electrical utility supplying power a certificate of the property owner or licensed electrician, directing the work that inspection has been requested and that the conditions of the installation are safe for energization; provided further, that in all cases where an order of condemnation or disconnection has been issued against the installation or any part thereof, prior to connection or reconnection there shall also first be filed with the electrical utility supplying the power a copy of an order of the Inspector or the Board dismissing the prior order of condemnation or disconnection, or approving the installation as being in compliance with accepted standards of construction for safety to life and property. With respect to transient projects, the aforesaid certificate shall also contain a certification that the request for inspection has been or will be filed with the Board so as to be received by it at least 5 days prior to the date and time energization of the installation by the utility is to occur, and that the request for inspection states the date and time; it shall be the responsibility of the Board to have inspection of the transient project occur prior to the date and time at which the request state energization is to occur.

(D) *Exemptions from inspections.* Installations, materials or equipment shall not be subject to inspection under Laws 1967, M.S. Chapter 602, as it may be amended from time to time.

(1) When owned or leased, operated and maintained by any employer whose maintenance electricians are exempt from licensing under Laws 1967, M.S. Chapter 602, as it may be amended from time to time, except any electrical installations in any new construction or major remodeling;

(2) When owned or leased, operated and maintained by any electric, communication or railway utility in the exercise of its utility function; and

(a) Are used in conjunction with the generations, transformation, distribution, transmission or metering of electric current, or the operation of railway signals, or the transmission of intelligence, and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than that utility; and

(b) Are generally accessible only to employees of the utility or persons acting under its control or direction.

(3) When used in the street lighting operations of an electric utility; or

(4) When used as outdoor area lights which are owned and operated by any electric utility and which are connected directly to its distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of the utility or person acting under its control or direction.

(E) *Implementation of inspection.* For this purpose the State Board of Electricity Rules and Regulations chapter 1: Elec. 1-10 Inspections; chapter 2: Elec. 11-20 Enforcement, procedures; chapter 3: Elec. 21-25 Appeals are hereby incorporated by reference and made a part hereof, which includes inspection fees, payment and fee schedule.

(Prior Code, § 2-2-4) (Ord. 426, passed 4-7-1980)

§ 150.19 CRIMES.

It is a misdemeanor knowingly and wilfully to commit or to order, instruct or direct another to commit any of the following acts:

(A) To make a false statement in any license application, request for inspection, certificate or other lawfully authorized or required form or statement provided by Laws 1967, M.S. Chapter 602, as it may be amended from time to time;

(B) To perform electrical work for another without a proper license for the work;

(C) To fail to file a request for inspection when required;

(D) To interfere with or refuse entry to an inspector lawfully engaged in the performance of his or her duties; and

(E) To violate any lawful rule, regulation or order of the Board.
(Prior Code, § 2-2-5) (Ord. 426, passed 4-7-1980) Penalty, see 10.99

HOUSING CODE

§ 150.30 SHORT TITLE.

This subchapter shall be known and may be cited as the “Housing Code of the City of Litchfield” or this subchapter.

(Prior Code, § 2-3-1) (Ord. 340, passed 7-10-1967)

§ 150.31 APPLICATION.

All of the provisions of this subchapter shall have application to all structures and buildings in the city.

(Prior Code, § 2-3-2) (Ord. 347, passed 11-4-1968; Am. Ord. 350, passed 4-7-1969)

§ 150.32 DEFINITIONS.

For the purpose of this subchapter, words used in the present tense include the future, the singular number includes the plural, and the term “this subchapter” shall be deemed to include all amendments hereafter made thereto. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASEMENT. A portion of a building located partly underground, but having less than 1/2 its clean floor-to-ceiling height below the average grade of the adjoining ground.

CELLAR. A portion of a building located partly or wholly underground, and having 1/2 or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DWELLING. Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as hereinafter defined shall not be regarded as a **DWELLING**.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Building Inspector.

GARBAGE. All animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping or eating purposes, excluding bathrooms, water closet compartments, laundries, foyers, pantries, communicating corridors, stairways, closets, basements, recreation rooms and storage space.

MULTIPLE DWELLING. Any dwelling containing more than 2 dwelling units.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

OPENABLE AREA. That part of a window, door or panel which is available for ventilation and which opens directly to the outdoors.

OPERATOR. Any person having charge, care, management or control of any dwelling or part of it, in which dwelling units or rooming units are let.

ORDINARY MINIMUM WINTER CONDITIONS. This term shall mean the temperature 15° Fahrenheit above the lowest recorded temperature for the previous 10-year period.

OWNER. The owner of record of real property as shown on the latest tax rolls of Meeker County, or by the deed records of the county, or a person who is purchasing a parcel of property under contract.

PLUMBING. Includes water heating facilities, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and other similar supplied fixtures, together with all connections to water or sewer lines.

PREMISES. Includes a lot, plot or parcel of land, including the building and structures thereon.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to 3 or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Includes all combustible and noncombustible material, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings other than gross cuttings, tin cans, metals, mineral matter, glass, crockery and dust.

SUPPLIED. Installed, furnished or provided by the owner or operator at his or her expense.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

YARD. Includes all ground, lawn, court, walk, driveway or other open space constituting part of the same premises as a dwelling.
(Prior Code, § 2-3-3)

§ 150.33 SANITATION FACILITIES.

No person, an owner or occupant of any premises, shall occupy or let to another for occupancy any dwelling, rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for basic equipment and facilities:

(A) Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewer system;

(B) Every dwelling unit (except as otherwise permitted under division (D) below) shall contain a room or adjacent rooms which are equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system where available. Every dwelling unit situated on property which abuts on a street or alley in which there is located a public sanitary sewer main which lies directly in front of or in the rear of the property shall have a connection with the public sanitary sewer system. Where no sanitary sewer is available there must be a connection to an approved private sewage disposal system as required under the Plumbing Code of the city;

(C) Every dwelling unit (except as otherwise permitted under division (D) below) shall contain, within a room which affords privacy to a person within the room, a bathtub or shower in good working condition and properly connected to a water and sewer system or private sewage system as referred to above;

(D) The occupants of not more than 2 dwelling units may share a single flush water closet, a single lavatory basin and a single bathtub or shower if:

(1) Neither of the 2 dwelling units contains more than 2 rooms; provided that for the purposes of this division, a kitchenette or an efficiency kitchen with not more than 60 square feet of floor area shall not be counted as a room;

(2) The habitable area of each of the dwelling units shall equal not more than 250 square feet of floor area;

(3) The water closet, lavatory basin and bathtub or shower shall be in good working condition and properly connected to a water and sewer system; and that

(4) The water closet, lavatory basin and bathtub or shower are within a room or rooms, separate from the habitable rooms, which afford privacy and which are accessible to the occupants of each dwelling unit without going through the dwelling unit of another person or outside the dwelling.

(E) Every kitchen sink, lavatory, basin and bathtub or shower required by this subchapter shall be properly connected with both hot and cold water lines. The hot water lines shall be connected with supplied water heating facilities which are capable of heating water to such a temperature as to permit water to be drawn at every required kitchen sink, lavatory, basin and bathtub or shower at a temperature of not less than 120° Fahrenheit; and

(F) Every dwelling unit shall have common garbage and rubbish storage or disposal facilities as set forth in § 150.38.

(Prior Code, § 2-3-4)

§ 150.34 ROOMING HOUSES; ADDITIONAL SANITATION STANDARDS.

(A) Every rooming house shall be equipped with at least one flush water closet, one lavatory basin and one bathtub or shower for each 8 persons living within the rooming house, including members of the family of the owner or operator if they share the use of facilities. In a rooming house in which rooms are let only to males, flush urinals may be substituted for not more than ½ the required number of water closets. All these facilities shall be properly connected to approved water and sewage systems, as set forth in § 133.33(B).

(B) Every flush water closet, flush urinal, lavatory basin and bathtub or shower required by this division shall be located within the rooming house in a room or rooms which:

(1) Afford privacy and are separate from the habitable rooms;

(2) Are accessible from a common hall and without going outside the rooming house; and

(3) Are not more than one story removed from the rooming unit of any occupant intended to share the facilities.

(C) Where bedding, bed linen or towels are supplied, the owner or operator shall maintain the bedding in a clean and sanitary manner, and he or she shall furnish clean bed linen and towels at least once each week and prior to the letting of any room to any occupant.

(Prior Code, § 2-3-5)

§ 150.35 VENTILATION, LIGHT AND HEATING.

No person shall occupy as owner-occupant or shall let to another for occupancy and dwelling a rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for ventilation, light and heating:

(A) Every habitable room shall have an aggregate window area which faces directly to the outdoors of not less than 5% of the floor area. The minimum openable area for the room shall be not less than ½ of the window area. Whenever walls or other portions of structures face a window of any such room and the light obstruction structures are located less than 3 feet from the window and extend to a level above that of the ceiling of the room, the window shall not be included as contributing the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of the skylight shall equal at least 15% of the total floor area of the room. Provided, however, that in lieu of windows as above required, a system of mechanical ventilation or air conditioning may be used that is approved by the Building Inspector. The system shall be capable of providing not less than 4 air changes per hour;

(B) Every bathroom and water closet compartment shall have an aggregate window area of not less than 3 square feet, except where there is supplied some other device approved by the Building Inspector and capable of providing a complete air change every 5 minutes;

(C) Each public hall and stairway in every 2-family dwelling, multiple dwelling and rooming house shall be ventilated to provide at least 2 air changes per hour;

(D) Every public hall and stairway in every multiple dwelling containing 5 or more dwelling units shall be provided with lighting system which will produce at least 2 foot-candles at any and all parts of hall and stairway at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than 4 dwelling units may be supplied with conveniently located light switches, controlling a lighting system which may be turned on when needed, instead of full-time lighting and which is capable of producing at least 2 foot-candles at any and all parts of hall and stairway; and

(E) Every dwelling shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least 70° Fahrenheit, at a distance 3 feet above floor level, under ordinary minimum winter conditions.

(Prior Code, § 2-3-6) (Ord. 340, passed 7-10-1967)

Cross-reference:

Responsibility of owners, see § 150.38

§ 150.36 SPACE AND OCCUPANCY.

This section shall apply without limitation to all buildings or structures; and buildings or structures to which additions, alterations or repairs are made shall comply with all the requirements for new buildings or structures.

(Ord. 349, passed 2-3-1969; Am. Ord. 350, passed 4-7-1969)

(A) No person shall occupy or shall let to another for occupancy any dwelling, rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for space and occupancy:

(1) Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area;

(2) In every dwelling of 2 or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof; and

(3) At least 1/2 of the floor area of every habitable room shall have a ceiling height of at least 7 feet; and the floor area of that part of any room where the ceiling height is less than 5 feet shall not be considered as a part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(B) No basement or cellar shall be used as a habitable room or dwelling unit unless:

(1) The floors and walls are substantially watertight;

(2) The total window area, total openable area and ceiling height are in accordance with this subchapter; and

(3) The required minimum window area of every habitable room is entirely above the grade of the ground adjoining the window area, not including stairwells or access ways.

(Prior Code, § 2-3-7)

§ 150.37 SAFE AND SANITARY MAINTENANCE.

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, rooming house, dwelling unit or rooming unit which does not comply with the following minimum standards for safe and sanitary maintenance:

(A) Every foundation, floor, wall, ceiling and roof shall be reasonably weathertight, watertight and rodent-proof; shall be capable of affording privacy; and shall be kept in good repair;

(B) Every floor, interior wall and ceiling shall be substantially rodent-proof, and shall be kept in sound condition and repair. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens;

(C) Every window, exterior door and basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent-proof; and shall be kept in sound condition and good repair. Every dwelling unit from June 1 to September 15, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and self-closing devices; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens installed;

(D) Every plumbing fixture shall be properly installed and maintained in sound mechanical condition, free from defects, leaks and obstructions and in accordance with the Plumbing Code;

(E) Every inside and outside stair, ramp, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair;

(F) Every dwelling unit shall have safe, unobstructed means of express leading to safe and open space at ground level, as required by the laws of this state and the city;

(G) Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition; and

(H) Every supplied facility, piece of equipment or utility, which is required under this chapter, and every chimney and smokepipe shall be so constructed and installed that it will function safely and effectively, and shall be maintained in sound working condition.

(Prior Code, § 2-3-8)

§ 150.38 RESPONSIBILITY OF OWNERS, OPERATORS, OCCUPANTS.

(A) *Sanitation.*

(1) Every occupant of a dwelling, dwelling unit or rooming unit shall maintain in a clean and sanitary condition that part of the dwelling unit and yard which he or she occupies and controls; and shall be responsible for his or her own misuse of areas and facilities available in common.

(2) Every owner or operator of a 2-family dwelling, multiple dwelling or rooming house shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and yard.

(B) *Removal of waste matter.*

(1) Every occupant of a dwelling unit shall deposit all garbage and rubbish in a clean and sanitary manner by placing it in watertight garbage receptacles or cans with close-fitting flyproof covers. The garbage so deposited shall be wrapped in newspaper or wrapping paper and shall be collected or properly disposed of at least once every 7 days. Hot ashes or inflammable material shall be kept in fire-resistant receptacles. The owner or operator of a multiple dwelling or rooming house shall be responsible for the clean and sanitary maintenance of common storage or disposal facilities. He or she shall be responsible further for placing out for collection all common garbage and rubbish containers, except where the facilities are for the sole use of an occupant, under which circumstances it shall be the responsibility of the occupant to place these containers out for collection.

(2) No dwelling or dwelling unit shall be deemed to conform with the requirements of this section unless:

(a) Every outside garbage or rubbish container is so maintained and so located on the premises that no odors will permeate any dwelling or dwelling unit; and

(b) No loose garbage or rubbish is placed upon or strewn about on the floor of any basement or cellar or any other part of any dwelling, or on the ground surrounding any dwelling.

(C) *Extermination.*

(1) Every occupant of a dwelling unit shall be responsible for the extermination of any insects, rodents or other pests in the unit or in the yard. In a 2-family dwelling or a multiple dwelling, the occupant shall be responsible for the extermination whenever his or her dwelling unit is the only one infested. When, however, infestation is caused by failure of the owner or operator to maintain a dwelling in a rodent-proof or substantially insect-proof condition, extermination shall be the responsibility of the owner or operator.

(2) Every owner or operator shall be responsible for extermination of any insects, rodents or other pests whenever infestation exists in 2 or more of the dwelling units in any dwelling or in the shared or public areas of any 2-family dwelling or any multiple dwelling.

(3) Every owner or operator of a rooming house shall be responsible for the extermination of any insects, rodents or other pests in the rooming house or in the yard.

(D) *Heat.* In every dwelling where the conditions of tenants are such that heat is to be provided for the tenants, there shall be sufficient heat supplied so that the minimum temperature of 70° Fahrenheit may be enjoyed by the tenants in all habitable rooms and baths and toilet rooms.

(E) *Transfer of responsibility.* A contract effective as between owner and operator, operator and occupant or owner and occupant, with regard to compliance hereunder, shall not relieve any party of his or her direct responsibility under this subchapter.

(Prior Code, § 2-3-9)

§ 150.39 ROOMING HOUSES.

(A) It shall be unlawful for any person to operate a rooming house, or to occupy or let to another for occupancy any rooming unit in any rooming house unless and until a permit shall have been secured as prescribed by this section. Application for a permit shall be made to the Assistant City Administrator and will be issued by the Building Inspector upon the compliance by the applicant with the applicable provisions of this chapter and of any rules and regulations adopted pursuant thereto. No such permit shall be transferable. Every person holding a permit shall give notice in writing to the Building Inspector within 24 hours after having sold, transferred, given away or otherwise disposed of ownership of, interest in or control of any rooming house. The notice shall include the name and address of the person succeeding to the ownership or control of the rooming house. Every rooming house permit shall expire at the end of one year following its date of issuance, unless sooner suspended or revoked as hereinafter provided.

(B) Any person whose application for a permit to operate a rooming house has been denied may request and shall be granted a hearing on the matter before the Housing Appeals Board, under the procedure provided by § 150.43.

(Prior Code, § 2-3-10)

§ 150.40 UNFIT DWELLINGS.

The designation of dwellings or dwelling units as unfit for human habitation and the procedure for the condemnation and placarding of the unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

(A) Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Building Inspector:

(1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health and safety of the occupants or of the public;

(2) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public; or

(3) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupant or of the public.

(B) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the Building Inspector shall be vacated within a reasonable time as ordered by the Building Inspector, not to exceed 6 months;

(C) No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from and the placard is removed by the Building Inspector. The Building Inspector shall remove the placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated;

(D) No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in division (C) hereof;

(E) Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing on the matter before the Housing Appeals Board, under the procedure set forth in § 150.43; and

(F) Where violations of the housing standards exist and pose an immediate hazard or danger to the health, safety or welfare of building occupants or the public, the Building Inspector may issue an order citing the violation and directing such action as is necessary to remove or abate the immediate hazard or danger.

(Prior Code, § 2-3-11)

§ 150.41 INSPECTION OF DWELLINGS.

The Building Inspector or his or her agent is hereby authorized and directed to make inspection to determine the condition of dwellings, dwelling units, rooming units and premises located within the city, in order that he or she may perform any duty imposed upon him or her by this code of safeguarding the health and safety of the occupants of dwellings and of the general public. For the purpose of making these inspections, the Building Inspector or his or her agent is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit and rooming unit, or the person in charge thereof, shall give the Building Inspector or his or her agent, upon presentation of proper credentials, free access to the dwelling, dwelling unit or rooming unit and its premises, at all reasonable times for the purpose of the inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof or his or her agent or employee access to any part of the dwelling or dwelling unit or its premises at all reasonable times, for the purpose of making the repairs or alterations as are necessary to effect compliance with the provisions of this subchapter, or with any lawful order issued pursuant to the provisions of this subchapter.

(Prior Code, § 2-3-12)

§ 150.42 ENFORCEMENT.

(A) Whenever the Building Inspector determines that there are reasonable grounds to believe that there has been a violation of any provision of this subchapter or of any rule or regulation adopted

pursuant thereto, he or she shall give notice of the alleged violation to the person or persons responsible therefor, as hereinafter provided.

(B) The notice shall:

- (1) Be in writing;
- (2) Include a statement of the nature of the violation;
- (3) State a reasonable time for the performance of any act it requires; and

(4) Be served upon the owner or his or her agent, or the occupant, as the case may require; provided that the notice shall be deemed to be properly served upon the owner or agent or upon the occupant, if a copy thereof is sent by registered or certified mail to his or her last known address; or if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice; or if he or she is served with a notice by any other method authorized or required under the laws of this state.

(Prior Code, § 2-3-13)

§ 150.43 HEARING.

Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter or of any rule or regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Housing Appeals Board:

(A) Provided that the person files in the office of the Building Inspector a written petition requesting a hearing and setting forth a brief statement of the grounds therefor within 10 days after the day of the notice. Upon receipt of the petition, the Building Inspector shall set a time and place for the hearing and shall give the petitioner and the members of the Housing Appeals Board written notice thereof. At the hearing the petitioner shall be given an opportunity to be heard and to show why the notice should be modified or withdrawn. The hearing shall be commenced not less than 5 or more than 10 days after the day on which the petition was filed;

(B) Provided that upon application of the petitioner the Appeals Board may postpone the date of the hearing for a reasonable time beyond the 10-day period, if in its judgment the petitioner has submitted a good and sufficient reason for the postponement;

(C) After the hearing, the Appeals Board shall sustain, modify or withdraw the notice, depending upon its finding as to whether the provisions of this chapter and of the rules and regulations adopted pursuant thereto have been complied with. If the Appeals Board sustains or modifies the notice, it shall be deemed to be an order. Any notice served pursuant to § 150.42 shall automatically become an order if a written petition for a hearing is not filed in the office of the Building Inspector within 10 days after notice is served. After a hearing in the case of any notice suspending any permit required by this chapter or by any rule or regulation adopted pursuant thereto, when the notice has been sustained by the Appeals Board, the permit shall be deemed to have been revoked. Any permit which has been

suspended by a notice shall be deemed to be automatically revoked if a petition for hearing is not filed in the office of the Building Inspector within 10 days after the notice is served;

(D) The proceedings at the hearing, including the findings and decision of the Appeals Board, shall be summarized, reduced to writing in a journal and entered as a matter of public record in the office of the Appeals Board. This record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Appeals Board may seek relief therefrom by a writ of certiorari to the District Court; and

(E) The Housing Appeals Board referred to herein shall consist of a member of the Citizens Advisory Committee, a member of the Planning Committee, and a member of the Council, and all of whom shall be appointed by the Mayor and approved by the Council.
(Prior Code, § 2-3-14) (Ord. 340, passed 7-10-1967)

PLUMBING CODE

§ 150.55 PLUMBING CODE ADOPTED.

The Minnesota Plumbing Code dated July 20, 1937, amended as of May 9, 1937, January 14, 1947, and on October 16, 1954, is hereby adopted by reference, and all parts and sections in connection therewith are to be complied with by all licensed plumbers of the city, as it now stands and as it is from time to time amended.

(Prior Code, § 2-4-1) (Ord. 289, passed 1-4-1954)

Statutory reference:

Similar provisions, see M.S.A. § 471.62

§ 150.56 PERMIT REQUIRED.

(A) It shall be unlawful for any licensed plumber to construct, install, alter or repair any plumbing; drain, vent, pump, water closet, sink, lavatory or any other plumbing fixture within the city without first obtaining a permit from the Assistant City Administrator to do the work. Application for the permit shall be made at the office of the Assistant City Administrator on forms supplied by the city. This application shall contain a plat of the premises to be served showing the locations of the proposed service and the building to be served. The plat shall show the lot lines and the block numbers, lot numbers and the street upon which the lots front. The plat shall show the location of the building, sewer or proposed sewer connection.

(B) However, no permit shall be required in case of repairs not affecting sanitation, such as mending of leaks in faucets, valves or water supply pipes, mending of broken fixtures, tanks, kitchen boilers, releasing frozen pipes or rodding and flushing of any house sewer or drain.

(Prior Code, § 2-4-2) (Ord. 289, passed 1-4-1954) Penalty, see § 10.99

§ 150.57 PERMIT FEES.

After the permit has been approved by the Plumbing Inspector, the applicant shall pay to the city a fee as hereinafter provided:

(A) Where any excavation is made in any street for a water main or water connection, the same shall be backfilled and resurfaced by the city. The cost thereof shall be paid as the city may determine.

(B) Where any excavation is made in any street for a sewer connection, the abutting property owner or party benefitted thereby shall pay to the city the cost of backfilling and replacing the road surface, if any.

(C) Where any other excavation is made in any street the abutting property owner or party benefitted thereby shall pay to the city the cost of backfilling and replacing the road surface, if any. (Prior Code, § 2-4-3) (Ord. 289, passed 1-4-1954)

§ 150.58 PLUMBERS' INSURANCE.

The licensee shall also file with the Assistant City Administrator of the city liability insurance in the minimum amount of \$5,000 to each person, \$10,000 for each accident covering liability to persons, and the sum of \$1,000 covering damage to property. (Prior Code, § 2-4-4) (Ord. 289, passed 1-4-1954)

§ 150.59 STREET EXCAVATIONS.

No person shall make any excavation in any street without first securing a permit therefor from the Assistant City Administrator. The fee for the excavation, unless otherwise provided, shall be the cost of the damages caused by the excavation. (Prior Code, § 2-4-5) (Ord. 289, passed 1-4-1954)

CHAPTER 151: SHORELAND MANAGEMENT

Section

- 151.01 Statutory authorization and policy
- 151.02 General provisions and definitions
- 151.03 Administration
- 151.04 Shoreland classification system and land use districts
- 151.05 Zoning and water supply/sanitary provisions
- 151.06 Nonconformities
- 151.07 Subdivision/platting provisions
- 151.08 Planned Unit Developments (PUDs)
- 151.09 Effective date

§ 151.01 STATUTORY AUTHORIZATION AND POLICY.

(A) *Statutory authorization.* This chapter is adopted pursuant to the authorization and policies contained in M.S. Chapter 103F, as may be amended from time to time, Minn. Regs., parts 6120.2500–6120.3900, and the planning and zoning enabling legislation in M.S. Chapter 462, as it may be amended from time to time.

(B) *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 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 the 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. This responsibility is hereby recognized by the city. (Prior Code, § 6-11-1) (Ord. 569, passed 6-1-1992)

§ 151.02 GENERAL PROVISIONS AND DEFINITIONS.

(A) *Jurisdiction.* The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in § 151.04 of this chapter. Pursuant to Minn. Regs., parts 6120.2500–6120.3900, no lake, pond or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government’s shoreland regulations. A body of

water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this chapter.

(B) *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 areas; 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.

(C) *Enforcement.* The Zoning Administrator 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 the 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 § 151.03(A).

(D) *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.

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

(F) *Definitions.* Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally or vertically as specified.

ACCESSORY STRUCTURE OR FACILITY. 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. A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the **BLUFF**):

- (a) Part or all of the feature is located in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;

(c) 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% or greater; and

(d) The slope must drain toward the waterbody.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BOATHOUSE. A structure designed and used solely for the storage of boats or boating equipment.

BUILDING LINE. 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. Typically, 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. The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

COMMISSIONER. The Commissioner of the Department of Natural Resources.

CONDITIONAL USE. A land use or development as defined by ordinance 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 ordinance 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. A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site.

DUPLEX, TRIPLEX and QUAD. A dwelling structure on a single lot, having 2, 3 and 4 units, respectively, being attached by common walls, and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

DWELLING SITE. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

DWELLING UNIT. 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. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals and peat not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time.

FILTER BLANKET. A 6-inch layer of gravel or geotextile fabric.

GUEST COTTAGE. 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.

HARDSHIP. The same as that term is defined in M.S. Chapter 462, as it may be amended from time to time.

HEIGHT OF BUILDING. The vertical distance measured from the average ground level adjoining the building to the highest point of the roof surface if a flat roof, to the deck line of mansard roofs and to the highest level between eaves and ridge of gable, hip and gambrel roofs.

INDUSTRIAL. 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. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

LOT. 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 the description for the purpose of sale, lease or separation.

LOT WIDTH. The shortest distance between lot lines measured at the midpoint of the building line.

NONCONFORMITY. 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. 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.

PATIO. An unenclosed, level, landscaped and/or surfaced area built at ground level and attached or functionally related to a dwelling unit.

PLANNED UNIT DEVELOPMENT. 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. Any waters as defined in M.S. § 103G.005, subd. 15 and 18, as they may be amended from time to time.

RECREATIONAL CAMPING VEHICLES. Any of the following:

CAMPING TRAILER. A fold structure mounted on wheels and designed for travel, recreation and vacation use.

MOTOR HOME. A portable, temporary dwelling to be used for travel, recreation and vacation and constructed as an integral part of a self-propelled vehicle.

PICKUP COACH. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational or vacation use.

RESIDENTIAL PLANNED UNIT DEVELOPMENT. A use where the nature of residency is nontransient and the major or primary force 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 5 dwelling units or sites.

SEMI-PUBLIC USE. 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. 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. 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. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in § 151.05(H).

SEWER SYSTEM. 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. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

SHORELAND. 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 **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.

SIGNIFICANT HISTORIC SITE. 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 M.S. § 307.08, as it may be amended from time to time. A 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 Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be **SIGNIFICANT HISTORIC SITES**.

SIGNIFICANT WETLAND. Having a significant water storage or wildlife habitat.

STEEP SLOPE. 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%, as measured over horizontal distance of 50 feet or more, that are not bluffs.

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

SUBDIVISION. Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

SURFACE WATER-ORIENTED COMMERCIAL USE. 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 this use.

TOE OF THE BLUFF. The lower point of a 50-foot segment with an average slope exceeding 18%.

TOP OF THE BLUFF. The higher point of a 50-foot segment with an average slope exceeding 18%.

VARIANCE. The same as that term is defined or described in M.S. Chapter 462, as it may be amended from time to time.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A small, aboveground structure 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 these structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

WATERCRAFT. Includes but is not limited to motorboats, rowboats, sailboats, sailboards, canoes, kayaks, paddle boats, rowing shells or sculls, all-terrain vehicles used in water, personal watercraft (also called jet skis, water scooters, wetcycles and the like), and inflatables over 9 feet long.

WETLAND. A surface water feature classified as a **WETLAND** in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).
(Prior Code, § 6-11-2) (Ord. 569, passed 6-1-1992) Penalty, see § 10.99

§ 151.03 ADMINISTRATION.

(A) *Permits required.*

(1) A permit is required for the construction of structures or structure additions (and including such related activities as construction of decks, patios and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by § 151.05(C). Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by § 151.05(H) shall be reconstructed or replaced in accordance with the provisions of this chapter.

(B) *Certificate of zoning compliance.* The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in division (A) of this section. 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 § 151.02(C).

(C) *Variances.*

(1) Variances may only be granted in accordance with M.S. Chapter 462, as it may be amended from time to time, as applicable. 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 has reasonable use of the land without the variance, whether the property is used seasonally or year-around, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

(2) 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 hearing records, the notification of the approved variance required in division (D) below shall also include the Board of Adjustment's summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.

(Ord. 569, passed 6-1-1992)

(3) 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.

(D) *Notifications to the Department of Natural Resources.*

(1) 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 10 days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(2) A copy of approved amendments and subdivisions/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 10 days of final action.

(Prior Code, § 6-11-3) (Ord. 569, passed 6-1-1992)

§ 151.04 SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS.

(A) *Shoreland classification system.* The public waters of the city have been classified below consistent with the criteria found in Minn. Regs., part 6120.3300, and the Protected Waters Inventory

Map for Meeker County, Minnesota. The shoreland area for the waterbodies listed in divisions (A) and (B) shall be as defined in § 151.02(F) and as shown on the official zoning map.

(1) *Lakes.*

<i>Lake Designation</i>	<i>Protected Waters Inventory I.D.#</i>
Natural environment lakes: East Lake Ripley	47-134A
General development lakes: West Lake Ripley	47-134B

(2) *Rivers and streams.*

<i>Designation</i>	<i>Legal Description</i>
Tributary streams: Jewett Creek	From city limits line on west to city limits line on north

(3) *Tributary.* All protected watercourses in the city shown on the Protected Waters Inventory Map for Meeker County, a copy of which is hereby adopted by reference, not given a classification in this division (A), above, shall be considered “tributary.”

(B) *Land use district descriptions.* 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. Regs., part 6120.3200, subp. 3, including preservation of natural areas; present ownership and development of shoreland areas; shoreland soil types and their engineering capabilities; topographic characteristics; vegetative cover; in-water physical characteristics, values and constraints; recreational use of the surface water; road and service center accessibility; socio-economic development needs and plans as they involve water and related land resources; the land requirements of industry which, by its nature, requires location in shoreland areas; and the necessity to preserve and restore certain areas having significant historical or ecological value.

(1) *Land use districts for lakes.*

<i>Districts</i>	<i>General Development Lakes</i>	<i>Natural Environment Lakes</i>
(a) <i>Special Protection District - Uses</i>		
Forest management	P	P

<i>Districts</i>	<i>General Development Lakes</i>	<i>Natural Environment Lakes</i>
Sensitive resource management	P	P
Ag. cropland and pasture	P	P
Parks and historic sites	C	C
Single residential	C	C
<i>(b) Residential District - Uses (R-1)</i>		
Single residential	P	P
Semi-public	C	C
Parks and historic sites	C	C
Duplex, triplex, quad	C	C
Forest management	P	P
<i>(c) High Density Residential District - Uses (R-2, R-3)</i>		
Residential PUDs	C	C
Single residential	P	P
Surface water oriented commercial ¹	C	C
Semi-public	C	C
Parks and historic sites	C	C
Duplex, triplex, quad	C	C
Forest management	P	P
<i>(d) Water Oriented Commercial District - Uses (B-1, B-3)</i>		
Surface water oriented commercial	C	C
Commercial PUDs ²	C	C
Public, semi-public	C	C
Parks and historic sites	C	C
Forest management	P	P

<i>Districts</i>	<i>General Development Lakes</i>	<i>Natural Environment Lakes</i>
<i>(e) General Use District - Uses (R-3, B-4)</i>		
Commercial	P	P
Commercial PUDs ²	C	C
Industrial	C	N
Public, semi-public	P	C
Parks and historic sites	C	C
Forest management	P	P
<p>NOTES: P - Permitted Uses C - Conditional Uses N - Prohibited Uses ¹ As accessory to a residential PUD. ² Limited expansion of a commercial planned unit development involving up to 6 additional dwelling units or sites may be allowed as a permitted use, provided the provisions of § 151.08 are satisfied.</p>		

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

<i>District</i>	<i>Tributary</i>
<i>(a) Special Protection District - Uses</i>	
Forest management	P
Sensitive resources management	P
Ag. cropland and pasture	P
Parks and historic sites	C
Single residential	C
<i>(b) Residential District - Uses (R-1)</i>	
Single residential	P
Semi-public	P

<i>District</i>	<i>Tributary</i>
Parks and historic sites	P
Duplex, triplex, quad	C
Forest management	P
<i>(c) High Density Residential - Uses (R-2, R-3)</i>	
Residential PUDs	C
Single residential	P
Surface water oriented commercial ¹	C
Semi-public	C
Parks and historic sites	C
Duplex, triplex, quad	C
Forest management	P
<i>(d) Water Oriented Commercial - Uses (B-1, B-3)</i>	
Surface water oriented commercial	C
Commercial PUDs ¹	C
Public, semi-public	P
Parks and historic sites	C
Forest management	P
<i>(e) General Use District - Uses (R-3, B-4)</i>	
Commercial	C
Commercial PUDs ²	C
Industrial	C
Public, semi-public	C
Parks and historic sites	C
Forest management	P

<i>District</i>	<i>Tributary</i>
<p>NOTES: P - Permitted Uses C - Conditional Uses N - Prohibited Uses ¹ As accessory to a residential PUD. ² Limited expansion of a commercial planned unit development involving up to 6 additional dwelling units or sites may be allowed as a permitted use, provided the provisions of § 151.08 are satisfied.</p>	

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

(1) Some land use districts 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 in division (B) 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 the lake must be revised to make them substantially compatible with the framework in division (B) of this section.

(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 the framework in division (B) of this section. If the same river classification is contiguous for more than a 5-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary, if closer, need be evaluated and revised.

(3) (a) 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.

(b) 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 City 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 City Council will

direct the Zoning Administrator to provide any additional information for this waterbody as is necessary to satisfy divisions (C)(1) and (2) of this section.

(5) The City 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 the waterbody, are consistent with the enumerated criteria and use provisions of division (B) above. (Prior Code, § 6-11-4) (Ord. 569, passed 6-1-1992)

§ 151.05 ZONING AND WATER SUPPLY/SANITARY PROVISIONS.

(A) *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 date of enactment of this chapter for the lake and river/steam classifications are the following:

(1) *Unsewered lakes.*

<i>Lot</i>	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
<i>(a) Natural environment.</i>				
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
<i>(b) General development.</i>				
Single	25,000	125	50,000	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.*

<i>Lot</i>	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>

<i>(a) Natural environment.</i>				
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410
<i>(b) General development.</i>				
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 requirement for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the 6 river/stream classifications are:

<i>Lot</i>	<i>Tributary</i>	
	<i>No Sewer</i>	<i>Sewer</i>
Single	100	75
Duplex	150	115
Triplex	200	150
Quad	250	190

(4) *Additional special provisions.*

(a) Residential subdivisions with dwelling unit densities exceeding those in the tables in division (A)(2) and (3) of this section can only be allowed if designed and approved as residential planned unit developments under § 151.08. 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 division (A)(2) can only be used if publicly owned sewer system service is available to the property.

(b) Subdivisions 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 system 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% 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 division (A)(1) through (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 accesses 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:

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 6 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 6, consistent with the following table:

<i>Controlled Access Lot Frontage Requirements</i>	
<i>Ratio of Lake Size to Shore Length (Acres/Mile)</i>	<i>Required Increase in Frontage (Percent)</i>
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

4. Covenants or other equally effective legal instruments 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 property 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 the public water, assuming summer, leaf-on conditions.

(e) One recreational camping vehicle, as defined in § 151.02, and one watercraft, as defined in division § 151.02, may be parked on each lot. An unoccupied recreational camping vehicle and watercraft may remain no longer than 30 days on a lot unless owned by the lot owner. A recreational camping vehicle shall not be considered an accessory structure or facility.

(f) Recreational camping vehicles shall not be closer to the ordinary high water mark than the structure setback.

(B) *Placement, design and height of structures.*

(1) *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 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:

(a) *Structure and on-site sewage system setbacks (in feet) from ordinary high water level.* One water-oriented accessory structure designed in accordance with division (B)(2) of this section may be set back a minimum distance of 10 feet from the ordinary high water level.

<i>Classes of Public Waters</i>	<i>Structures</i>		<i>Sewage Treatment System</i>
	<i>Unsewered</i>	<i>Sewered</i>	
<i>Lakes:</i>			
Natural environment	150	150	150
General development	75	50	50
<i>Rivers:</i>			
Tributary	100	50	75

(b) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the waterbody:

<i>Setback From:</i>	<i>Setback (in feet)</i>
Top of bluff	30
Unplatted cemetery	50
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

(c) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(d) *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.

(2) *Design criteria for structures.*

(a) *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:

(1) For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is higher;

(2) For rivers and streams, by placing the lowest floor at least 3 feet above the flood

of record, if data is available. If data is not available, by placing the lowest floor at least 3 feet above the ordinary high water level, or by conditioning a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all 3 approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minn. Regs., parts 6120.5000 to 6120.00 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

(3) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item 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.

(b) *Water-oriented accessory structures.* Each lot may have one water-oriented accessory structure not meeting the normal structure setback in division (B) of this section if this water-oriented accessory structure complies with the following provisions:

(1) The structure or facility must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed 8 feet above grade at any point;

(2) The setback of the structure or facility from the ordinary high water level must be at least 10 feet;

(3) 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;

(4) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

(5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

(6) As an alternative for general development and recreational development waterbodies, 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.

(c) *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:

(1) Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties and

planned unit developments;

(2) 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;

(3) Canopies or roofs are not allowed on stairways, lifts or landings;

(4) 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;

(5) Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public waters, assuming summer, leaf-on conditions, whatever practical;

(6) Residential lots shall have no more than one lift and one stairway; and

(7) 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 division (B)(2)(c)(1) to (6) of this section are complied with in addition to the requirements of Minn. Regs., Chapter 1340.

(d) *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.

(e) *Steep slopes.* The Zoning Administrator 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.

(f) *Height of structures.* All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

(C) *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 habitat.

(1) *Vegetation alterations.*

(a) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by division (D) of this section 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 division (F)(2) and (3) of this section, respectively, 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:

a. The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

b. Along rivers, existing shading of water surfaces is preserved; and

c. 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/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 division (D) of this section.

(c) Notwithstanding division (C)(2)(a) and (b) above, a grading and filling permit will be required for:

1. The movement of more than 10 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 material 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 in divisions 1.a. through f. below. This evaluation 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 Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

a. Sediment and pollutant trapping and retention;

b. Storage of surface runoff to prevent or reduce flood damage;

c. Fish and wildlife habitat;

d. Recreational use;

e. Shoreline or bank stabilization; and

f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

2. 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;

3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

5. 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;

6. Fill or excavated material must not be placed in a manner that creates an unstable slope;

7. 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% or greater;

8. Fill or excavated material must not be placed in bluff impact zones;

9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. § 103G.245, as it may be amended from time to time;

10. 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

11. 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 3 feet horizontal to one foot vertical, the landward extent of the riprap is within 10 feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed 3 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.

(D) *Placement and design of roads, driveways and parking areas.*

(1) 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 public waters consistent with the field office technical guides of the local Soil and Water Conservation District, or other applicable technical materials.

(2) 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.

(3) 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 erosion control conditions of this division are met. For private facilities, the grading and filling provisions of division (C)(2) of this section must be met.

(E) *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, topography 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% 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 and tile with a diameter of 15 inches or larger draining into public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(F) *Special provisions for commercial, industrial, public/semi-public, agricultural and forestry uses.*

(1) *Standards for commercial, industrial, public and semi-public uses.*

(a) Surface water-oriented commercial uses and industrial, public or semi-public 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:

1. 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;

2. 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

3. 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:

a. 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.

b. 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 10 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

c. 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.

(b) 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.

(2) *Agriculture use standards.*

(a) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod 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.

(b) Animal feedlots must meet the following standards:

1. 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;

2. 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; and

3. The Minnesota Pollution Control Agency regulates animal feedlots and issues permits for their operation.

(3) *Forest management standards.* The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota.”

(G) *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 waterbody 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 Planning Commission, 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. These 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.

(H) *Water supply and sewage treatment.*

(1) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

(2) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

(a) Publicly-owned sewer systems must be used where available.

(b) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document, titled "Individual Sewage Treatment Systems Standards," Chapter 7080, a copy of which is hereby adopted by reference and declared to be a part of this chapter.

(c) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in division (B)(1) of this section.

(d) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in division (H)(2)(d)(1) through (4) below. 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. Evaluation criteria are:

1. Depth to the highest known or calculated groundwater table or bedrock;
2. Soil conditions, properties and permeability;
3. Slope; and
4. The existence of lowlands, local surface depressions and rock outcrops.

(e) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with § 151.06(C) of this chapter.
(Prior Code, § 6-11-5) (Ord. 569, passed 6-1-1992)

§ 151.06 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 subject 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:

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

(1) Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of § 151.05(A) 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.

(2) 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.

(3) If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 151.05(A), 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 § 151.05(A) as much as possible.

(B) Additions/expansions to nonconforming structures:

(1) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height and other requirements of § 151.05. Any deviation from these requirements must be authorized by a variance pursuant to § 151.03(C).

(2) 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:

(a) The structure was existing on the date the structure setbacks were established;

(b) 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;

(c) The deck encroachment toward the ordinary high water level does not exceed 15% 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

(d) The deck is constructed primarily of wood and is not roofed or screened.

(C) Nonconforming sewage treatment systems.

(1) A sewage treatment system not meeting the requirements of § 151.05(H) must be upgraded, at a minimum, at any time a land transfer occurs or when a permit or variance of any type is required for any 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.

(2) 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 2 years. Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. § 103F.201, as it may be amended from time to time, 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 the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming. (Prior Code, § 6-11-6) (Ord. 569, passed 6-1-1992)

§ 151.07 SUBDIVISION/PLATTING PROVISIONS.

(A) *Land suitability.* Each lot created through subdivision, including planned unit development authorized under § 151.08, 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 sewage treatment capabilities, near-shore aquatic 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.

(B) *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 § 151.05(B) and (H) can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of § 151.05(A), including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of 2 standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(C) *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 10-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

(2) The surface water features required in M.S. § 505.02, subd. 1, as it may be amended from time to time, to be shown on plats, obtained from United States Geological 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 alternations; 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” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(D) *Dedications*. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(E) *Platting*. All subdivisions that create 5 or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with M.S. Chapter 505, as it may be amended from time to time. 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.

(F) *Controlled access or recreational lots*. Lots intended as controlled access to public waters or for recreational use areas for use as nonriparian lots within a subdivision must meet or exceed the sizing criteria in § 151.05(A)(4).

(Prior Code, § 6-11-7) (Ord. 569, passed 6-1-1992)

§ 151.08 PLANNED UNIT DEVELOPMENTS (PUDS).

(A) *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 districts in which they are an allowable use are identified in the land use district descriptions in § 151.04(B) and the official zoning map.

(B) *Processing of PUDs*. Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the effective date hereof 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 division (E) of this section. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

(C) *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, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at 10-

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 2;

(2) A property owners’ association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of division (F) of this section;

(3) Deed restrictions, covenants, permanent easements or other instruments that:

(a) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft and construction of commercial buildings in residential PUDs; and

(b) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in division (F) of this section.

(4) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied; and

(5) Those additional documents as requested by the Planning Commission that are necessary to explain how the PUD will be designed and will function.

(D) *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/dwelling site density evaluation in division (E) below.

(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:

<i>Shoreland Tier Dimensions</i>		
<i>Class</i>	<i>Unsewered (Feet)</i>	<i>Sewered (Feet)</i>
General development lakes, first tier	200	200
General development lakes, second and additional tiers	267	200
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.

(E) *Residential and commercial PUD density evaluations.* 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 waterbody, 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 analyses herein and the design criteria in division (F) herein.

(2) *Commercial PUD base density evaluation.*

(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:

<i>Commercial Planned Unit Development Floor Area Ratios*</i>			
<i>Public Waters Classes</i>			
<i>Average Unit Floor Area (Square Feet)</i>	<i>Sewered General Development Lakes; First Tier on Unsewered General Development Lakes; Urban, Agricultural, Tributary River Segments</i>	<i>Second and Additional Tiers on Unsewered General Development Lakes; Recreational Development Lakes; Transition and Forested River Segments</i>	<i>Natural Environment Lakes and Remote River Segments</i>
200	.040	.020	.010
300	.048	.024	.012

Commercial Planned Unit Development Floor Area Ratios*			
Public Waters Classes			
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038
<p>*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 sites 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.</p>			

(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 division (E)(2)(c) above by the average inside living area size determined in division (E)(1) above. 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 division (F) below.

(3) *Density increase multipliers.*

(a) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in § 151.05 are met or exceeded and the design criteria in division (F) of this section are satisfied. The allowable density increases in division (E)(3)(b) below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the waterbody 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% greater than the minimum setback.

(b) Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments are as follows:

<i>Density Evaluation Tiers</i>	<i>Maximum Density Increase Within Each Tier/Percent</i>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(F) *Maintenance and design criteria.*

(1) *Maintenance and administration requirements.*

(a) *Maintenance.* 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.

(b) *Open space preservation.* 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. These instruments must include all of the following protections:

1. Commercial uses prohibited (for residential PUDs);
2. Vegetation and topographic alterations other than routine maintenance prohibited;

3. Construction of additional buildings or storage of vehicles and other materials prohibited; and

4. Uncontrolled beaching of watercraft prohibited.

(c) *Development organization and functions.* Unless an equally effective alternative community framework is established, when applicable, all residential planned unit development must use an owners' association with the following features:

1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;

3. Assessments must be adjustable to accommodate changing conditions; and

4. The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.

(2) *Open space requirements.* Planned unit developments must contain open space meeting all of the following criteria:

(a) At least 50% of the total project area must be preserved as open space;

(b) 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;

(c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;

(d) 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;

(e) Open space may include subsurface sewage treatment system if the use of the space is restricted to avoid adverse impacts on the systems;

(f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;

(g) 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

(h) The shore impact zone, based on normal structure setbacks, must be included as open

space. For residential PUDs, at least 50% of the shore impact zone area of existing developments or at least 70% of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50% of the shore impact zone must be preserved in its natural state.

(3) *Erosion control and stormwater management.*

(a) Erosion control and stormwater management plans must be developed and the PUD must:

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 groundcovers, 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.

(b) Impervious surface coverage within any tier must not exceed 25% of the tier area, except that for commercial PUDs 35% impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with § 151.05(C).

(4) *Centralization and design of facilities.* Centralization and design of facilities and structures must be done according to the following standards:

(a) 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 Minnesota Department of Health and § 151.05(B) and (H). On-site sewage treatment systems must be located in 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;

(b) 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;

(c) 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 to groundwater and bedrock, or other relevant factors. The number of spaces provided for

continuous beaching, mooring or docking of watercraft 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;

(d) 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, color 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;

(e) Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized; and

(f) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in § 151.05(B) of this chapter and are centralized.

(G) *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:

(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 division (E) of 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.
(Prior Code, § 6-11-8) (Ord. 569, passed 6-1-1992)

§ 151.09 EFFECTIVE DATE.

Effective date of this chapter is June 16, 1992.
(Ord. 569, passed 6-1-1992)

CHAPTER 152: SUBDIVISIONS

Section

General Provisions

- 152.001 Short title
- 152.002 Purpose
- 152.003 Interpretation
- 152.004 Scope
- 152.005 Subdividing land; plat approval
- 152.006 Definitions

Procedures

- 152.015 Preliminary plan procedure
- 152.016 Final plat procedure

Data Required

- 152.030 Preliminary plat data
- 152.031 Final plat data

Design Standards

- 152.045 Streets
- 152.046 Easements
- 152.047 Blocks
- 152.048 Lots
- 152.049 Public lands

Required Improvements

- 152.060 Improvements
- 152.061 Monuments
- 152.062 Streets
- 152.063 Water mains
- 152.064 Sanitary sewer
- 152.065 Storm drainage facilities
- 152.066 Tree planting

- 152.067 Street name signs
- 152.068 Stop signs
- 152.069 Trunk facilities
- 152.070 Specifications
- 152.071 Financing
- 152.072 Electrical distribution

Enforcement; Administration

- 152.085 Variances
- 152.086 Amendments
- 152.087 Building permits
- 152.088 Registered land surveys; conveyance by metes and bounds; enforcement

Extraterritorial Subdivision Authority

- 152.100 Extraterritorial subdivision authority
- 152.101 Bulk and density regulations for rural plats
- 152.102 Design standards for rural plats
- 152.103 Required improvements for rural plats
- 152.104 Effective date

GENERAL PROVISIONS

§ 152.001 SHORT TITLE.

This chapter shall be known as the “Subdivision Regulations of the City of Litchfield” or this chapter.

(Prior Code, § 10-1-1)

§ 152.002 PURPOSE.

Each new subdivision becomes a permanent unit in the basic physical structure of the future community, a unit to which the future community will of necessity be forced to adhere. Piecemeal planning of the subdivisions, without correlation to the city’s plan, will bring a disastrous, disconnected patchwork of plats and poor circulation of traffic. In order that new subdivisions will contribute toward an attractive, orderly, stable and wholesome community environment, adequate municipal services, and safe streets, all subdivisions hereafter platted within the city shall fully comply with the regulations hereinafter set forth in this chapter.

(Prior Code, § 10-1-2)

Statutory reference:

Similar provisions, see M.S.A. § 462.358

§ 152.003 INTERPRETATION.

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

(Prior Code, § 10-1-3)

§ 152.004 SCOPE.

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

(Prior Code, § 10-1-4)

§ 152.005 SUBDIVIDING LAND; PLAT APPROVAL.

(A) No separate parcel of land for which a tax parcel number has been assigned shall be divided into 3 or more lots, tracts or other divisions of land, unless prior to the division the premises shall have been platted. Any plat hereafter made for each subdivision or each part thereof lying within the jurisdiction of this section shall be prepared, presented for approval and recorded as prescribed herein.

(B) Effective date of this section is February 21, 1989.

(Prior Code, § 10-1-6) (Ord. 532, passed 2-6-1989)

§ 152.006 DEFINITIONS.

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

ALLEY. A public right-of-way which affords a secondary means of access to abutting property.

ARTERIAL. A fast or heavy traffic street of considerable continuity and used primarily as a traffic artery for intercommunication among large areas.

BLOCK. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroads, rights-of-way, shorelines of waterways or boundary lines of the city.

BUILDING LINE. Also referred to as a **SETBACK LINE**, means the line beyond which property owners or others have no legal or vested right to extend a building or any part thereof without special permission and approval of the proper authorities.

CITY PLANNING COMMISSION. The Planning Commission of the City of Litchfield.

CITY PLANS. This includes all duly promulgated plans of the Council and City Planning Commission for land use, transportation facilities and community facilities.

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

CONTOUR MAP. A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

CUL-DE-SAC. A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of the traffic movement.

DESIGN STANDARDS. The specifications to landowners or subdividers for the preparation of preliminary plans, indicating among other things the optimum, minimum or maximum dimensions of such features as rights-of-way and blocks, as set forth in §§ 152.045 through 152.048.

DRIVEWAY. A private drive leading from a public street or right-of-way to a garage, carport or any place of storage of a motor vehicle.

EASEMENT. A grant by a property owner for the use of a strip of land by the general public, a corporation or a certain person or persons, for a specific purpose or purposes.

FINAL PLAT. A map or plan of a subdivision and any accompanying material, as described in §§ 152.030 and 152.031.

FRONTAGE. The width of a lot or building site measured on the line separating it from a public street or way.

GRADE. The slope of a road, street or other public way, specified in percent and shown on a street profile plan.

LOT. A portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

BUTT LOT. A lot at the end of a block and located between 2 corner lots.

CORNER LOT. A lot or lots within a plat and situated at the corners thereof so that they are bounded on 2 sides by streets. This term applies to any lot within the plat at street intersections and bounded on 2 sides by streets.

DOUBLE FRONTAGE LOT. Lots which have a front line abutting on one street and a back or rear line abutting on another street.

OUTLOT. A parcel of land intended to be combined with another parcel of different ownership for use as a single lot.

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

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

NATURAL WATERWAY. Any natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also means to include any and all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

OWNER. Owner or his or her duly authorized agent or attorney in fact, a purchaser, devisee, fiduciary and a person having vested interest in the property in question.

PEDESTRIAN WAY. A public right-of-way across a block or providing access within a block, to be used by pedestrians and for the installation of utility lines.

PRELIMINARY PLAN. A tentative map or plan of a proposed subdivision as described in §§ 152.015 and 152.016.

RESERVE STRIP. A narrow strip of land usually withheld from a street right-of-way to form a barrier between certain property and public street or thoroughfare.

ROADWAY. The paved portion of the street available for vehicular traffic.

RIGHT-OF-WAY. The land covered by a public road or other land dedicated for public use or for certain private use, such as land over which power lines pass.

STREET. A public or private right-of-way to abutting properties, whether designated as a street, avenue, highway, road, boulevard and/or however designated, which affords primary access by pedestrians and vehicles.

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

SUBDIVISION. The division of a parcel of land into 2 or more lots or parcels for the purpose of transfer of ownership or building development. The term includes resubdivision, and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

THOROUGHFARE. Shall be considered the same as an arterial street or highway.

ZONING. The reservation of certain specified areas within the municipality for buildings and structures for certain purposes and other limitations as in the zoning code of the city. (Prior Code, § 10-1-5) (Ord. 328, passed 4-1-1963)

PROCEDURES

§ 152.015 PRELIMINARY PLAN PROCEDURE.

(A) *Pre-planning.* Prior to the preparation of a preliminary plan, the subdivider shall meet with the City Engineer regarding city plans for arterials, parks, utilities and the like in the area being subdivided. The developer shall submit a topographic survey, location map, preliminary sketch or design and general information in regards to the proposed development.

(B) *Preparation.* The subdivider shall have a preliminary plan prepared on the basis of these city plans, the design standards and other data required by this chapter.

(C) *Number of copies.* The subdivider shall then submit to the Assistant City Administrator 5 copies of the preliminary plan.

(D) *Distribution of copies.* The Assistant City Administrator shall refer one copy of the preliminary plan to the City Planning Commission, one copy to the County Highway Engineer, and 2 copies to the City Engineer. The remaining copy shall be kept on file at the City Hall.

(E) *Fees.* At the time of filing the request, fees shall be paid to the city as follows:

(1) For waiver of the Platting Code for conveying or splitting lots prohibited by the Code, no charge;

(2) For platting subdivisions of 5 lots or less, \$50;

(3) For platting subdivisions of more than 5 and not over 100 lots, \$100;

(4) For platting subdivisions of more than 100 lots, there shall be a fee of \$100 plus \$3 for each lot over 100; and

(5) For all other matters not specifically covered, \$25.

(F) *Hearing.* The Assistant City Administrator shall then set a hearing on the preliminary plan, this hearing to be held at the next regular meeting of the Planning Commission.

(G) *Engineer's report.* The City Engineer shall submit his or her report to the Planning Commission on or before the hearing on the preliminary plan. This report shall be on the feasibility of street location and construction and on any drainage problems that might be encountered.

(H) *Planning Commission review.* The Planning Commission shall conduct the hearing on the preliminary plan and shall make its report to the Council within 5 days after the second regular meeting of the Planning Commission following referral by the Assistant City Administrator. The primary function of the Planning Commission in reviewing a preliminary plat is to determine whether the plat conforms to the design standards as set forth in this chapter. The Planning Commission may approve a preliminary plan subject to certain revisions.

(I) *Council action.* The Council shall act on the preliminary plan within 90 days of the date of which it was filed with the Assistant City Administrator. If the report of the Planning Commission has not been received in time to meet this requirement, the Council may act without the report. The Council may require such revisions in the preliminary plan as it deems necessary for the health, safety, general welfare and convenience of the city.

(1) Approval of a preliminary plan by the Council is tentative only, involving merely the general acceptability of the layout. Subsequent approval will be required of the engineering proposals, pertaining to water supply, storm drainage, sewerage and sewage disposal, gas and electrical service, grading, gradients and roadway widths, and all other matters of specific concern.

(2) The action of the Council and the reasons for the action shall be recorded in the proceedings of the Council and transmitted to the applicant.

(J) *Revised preliminary plan.*

(1) When a preliminary plan has been approved by the Council with revisions, 3 copies of the revised plan shall be filed with the Assistant City Administrator within 30 days of the Council action. One copy shall be referred to the City Engineer and one copy to the City Planning Commission.

(2) Failure to file the revised preliminary plan as required shall render the approval of the preliminary plan void.

(Prior Code, § 10-2-1) (Ord. 328, passed 4-1-1963)

§ 152.016 FINAL PLAT PROCEDURE.

(A) Unless an extension of time is requested by the subdivider and granted by the Council, the subdivider shall, within 6 months following approval of the preliminary plan, submit to the Assistant

City Administrator:

(1) Six copies of the final plat. This final plat shall incorporate all changes required by the Council and it shall conform to the preliminary plan or the revised preliminary plan if so required. The final plat may constitute only that portion of the preliminary plan which the subdivider proposes to record and develop at the time; and

(2) An up-to-date certified abstract of title or registered property report or such other evidence as the City Attorney may require, showing title of control in the applicant. The Clerk shall refer the abstract of title or registered property abstract to the City Attorney for his or her examination and report.

(B) The Clerk shall refer one copy of the final plat to the City Engineer, one copy to the County Surveyor and one copy to the City Planning Commission.

(C) The reports of the City Attorney and City Engineer shall be submitted to the Council within 15 days after filing of the final plat. The City Engineer shall state whether the final plat and the proposed improvements conform to the engineering standards and specifications established in this chapter.

(D) The Council shall act on the final plat within 60 days of the date on which it was filed with the Clerk.

(1) No final plat will be approved that:

(a) Does not conform to the preliminary plan or the revised preliminary plan; or

(b) Does not meet the design standards and engineering specifications set forth in this area.

(2) Whenever a final plat is approved by the Council, the Mayor and Assistant City Administrator shall sign the plat certifying approval. Whenever a plat is not approved by the Council, the Assistant City Administrator shall notify the owner or subdivider.

(E) If the final plat is approved by the Council, the Assistant City Administrator shall notify the owner or the subdivider of the Council action. The subdivider shall record the final plat with the County Register of Deeds within 60 days after the date of approval; otherwise the approval shall be considered void, unless application has been made in writing for an extension of time and the extension has been approved by the Council. The subdivider shall immediately upon recording furnish the Assistant City Administrator with 2 prints of the final plat showing evidence of the recording. (Prior Code, § 10-2-2) (Ord. 328, passed 4-1-1963)

DATA REQUIRED

§ 152.030 PRELIMINARY PLAT DATA.

The lack of information under any item specified herein or improper information supplied by the applicant shall be cause for disapproval of a preliminary plan.

(A) *Scale.* One inch to 100 feet, if possible, otherwise one inch to 50 feet or 200 feet.

(B) *Identification and description.*

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

(2) Location by section, town, range and by other legal description;

(3) Names and addresses of the owner, or subdivider having control of the lands included in the plan, the designer of the plan and the surveyor;

(4) Graphic scale;

(5) North-point (designated as true north);

(6) Date of preparation;

(7) Proposed use of all parcels, and if zoning change is contemplated, proposed rezoning; and

(8) Small-scale key map of the area surrounding the subject property, to show general location.

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

(1) Boundary line of proposed subdivision, clearly indicated;

(2) Existing zoning classification;

(3) Total approximate acreage in the plan;

(4) Location, widths and names of all existing or previously platted streets or other public ways, showing types of improvement, if any, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements, and section and corporate lines within the tract and to a distance of 100 feet beyond the tract;

(5) Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes and hydrants;

(6) Boundary lines of adjoining unsubdivided or subdivided land within 100 feet of proposed plat; and

(7) Topography data, including contour lines at vertical intervals of not more than 2 feet, except that contour lines shall be no more than 100 feet apart horizontally; watercourses, marshes, rock outcrops and other significant features shall also be shown.

(D) *Subdivision design features.*

(1) Layout of proposed streets, showing right-of-way widths and names of streets. The names of any street heretofore used in the city or its environs shall not be used unless the proposed street is an extension of an already named street, in which event the name shall be used. The street layout shall cover the whole ownership tract;

(2) Each preliminary plan which includes proposed new streets shall in all cases show proposed grades in the street, together with drainage arrows indicating direction of slope and elevation of intersections;

(3) Location and widths of proposed pedestrian ways and utility easements;

(4) Layout, numbers and typical dimensions of lots to the nearest foot;

(5) Minimum front and side street building setback lines, including dimensions; and

(6) Areas, other than streets, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of the area or areas in acres.
(Prior Code, § 10-3-1) (Ord. 328, passed 4-1-1963)

§ 152.031 FINAL PLAT DATA.

(A) *General.* All information except topographic data and zoning classifications required on the preliminary plan shall be accurately shown.

(B) *Additional data required.*

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

(2) Soil borings if private sewage disposal systems are proposed. There shall be a minimum of one boring per 5 lots and in addition one boring for each low area;

(3) Evidence that groundwater level is below the basement floor or plans for solving groundwater problems;

(4) Data required under regulation of county surveyors, accurate angular and lineal dimensions for all lines, angles and curvature used to describe boundaries, streets, easements, areas to be reserved for public use and other important features. Dimensions of lot lines shall be shown in feet and hundredths;

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

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

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

(8) True angles and distances tied to the nearest established street lines or official monuments (not less than 2) which shall be accurately described in the plat;

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

(10) Complete curve data, including radii, internal angles, points and curvatures, tangent bearing and length of all arcs;

(11) Accurate location of all monuments;

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

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

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

(15) Approval by signature of city and county officials concerned with the approval of the plat.

(Prior Code, § 10-3-2) (Ord. 328, passed 4-1-1963)

DESIGN STANDARDS

§ 152.045 STREETS.

(A) *General design.*

(1) The design of all streets shall be considered in their relation to public safety; existing and planned streets; efficient circulation of traffic; topographical conditions; runoff of stormwater; and proposed uses of the land to be served by the streets. The arrangement of streets in a new subdivision shall make provisions for the appropriate continuation of existing streets in adjoining areas. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new subdivision adjoins unsubdivided land susceptible to being divided, then the new streets shall be carried to the boundaries of the unsubdivided land.

(2) Where a subdivision abuts or contains an existing or proposed arterial, access to the arterial shall be a primary consideration and the Planning Commission may require either of several provisions for that access, such as marginal access streets or service drives; parallel streets with short culs-de-sac having terminal lots backing to the thoroughfare; or other treatment as may be necessary for the adequate protection of residential properties and to afford separation of through and local traffic.

(3) A residential street paralleling a railroad shall be at a distance from the track sufficient to provide lots with a minimum of 160 feet in depth backing to the railroad right-of-way.

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

- (1) Arterials, 80 feet;
- (2) Collector streets, 70 feet;
- (3) Minor streets, 60 feet; and
- (4) Marginal access streets, 50 feet.

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

(D) *Street grades.* All centerline gradients shall be at least 0.4%, and shall not exceed the following:

- (1) Collector streets, 4%; and
- (2) Minor streets, 6%.

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

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

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

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

(I) *Culs-de-sac.* Maximum length cul-de-sac streets shall be 500 feet measured along the centerline from the intersection of origin to end of right-of-way. Each cul-de-sac shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 100 feet, and a street property line diameter of at least 130 feet.

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

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

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

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

(N) *Street interval.* In general, provisions shall be made at intervals not exceeding 1/2 mile for through streets (streets running through the subdivision in a fairly direct manner).

(O) *Intersections.* In general, streets shall intersect at right angles. A proposed intersection at an angle of less than 70 degrees shall not be acceptable.

(P) *Corners.* Curb lines on a radius of not less than 10 feet, although greater radii may be required where deemed necessary by the Council.
(Prior Code, § 10-4-1) (Ord. 328, passed 4-1-1963)

§ 152.046 EASEMENTS.

(A) *Utilities.* Easements at least 10 feet wide, centered on rear and other lot lines, shall be provided for utilities, where necessary. They shall have continuity of alignment from block to block, and at deflection points, easements for pole line anchors shall be provided where necessary.

(B) *Drainage.* Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided and maintained a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, together with any further width or construction or both, as will be adequate for stormwater runoff. The easement shall include not only the stream channel but also adjoining areas that have been subject to flooding in years of heavy runoff. (Prior Code, § 10-4-2) (Ord. 328, passed 4-1-1963)

§ 152.047 BLOCKS.

(A) *Length.* Block lengths shall not exceed 2,000 feet and, if possible, should not be less than 400 feet in length.

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

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

(D) *Nonresidential blocks.* Blocks designed for business or manufacturing shall be of a length and width as may be determined suitable by the Planning Commission for the prospective use. (Prior Code, § 10-4-3) (Ord. 328, passed 4-1-1963)

§ 152.048 LOTS.

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

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

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

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

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

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

absorb those outlots into standard lots.

(G) *Double frontage lots.* These are to be avoided except where one of the streets is a thoroughfare and where topography necessitates these lots.
(Prior Code, § 10-4-4) (Ord. 328, passed 4-1-1963)

§ 152.049 PUBLIC LANDS.

(A) It is deemed necessary and consistent with the city planning of the city to provide in each new proposed plat or subdivision areas for future development for park and recreational purposes. Each plat shall hereafter provide for a dedication to the municipality an area not less than 5% of the total proposed area to be subdivided, less that acreage devoted to streets. This area shall consist of developable and usable land and shall be located so as to serve the present and future needs of the community for recreational and park purposes. The Planning Commission and the Council shall consider the proposed location in relation to existing or contemplated recreational and park sites in other parts of the community and as to the suitability in meeting the requirements of the city plan.

(B) Land dedicated for school sites shall not be substituted for the land required for park purposes in this chapter.

(C) The requirements of this chapter may be waived or modified by the Council, after recommendation by the Planning Commission, for one of the following reasons:

(1) The enforcement of this provision would act as an extreme hardship to the property owner because of the size of the tract involved, the topography of the land (zoning areas involved), or the owner has already dedicated comparable areas in other subdivisions in the city;

(2) The owner is dedicating comparable areas for school or other public use; or

(3) The owner contributes a cash equivalent to the City Treasury for the Park and Recreation Funds of the city. A cash equivalent shall be a sum mutually agreed upon representing 5% of the market value of the tract in an undeveloped state on the date the preliminary plat is presented to the city.

(Prior Code, § 10-5-1) (Ord. 328, passed 4-1-1963)

REQUIRED IMPROVEMENTS

§ 152.060 IMPROVEMENTS.

Before the Council approves a final plat, the subdivider shall give satisfactory assurance of the installation of the improvements described in this chapter.

(Prior Code, § 10-6-1)

§ 152.061 MONUMENTS.

Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat and as required by the City Engineer. Pipes or steel rods 24 inches in length shall be placed at the corners of each lot and at each intersection of street centerlines. All U.S., state, county and other official bench marks, monuments or triangular stations in or adjacent to the property shall be preserved in precise position.

(Prior Code, § 10-6-2) (Ord. 328, passed 4-1-1963)

§ 152.062 STREETS.

All streets shall be improved in accordance with the engineering specifications established by the city, and in accordance with the city's assessment standards policy. The full right-of-way of all streets shall be put to grade.

(Prior Code, § 10-6-3)

§ 152.063 WATER MAINS.

All properties shall be connected to the city water system. Public water facilities shall be paid for by the developer or in accordance with the city's assessment standards. Water stub connections shall be brought to a point at least 5 feet inside the curb line. Plans indicating the exact location of all water stubs shall be filed with the City Engineer.

(Prior Code, § 10-6-4)

§ 152.064 SANITARY SEWER.

All properties shall be connected to the city sanitary sewer system. Public sanitary sewer lines regardless of size shall be paid for by the developer or in accordance with the city's assessment standards. Where sanitary sewer lines are installed in the street right-of-way all sewer stub connections shall be brought to a point at least 5 feet inside the curb line. Plans indicating the exact location of all sewer stubs shall be filed with the City Engineer.

(Prior Code, § 10-6-5)

§ 152.065 STORM DRAINAGE FACILITIES.

(A) All properties shall be served with storm drainage facilities that meet the standards of the City Engineer. Public storm drainage facilities shall be paid for by the developer or in accordance with the city's assessment standards.

(B) Effective date of this section is December 20, 1983.
(Prior Code, § 10-6-6) (Ord. 475, passed 12-5-1983).

§ 152.066 TREE PLANTING.

(A) Trees having a trunk diameter (measured 12 inches above the ground) of not less than 2 inches shall be planted along all streets where trees do not exist, and not less than one per lot, or a minimum of one tree per 60 feet of boulevard. This requirement will be satisfied, and it is preferable if an equivalent number of the same size exist or are planted in a naturalistic way in the front yards of the lots. The trees shall be planted in at least one cubic yard of growing soil.

(B) Recommended trees planted in the boulevard should be of the following recommended varieties:

- (1) American basswood;
- (2) Hackberry;
- (3) Moraine locust;
- (4) Hard maple; and
- (5) Red maple.

(Prior Code, § 10-6-7)

§ 152.067 STREET NAME SIGNS.

Street name signs shall be furnished by the city.
(Prior Code, § 10-6-8)

§ 152.068 STOP SIGNS.

Stop signs or yield right-of-way signs shall be furnished by the city.
(Prior Code, § 10-6-9)

§ 152.069 TRUNK FACILITIES.

Where a water main, sanitary sewer or storm drain facility should, according to the city plan, be constructed at a larger size to serve areas outside the subdivision, the larger facility should be constructed, the additional cost to be borne by the city.

(Prior Code, § 10-6-10)

§ 152.070 SPECIFICATIONS.

All of the required improvements shall conform to the engineering standards and specifications of this chapter.

(Prior Code, § 10-6-11) (Ord. 328, passed 4-1-1963)

§ 152.071 FINANCING.

Before a final plat is approved by the Council, the subdivider shall submit an agreement to assure the following:

(A) The subdivider shall pay for the cost of all required improvements or may receive financing from the city under M.S. Chapter 429, as it may be amended from time to time. In either case, the subdivider shall be solely responsible for meeting the requirements set forth in the subdivision ordinance and the city's assessment standards;

(B) The subdivider guarantees completion of the required improvements within a 2-year period;

(C) The city may elect to install any of the required improvements under the terms of a cash escrow agreement;

(D) The performance bond or cash escrow agreement shall be equal to 1-1/2 times the City Engineer's estimated cost of the required improvements; and

(E) If the required improvements are not completed within the 2-year period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the city and applied to the cost of required improvements. If the funds available are not sufficient to complete the required improvements, the necessary additional cost shall be assessed against the subdivision. Any balance remaining after the improvements have been made shall be returned to the owner or subdivider.

(Prior Code, § 10-6-12) (Ord. 475, passed 12-5-1983, 12-20-1983)

§ 152.072 ELECTRICAL DISTRIBUTION.

(A) After the adoption of this division, and before any final plat is approved, the plat shall provide an easement to the city granting to the city and the Municipal Light and Power the right to enter upon the platted area for the purpose of erecting distribution lines or placing distribution lines and secondary lines underground.

(Ord. 387, passed 2-3-1975)

(B) Each final plat shall show the proposed location of the distribution lines serving the platted area and shall bear the approval of the Superintendent of the Municipal Light and Power or his or her

successor.

(Ord. 352, passed 5-19-1969)

(C) Within 180 days after the approval of the final plat, the Municipal Light and Power shall place its distribution system on the area underground.

(Ord. 387, passed 2-3-1975)

(Prior Code, § 10-6-13)

ENFORCEMENT; ADMINISTRATION

§ 152.085 VARIANCES.

Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this chapter, the Council, following consideration by the Planning Commission, shall have the power to vary the requirements of this chapter in harmony with the general purpose and intent thereof, so that the public health, safety and general welfare may be secured and substantial justice done. In particular, small subdivisions, where one lot is divided into 2 or 3 lots, the submission of topographic maps, soil tests, other data and fee may not be necessary, if the Council, following consideration by the Planning Commission, so determines.

(Prior Code, § 10-7-1)

§ 152.086 AMENDMENTS.

Amendments may be enacted by the Council after public hearing on such change, after 10 days of notice of the time and place thereof in the official newspaper. Each proposed change shall be submitted to the Planning Commission for a report thereon. Failure to report within 30 days shall be deemed to be approval unless an extension of time is granted by the Council.

(Prior Code, § 10-7-2)

§ 152.087 BUILDING PERMITS.

No building permit shall be issued by any governing official for the construction of any building, structure or improvement on any land subdivided by this chapter until all requirements of this chapter have been fully complied with.

(Prior Code, § 10-7-3) (Ord. 328, passed 4-1-1963)

§ 152.088 REGISTERED LAND SURVEYS; CONVEYANCE BY METES AND BOUNDS; ENFORCEMENT.

(A) *Registered land surveys.* It is the intention of this section that all registered surveys in the municipality shall be presented to the Planning Commission in the form of a preliminary plat in

accordance with the standards set forth in the ordinance for preliminary plat, and that the Planning Commission and City Council shall first approve the arrangement, size and relationship of the proposed tracts and the registered land surveys, and that the tracts to be used as easements or roads should be so dedicated. Unless the approvals have been obtained from the Planning Commission and the City Council in accordance with the standards set forth in this section, building permits will be withheld for building on tracts which have been so subdivided by registered land surveys and the city may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tract unless so approved.

(Ord. 417, passed 7-16-1979)

(B) *Conveyance by metes and bounds.* No conveyance of land in which land conveyed is described by metes and bounds shall be made or recorded unless the parcel was a separate tax parcel of record at the effective date of this section. Building permits will be withheld for buildings on tracts which have been subdivided and conveyed by this method, and the city may refuse to take over tracts as streets or roads or to improve, repair or maintain the tracts.

(C) *Enforcement.*

(1) In any case in which compliance with the foregoing restrictions will create unnecessary hardship and failure to comply does not interfere with the purpose of these subdivision regulations, the platting authority may waive the compliance by adoption of a resolution to that effect, and the conveyance may be then filed or recorded. An owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this section shall forfeit and pay to the city a penalty of up to \$700 for each lot or parcel conveyed. The city may enjoin the conveyance or may recover the penalty by civil action in any court of competent jurisdiction. In addition to the costs and penalties set forth previously, the city shall be entitled to recover its reasonable attorney's fees and costs and disbursements incurred in the enjoining of the conveyance or in the recovery of the civil penalty.

(2) Effective date of this division (C) is February 21, 1989.

(Ord. 532, passed 2-6-1989)

(Prior Code, § 10-7-4)

EXTRATERRITORIAL SUBDIVISION AUTHORITY

§ 152.100 EXTRATERRITORIAL SUBDIVISION AUTHORITY.

(A) The city, with authority granted the city by M.S. § 462.358, as it may be amended from time to time, has by resolution extended its subdivision regulation authority to include all of the following area:

South 1/2 Section 1; south 1/2 Section 2; south 1/2 Section 3; and Sections 10, 11, 12, 13, 14, 15, 22, 23 and 24; north 1/2 Section 25; north 1/2 Section 26; and north 1/2 Section 27; all in

T119N R31W; and

Southwest 1/4 Section 6; west 1/2 Section 7; west 1/2 Section 18; west 1/2 Section 19; and northwest 1/4 Section 30; all in T119N R30W.

(B) Because subdivisions platted beyond the city limits (where municipal sewer, water and electricity are unavailable) require different development criteria than do urban plats, the following subsections deal with bulk and density regulations, design standards and required improvements for rural plats within the extraterritorial jurisdictional area. Except where specified in this chapter, the provisions of this chapter apply to rural as well as to urban plats.

(C) Although the city has assumed the regulatory authority for the platting process within the extraterritorial area, the zoning authority is retained by the county. The platting process can be initiated with the city only after the county has made the determination that the property can be subdivided. For property that is zoned R-1 or R-2 by the county, the approval must come in the form of a valid conditional use permit.

(Prior Code, § 10-8-1) (Ord. 494, passed 2-4-1985)

§ 152.101 BULK AND DENSITY REGULATIONS FOR RURAL PLATS.

(A) R-1 Suburban Residential Zoning District.

(1) *Height.* Setbacks (front, rear and side) shall be increased by one foot for each one foot of building height over 15 feet.

(2) *Front yard.* There shall be a front yard setback of not less than 40 feet, measured from the road right-of-way line.

(3) *Side yard.* There shall be a side yard having a width of not less than 10 feet on each side of a building.

(4) *Rear yard.* There shall be a rear yard having a depth of not less than 35 feet.

(5) *Lot width.* Every lot or tract shall have a width of not less than 200 feet abutting on a public right-of-way and at the front yard setback line, except that any lot or tract abutting a cul-de-sac may have a minimum width of 60 feet abutting the right-of-way.

(6) *Lot area.* Every lot or tract shall contain an area of not less than 30,000 square feet, except that lots or tracts with a minimum frontage of 100 feet at the high water mark and frontage on a general development lake may contain an area of not less than 20,000 square feet.

(7) *Lot coverage.* Not more than 20% of a lot or tract shall be occupied by buildings.

(B) *R-2 Rural Residential Zoning District.*

(1) *Height.* Setbacks (front, rear and side) shall be increased by one foot for each one foot of building height over 15 feet.

(2) *Front yard.* There shall be a front yard setback of not less than 40 feet, measured from the road right-of-way line.

(3) *Side yard.* There shall be a side yard having a width of not less than 15 feet on each side of a building.

(4) *Rear yard.* There shall be a rear yard having a depth of not less than 40 feet.

(5) *Lot width.* Every lot or tract shall have a width of not less than 275 feet abutting a public right-of-way and at the front yard setback line, except that any lot or tract abutting a cul-de-sac may have a minimum width of 80 feet abutting the right-of-way.

(6) *Lot area.* Every lot or tract shall contain an area of not less than 40,000 square feet.

(7) *Lot coverage.* Not more than 15% of a lot or tract shall be occupied by buildings.

(C) *C-1 Highway Commercial Zoning District.*

(1) *Height.* Setbacks (front, rear and side) shall be increased by one foot for each one foot of building height over 15 feet.

(2) *Front yard.* There shall be a front yard setback of not less than 50 feet, measured from the road right-of-way line.

(3) *Side yard.*

(a) There shall be a side yard having a width of not less than 15 feet on each side of a building.

(b) No building shall be located closer than 50 feet from any side lot line abutting a lot in any agricultural or residential zoning district.

(4) *Rear yard.*

(a) There shall be a rear yard having a depth of not less than 40 feet.

(b) No building shall be located closer than 75 feet from any rear lot line abutting a lot in any agricultural or residential zoning district.

(5) *Lot width.* Every lot or tract shall have a width of not less than 100 feet abutting a public right-of-way and at the front yard setback line.

(6) *Lot depth.* No lot or tract shall have a depth greater than 3 times the lot width.

(7) *Lot area.* Every lot or tract shall contain an area of not less than 20,000 square feet.

(8) *Lot coverage.* Not more than 50% of a lot or tract shall be occupied by buildings.

(D) *I-1 General Industry Zoning District.*

(1) *Height.* Setbacks (front, rear and side) shall be increased by one foot for each one foot of building height over 15 feet.

(2) *Front yard.* There shall be a front yard setback of not less than 50 feet, measured from the road right-of-way line.

(3) *Side yard.*

(a) There shall be a side yard having a width of not less than 15 feet on each side of a building.

(b) No building shall be located closer than 50 feet from any side lot line abutting a lot in any agricultural or residential zoning district.

(4) *Rear yard.*

(a) There shall be a rear yard having a depth of not less than 40 feet.

(b) No building shall be located closer than 75 feet from any side lot line abutting a lot in any agricultural or residential zoning district.

(5) *Lot width.* Every lot or tract shall have a width of not less than 100 feet abutting a public right-of-way and at the front yard setback line.

(6) *Lot depth.* No lot or tract shall have a depth greater than 3 times the lot width.

(7) *Lot area.* Every lot or tract shall have an area of not less than 20,000 square feet.

(8) *Lot coverage.* Not more than 50% of a lot or tract shall be occupied by buildings.
(Prior Code, § 10-8-2)

§ 152.102 DESIGN STANDARDS FOR RURAL PLATS.

In addition to the design standards listed in §§ 152.045 through 152.048, the following standard shall apply to lots in rural plats: In order to provide for the time when municipal utilities are made available to a plat in the extraterritorial area, lots platted as per the standards in § 152.101 shall indicate a means by which each lot can be resubdivided to achieve urban lot sizes and densities. One method of doing this is to use an A/B or A/B/C lot split scheme. In using such a scheme, each large, rural lot is further divided into smaller parcels (named the A, B or C portion of the lot). All buildings and on-site sanitary facilities under individual ownership are constructed on one portion (the A, B or C portion) of a lot, while maintaining all required setbacks. At the time that municipal utilities are made available to the property, the remaining portion(s) of the lot can be resold to help defray assessment costs. If the buildings and sanitary facilities are constructed to span individual portions of the lot, future lot splits are made difficult. The A/B/C configuration shall be clearly indicated on the plat before final plat approval is given.

(Prior Code, § 10-8-3)

§ 152.103 REQUIRED IMPROVEMENTS FOR RURAL PLATS.

In addition to or as an alternative to the required improvements listed in §§ 152.060 through 152.072, the following regulations shall apply to rural subdivisions in the extraterritorial area:

(A) *Street maintenance.* Dedicated public streets within the extraterritorial area will remain under the jurisdiction of Meeker County or the appropriate township until such time as the property served by a street is annexed into the city.

(B) *Street signs.* Until such time as property served by a street is annexed into the city, street name signs and traffic signs shall be the responsibility of the county or appropriate township.

(C) *Individual wells.* Where individual water wells are necessitated by the unavailability of the municipal water system, provisions shall be made in locating the water line connection to the house or building to allow for future connection to the municipal system.

(D) *On-site sewage disposal systems.* Where on-site sewage disposal systems are necessitated by the unavailability of the municipal sanitary sewer system, provisions shall be made in locating the on-site system to the house or building to allow for future connection to the municipal system.

(E) *Surface water drainage.* Where municipal storm sewer is unavailable, it shall be the responsibility of the developer to demonstrate that surface water will adequately drain from the property without adverse effects to adjoining property.

(F) *Electrical service.* Where municipal electrical service is unavailable to platted property by virtue of its location outside the city limits, upon annexation of the property by the city the electrical distribution system shown by easements on the final plat shall be installed by the Municipal Light and Power within 180 days.

(Prior Code, § 10-8-4) (Ord. 494, passed 2-4-1985)

§ 152.104 EFFECTIVE DATE.

The effective date for this subchapter is February 19, 1985.

(Ord. 494, passed 2-4-1985)

CHAPTER 153: HERITAGE PRESERVATION COMMISSION

Section

- 153.01 Declaration of Public Policy and Purpose
- 153.02 Definitions
- 153.03 Heritage Preservation Commission Established
- 153.04 Designation of Historic Preservation Sites
- 153.05 Review of Permits
- 153.06 Findings
- 153.07 Appeal to the City Council
- 153.08 Limitations
- 153.09 Emergency Repair
- 153.10 Enforcement
- 153.11 Additional Powers and Duties of the Commission
- 153.12 Repository for Documents
- 153.13 Recording of Heritage Preservation Sites

§ 153.01 DELCARATION OF PUBLIC POLICY AND PURPOSE.

The Council of the City of Litchfield hereby declares as matter of public policy that the preservation, protection, perpetuation, promotion and use of areas, places, buildings, structures, lands, districts and other objects having a special historical, community or aesthetic interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare in the community. To this end, the Heritage Preservation Commission is created and charged with the stewardship of Litchfield's heritage. The purposes of this ordinance are to:

- (A) Safeguard the heritage of the City of Litchfield by preserving properties which reflect elements of the City's cultural, social, economic, political, visual, or architectural history;
- (B) Protect and enhance the City of Litchfield's appeal and attraction to residents, visitors, and tourists, while enhancing its economic viability through the protection and promotion of its unique character as related to its history and heritage;
- (C) Enhance the visual and aesthetic character, diversity and interest of the City of Litchfield;
- (D) Foster civic pride in the beauty and notable accomplishments of the past;
- (E) Promote the preservation and continued use of historic properties for the education and general welfare of the people of the City of Litchfield; an

(F) Provide educational opportunities on heritage preservation, act in an advisory capacity to its citizens, accept gifts and contributions for heritage preservation, and coordinate activities with various related groups.
(Ord. 735, passed 12-1-2008)

§ 153.02 DEFINITIONS.

HERITAGE PRESERVATION SITE. Any area, place, building, structure, land, district, or other object, which has been duly designated as a Heritage Preservation Site pursuant to Ordinance No. 735.

THE CITY OF LITCHFIELD HISTORIC DESIGN GUIDELINES. The established criteria by which any proposed changes (within designated areas), including architectural or site modifications shall be judged.

HERITAGE PRESERVATION LANDMARK. Any individual property, parcel, place, building, structure, work of art, or other object that has been determined to be historically, culturally or architecturally significant and has been locally designated as a Heritage Preservation Landmark pursuant to Ordinance No. 735.

NATIONAL REGISTER OF HISTORIC PLACES. The nation’s official list of properties worthy of preservation designated by the United States Department of Interior, National Park Service. Nominations of properties within Minnesota to this list are made through the auspices of the State Historic Preservation Officer, Minnesota Historical Society.
(Ord. 735, passed 12-1-2008)

§ 153.03 HERITAGE PRESERVATION COMMISSION ESTABLISHED.

(1) *Members.* There is hereby created and established a City of Litchfield Heritage Preservation Commission (hereinafter, the “Commission”) which shall consist of:

- (A) Seven (7) voting members to be appointed by the City Council.
 - 1) One member of the City Council,
 - 2) One member of the Planning Commission,
 - 3) One member of the Meeker County Historical Society, and
 - 4) Four citizens of the City of Litchfield

- (B) Non-voting Advisory Members as needed.

(C) Any member (with the exception of the advisory members and Meeker County Historical Society member) appointed to serve on the Commission shall be a resident of the City of Litchfield and shall have a demonstrated interest, competence or knowledge in historic preservation. If available in the community and willing to serve, at least two (2) members of the Commission shall be

preservation-related professionals, including the professions of history, architecture, architecture history, archaeology, planning, real estate, design, building trades, landscape architecture, or law. One member of the Commission must be a designated representative of the Meeker County Historical Society, if available, pursuant to Minnesota Statutes 471.193 Subd. 5.

(2) *Term.* The Mayor and City Council shall initially appoint:

- (A) Two (2) members to serve a term of one (1) year initially,
- (B) Two (2) members to serve a term of two (2) years initially,
- (C) Three (3) members to serve a term of three (3) years.

Terms of office shall expire the first day of January in the year following their last full year of appointment. All subsequent appointments shall be for a term of three (3) years. Members may be re-appointed for consecutive terms.

In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. The City Council shall appoint a person to fill the vacancy for the remainder of the term within 45 days after the day on which the vacancy occurred. If a vacancy occurs in a term with less than 45 days remaining, the City Council may allow the term to expire without appointing a person to fill the vacancy; after which they shall appoint a member for the full term.

(3) *Membership Compensation.* Members will receive a stipend per meeting for their services, and will be compensated for any approved expenses incurred in the performance of their duties. Members who receive a stipend from the Council or other Commissions are not to receive a second compensation.

(4) *Commission Meetings.* The Commission shall meet as needed to address requests or organizational issues not to exceed once in 30 days. The Commission shall hold its first meeting within 45 days after the day on which this Ordinance takes effect. At the first meeting the members of the Board shall enact rules and regulations concerning the following business:

- (A) The time, dates and places of future meetings.
- (B) Election of Commission Officers.
- (C) Voting and quorum requirements.

(5) *Organization.* The Commission when formed shall elect from its members such officers, as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees. The Commission shall make such by-laws as it may deem advisable and necessary for the conduct of its affairs and for the purpose of carrying out the intent of this Ordinance which are not inconsistent with the laws of the City of Litchfield and the State of Minnesota.

(Ord. 735, passed 12-1-2008)

§ 153.04 DESIGNATION OF HISTORIC PRESERVATION SITES.

(1) *Reports.* The Commission shall ensure that:

(A) The annual report is prepared by October 31st of each year as required in accordance with Minnesota Statutes 471.193 Subd. 6 for submission to the Minnesota State Historic Preservation Office and shall file a copy with the City Administrator for distribution to the City Council.

(B) An updated list of all areas, places, buildings, structures, lands, districts, or other objects which have been designated as Heritage Preservation Sites.

(C) An updated catalogue of all known publications, articles, books, pamphlets, policies, or other materials having a direct bearing on the Heritage Preservation Program for the City of Litchfield shall be kept and made reasonably available by City staff at City Hall.

(D) The Commission will work in cooperation with the Meeker County Historical Society to fulfill these requirements.

The City Council upon request of the Commission may direct the City staff to aid in the preparation of studies which catalog areas, places, buildings, structures, lands, districts, or other objects to be considered for designation as Heritage Preservation Sites.

(2) *Criteria.* All Heritage Preservation Sites previously designated by the City of Litchfield shall continue their designation under this ordinance unless the Commission specifically finds that any such sites do not meet the designation criteria provided in this subdivision.

(A) Its character, interest, or value as part of the development, heritage, or cultural characteristics of the City of Litchfield, State of Minnesota, or the United States.

(B) Its location as a site of a significant historic event.

(C) Its identification with a person or persons who significantly contributed to the culture and development of the City of Litchfield.

(D) Its embodiment of distinguishing characteristics of an architectural style, period, form or treatment.

(E) Its identification as work of an architectural or master builder whose individual work has influenced the development of the City of Litchfield.

(F) Its embodiment of elements of architectural design, detail, material, or craftsmanship which represent a significant architectural innovation.

(G) Its unique location, scale or other physical characteristics representing an established and familiar visual feature of a neighborhood, a district, the community, or the City of Litchfield.

(3) *Proposed Program for Preservation.* For each Heritage Preservation Site recommended to the City Council, a proposed program for rehabilitation and preservation shall be created. The United States Secretary of the Interior Standards for Treatment of Historic Properties shall be among the standards used to create such a program. For any site within the downtown Historic Commercial District, the City of Litchfield Downtown Guidelines will also be used as a standard of guidance.

(4) *Hearings.* Prior to the Commission recommending to the City Council any area, place, building, structure, land, district, or other object for designation as a Heritage Preservation Site, the Commission shall hold a public hearing and seek the recommendations of all concerned citizens. Prior to such hearing, the Commission shall cause to be published in the City's official newspaper a notice of the hearing at least ten (10) days prior to the date of the hearing, and notice of the hearing shall be mailed at least (10) days before the day of the hearing to all owners of record of the property or properties proposed to be designated as a Heritage Preservation Site and to all owners of property situated wholly or partly within 350 feet of the Heritage Preservation Site. The Commission may make such modifications concerning the proposed designation, as it deems necessary in consideration of the comments of the citizens.

(5) *Findings and Recommendations.* The Commission shall determine if a proposed site is eligible for designation as a Heritage Preservation Site as determined by the criteria specified in Subd. 2 of this section. In accordance with Minnesota Statutes 471.193, the Commission shall send to the Minnesota Historical Society/State Historic Preservation Office any proposed program for the preservation of the Heritage Preservation Site. The Commission may make such modifications concerning the proposed designation as it deems necessary in consideration of the comments of the Minnesota Historical Society/State Historic Preservation Office.

(6) *Planning Commission Review.* If the Commission recommends that the proposed site be designated as a Heritage Preservation Site, the Commission shall transmit to the City Planning Commission its recommendation, including boundaries, and the proposed program for the preservation of the Site. The Commission shall request from the Planning Commission its comments on the proposed designation as a Heritage Preservation Site relative to the City Zoning Code and Comprehensive Plan of the City of Litchfield, and any other valid City planning considerations relevant to the proposed designation. The City Planning Commission's comments shall become part of the official record concerning the proposed designation, as it deems necessary.

(7) *Council Designation Hearings.* The City Council, upon the request of the Commission, may, by ordinance, designate a Heritage Preservation Site. Such an ordinance shall require a two-thirds vote of all members of the City Council to be effective.

(8) *Council Approval.* The Commission shall make no application to the National Register or to the State of Minnesota for the designation of a historic property or district without the consent of the City Council.

(9) *Identification Plaque.* Those buildings or structures having been designated as Historic Preservation Sites by the City Council may be awarded a numbered plaque to be displayed on the exterior of the Site in full public view with the owner's consent. The plaque is to remain the property of the City and shall be removed by request of the Commission should the Site be altered as to destroy the historic integrity of the Site.

(Ord. 735, passed 12-1-2008)

§ 153.05 REVIEW OF PERMITS.

(1) *Site Alteration Permit.* A Site Alteration Permit shall be required for any alteration of any designated Heritage Preservation Site. The Commission shall review the City's issuance of a Site Alteration Permit to do any of the following in a Heritage Preservation Site in the City of Litchfield. In addition to any other specifics the zoning administrator may require, the Site Alteration Permit application shall be accompanied by detailed plans including a property plan, building elevations and design details and materials as necessary to evaluate the request. Besides the Site Alteration Permit, regular City permits shall be required. Once the Commission has reviewed said permits, recommendation for approval or disapproval will be made to the City Council. Recommendation for approval or disapproval of the site alteration permit by the City Council will be accompanied with specific reasons why the alteration meet or do not meet the City's approved design guidelines and standards for reasonable rehabilitation related to the particular building or preservation site. The following are subject to a Site Alteration Permit:

- (A) Painting, architectural details and other related exterior alterations.
- (B) Additions or deletion of awnings, shutters, canopies, and similar appurtenances.
- (C) Application or use of exterior materials of a different kind, type, color, or texture than those already in use which will substantially cover one or more sides of the structure. This provision applies to roofing as well as siding.
- (D) Signs.
- (E) Construction of a new building or auxiliary structure.
- (F) Any addition to or alteration of an existing structure which increases the square footage in the structure or otherwise alters its size, height, contour, or outline.
- (G) Change or alteration of a structure's architectural style.
- (H) Alteration of a roof line.
- (I) Demolition in whole or in part. This does not apply to structures required to be demolished in accordance with Minnesota Statutes, Chapter 463.

(2) *City Actions.* The Commission shall review and make recommendations to the City Council concerning City activity that could change the nature or appearance of a Heritage Preservation Site.

(3) *Preservation Program.* All decisions of the Commission with respect to this section shall be in accordance with the approved program for the rehabilitation of each Heritage Preservation Site. The Secretary of the Interior’s Standards for Treatment of Historic Properties shall be used to evaluate applications for Site Alteration Permits as follows:

(A) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

(B) The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided.

(C) Each property will be recognized as physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

(D) Changes to a property that have acquired historic significance in their own right shall be retained and preserved.

(E) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(F) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of mission features will be substantiated by documentary and physical evidence.

(G) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(H) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(I) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.

(J) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(Ord. 735, passed 12-1-2008)

§ 153.06 FINDINGS.

Before approving any permit or application required under 9 of this ordinance, the Commission shall make findings based on the program for preservation of the Heritage Preservation Site in regard to the following:

(A) In the case of a proposed alteration or addition to existing buildings, the Commission shall make written findings on how the structure may be architecturally or historically affected. To be considered are the existing exterior appearance, building height, building width, depth, or other dimensions, roof style, type of building materials, ornamentation, paving and setback.

(B) In the case of the proposed demolition of a building prior to the approval of demolition, the Commission shall make written findings on the following:

1. Architectural and historic merit of the building.
2. The effect on surrounding buildings.
3. The effect on any new proposed construction on the remainder of the building (in case of partial demolition) and on surrounding buildings.
4. The economic value or usefulness of the building as it now exists, or if altered or modified, in comparison with the value or usefulness of any proposed structures designated to replace the present building or buildings.

(C) In the case of a proposed new building, the Commission shall make written findings on:

1. How the building will in itself, or by reason of its location on the property, materially affect the architectural or historic value of buildings on adjacent sites or in the immediate vicinity within the Heritage Preservation Site.

(Ord. 735, passed 12-1-2008)

§ 153.07 APPEAL TO THE CITY COUNCIL.

The applicant for a Site Alteration Permit (or any other party) aggrieved by the decision of the Commission relative to a Site Alteration Permit, shall, have a right to appeal such order and decision to the City Council, if appealed within ten (10) working days of the date of the Commission's order and decision.

The appeal shall be deemed perfected upon receipt by the Assistant City Administrator of a notice of appeal and statement setting the grounds for the appeal. The Assistant City Administrator shall transmit a copy of the notice of appeal and statement to the City Council and a copy to the Commission. The City Council may overturn the Commission's order and decision by a two-thirds vote of all members of the City Council. The Commission, in any written order denying a permit application, shall advise the applicant of the applicant's right to appeal to the City Council and shall include this section in all such orders.

(Ord. 735, passed 12-1-2008)

§ 153.08 LIMITATIONS.

If within forty-five (45) days from the filing of a Site Alteration Permit application, the Commission has neither approved nor denied the Site Alteration Permit application, the plans and permit application shall be deemed to have been approved by the Commission. If all other requirements of the City have been met, the City shall authorize a permit for the proposed work. No permit shall be issued no work commenced in the event the Commission disapproves the Site Application Permit application in accordance with this ordinance.

(Ord. 735, passed 12-1-2008)

§ 153.09 EMERGENCY REPAIR.

In emergency situations where immediate repair is needed to protect the safety of a building or structure and its inhabitants, the City Administrator and City Building Official may approve the repair without prior Commission action. In the case of an emergency repair permit issued pursuant to this section, the City Administrator shall immediately notify the Commission of its action and specify the facts or condition constituting the emergency situation.

(Ord. 735, passed 12-1-2008)

§ 153.10 ENFORCEMENT.

In case any building or structure subject to the regulation of this ordinance is to be erected or constructed, reconstructed, altered, repaired, converted, maintained, moved, or subjected to demolition in violation with this ordinance, the zoning administrator, in addition to any other remedies, may:

(A) Institute civil action for injunctive relief to stop, prevent, or abate a violation of this ordinance.

(B) Issue a stop work order to prevent a continuing violation of this ordinance.

Work which proceeds in violation of this ordinance, in contravention of a stop work order, or in disregard of a court ordered injunction shall be a public nuisance.

(Ord. 735, passed 12-1-2008)

§ 153.11 ADDITIONAL POWERS AND DUTIES OF THE COMMISSION.

The Commission shall have the following powers and duties, in addition to those otherwise specified in this ordinance.

(A) Maintaining informational surveys of Litchfield. The Commission shall conduct a continuing survey of all areas, places, buildings, structures, lands, districts, or other objects in the City of Litchfield which the Commission, on the basis of information available or presented to it, has reason to believe are significant sites regarding their preservation, restoration and rehabilitation.

(B) Community education. The Commission shall work for the continuing education of the citizens of the City of Litchfield focusing on civic and architectural heritage of the City. It shall keep current a public register of designated and proposed Heritage Preservation Sites along with the plans and programs that pertain to them.

(C) Contribution of gifts. The Commission may recommend to the City the acceptance of gifts and contributions to be made of the City and to assist the City staff in the preparation of applications for grant funds to be made through the City for the purpose of heritage preservation. Any contributions or gifts will be expended in the manner provided through the fiscal policy of the City of Litchfield.

(D) Cooperation and coordination with the Meeker County Historical Society. The Commission will assign one member to service as a liaison to the Meeker County Historical Society. The Commission will coordinate and cooperate with the Historical Society to assure that duplication of services is avoided and that their mutual cooperation and joint ventures strengthens the preservation of the heritage and history of the City of Litchfield.

(E) City planning and development records. The Commission shall select, on a continuing basis, City planning and development records, documents, studies, models, maps, plans, and drawings which represent a permanent record of the City history and development. These items shall be archived at City Hall.

(Ord. 735, passed 12-1-2008)

§ 153.12 REPOSITORY FOR DOCUMENTS.

The office of the Assistant City Administrator is designated as the repository for at least one copy of all studies, reports, recommendations and programs required under this section. It is recommended that a second copy be kept with the Meeker County Historical Society. These files will be maintained in accordance with Minnesota Statutes 138.17.

(Ord. 735, passed 12-1-2008)

§ 153.13 RECORDING OF HERITAGE PRESERVATION SITES.

The office of the Assistant City Administrator shall record or file with the Meeker County recorder the legal description of all properties designated as Heritage Preservation Sites by the City of Litchfield.

(Ord. 735, passed 12-1-2008)

Chapter 154
Litchfield Zoning Ordinance

1.0 TITLE 8

2.0 AUTHORITY 9

3.0 PURPOSE 10

4.0 RELATION TO COMPREHENSIVE PLAN. 11

5.0 SCOPE 12

 A. Jurisdiction

 B. Compliance

 C. Conflict

 D. Conflicts of Law

6.0 SEVERABILITY 13

7.0 INTERPRETATION AND APPLICATION 14

 7.1 RULES 14

 7.2 FEES 14

 7.3 VIOLATIONS 14

 7.4 PENALTIES 15

 7.5 ZONING ADMINISTRATOR 15

 7.6 PLANNING COMMISSION 16

 A. Membership and Organization

 B. Powers and Duties

 C. Records

 D. Decisions

7.7 DEFINITIONS 18

8.0 NONCONFORMITITES 40

 8.1 PERPETUATION OF NONCONFORMITIES 40

 8.2 NONCONFORMING LOTS OF RECORD OR SUBSTANDARD LOTS 40

 8.3 NONCONFORMING USES OF LAND 40

 8.4 NONCONFORMING STRUCTURES 41

 8.5 NONCONFORMING USES OF STRUCTURES 42

 8.6 CONDITIONAL USES AND NONCONFORMITIES 42

 8.7 NONCONFORMITIES CREATED BY AMENDMENT 43

9.0 APPLICATONS 44

 A. Types of Development Reviews and Approvals

 B. Development Review Elements and Procedures

 C. Procedures for Public Hearing and Noticing Requirements

9.1 ZONING PERMIT 48

A. Permit Required	
B. Application for Zoning Permit	
C. Period of Validity	
D. Zoning Permit Appealed	
9.2 BUILDING PERMIT.....	49
A. Permit Required	
B. Application for Building Permit	
C. Period of Validity	
D. Building Permit Appealed	
9.3 SIGN PERMIT.....	50
A. Applicability	
B. Review Process	
C. Approval Criteria	
D. Period of Validity	
9.4 SITE PLAN REVIEW	52
A. Applicability	
B. Submittal Requirements	
C. Criteria for Approval	
D. Performance	
9.5 VARIANCES.....	55
A. Applicability	
B. Review Process	
C. Approval Criteria	
D. Appeal	
9.6 CONDITIONAL USE PERMIT	58
A. Applicability	
B. Review Process	
C. Approval Criteria	
D. Performance Standards	
E. Conditions That May be Attached to a Conditional Use Permit	
F. Additional Information	
9.7 INTERIM USES	62
A. Applicability	
9.8 ZONING MAP AMENDMENT (REZONING).....	63
A. Applicability	
B. Review Process	
C. Approval Criteria	
9.9 ZONING ORDINANCE TEXT AMENDMENT.....	66
A. Applicability	
B. Review Process	
C. Approval Criteria	

9.10	APPEAL OF AN ADMINISTRATIVE DECISION.....	68
	A. Applicability	
	B. Review Process	
	C. Appeals	
	D. Approval Criteria	
9.11	CREATION OF A PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT.....	70
	A. Applicability	
	B. General Review Process	
	C. PUD – Preliminary Development Plan Review Process	
	D. PUD – Final Development Plan Review Process	
	E. Approval Criteria	
	F. Conditions	
	G. Effect of the PUD – Final Development Plan Approval	
	H. Zoning	
10.0	SPECIFIC USE STANDARDS.....	77
10.1	ACCESSORY USES.....	77
	A. General Accessory Uses	
	B. Accessory Buildings	
	C. Dwelling Unit Restriction	
	D. Patio, Deck, Terrace and Similar Use	
	E. Solar Equipment and Solar Rights	
	F. Swimming Pool	
10.2	STORAGE STANDARDS.....	83
	A. Exterior Storage in Residential Districts	
	B. Exterior Storage in Commercial and Industrial Districts	
	C. Bulk Storage (Liquid)	
	D. Shipping Containers/Moving Pods	
10.3	TEMPORARY FAMILY HEALTH CARE DWELLINGS.....	85
	A. Purpose and Intent	
	B. Authority	
	C. Effective Date	
10.4	HOME OCCUPATIONS.....	86
	A. Applicability.	
	B. Intent	
	C. Permitted Home Occupations	
	D. Home Occupation Permitted with the Issuance of a Conditional Use Permit	
	E. Non-Compliance Home Occupations	
	F. Home Occupations for Handicapped Persons	
10.5	BED AND BREAKFAST INN.....	89
	A. Bed and Breakfast Inn Standards	
10.6	MANUFACTURED HOMES/MOBILE HOME PARKS.....	91

A. Park Permit Required	
B. Procedure	
C. Processing	
D. Permit Issuance	
E. Compliance Required	
10.7 LIVESTOCK	96.
10.8 TELLECOMMUNICATION TOWERS AND ANTENNAE PERFORMANCE STANDARDS	97
10.9 CANNABIS BUSINESS USES.....	106
11.0 GENERAL DEVELOPMENT STANDARDS.....	108
11.1 LOTS.....	109
A. Lot Area Requirement	
B. Double Frontage Lot	
C. Corner Lot	
D. Lot of Record	
E. Adjacent Lots and Lots of Continuous Frontage in Single Ownership	
F. Approval of Plat	
11.2 SETBACKS	110
A. Setback Measurements	
B. Front Yard Exceptions	
C. Corner Lot Setbacks	
D. Minimum Requirements	
11.3 BUILDING AND SITE DESIGN.....	111
A. Maintenance	
B. Temporary Buildings	
C. Building Access	
D. Building Area	
E. Building Lot/Principal Structures	
F. Residential Garage Space Requirement	
G. Buildings Under Construction	
H. Building Height	
I. Building Relocation	
11.4 TRAFFIC	113
A. Visibility at Intersections and Railroad Crossings	
B. Interference with Traffic Signals	
C. Traffic Control	
11.5 PARKING AND LOADING.....	114
A. Parking and Storage of Certain Vehicles	
B. Off-Street Parking Facilities	
C. Off-Street Parking Location	
D. Off-Street Parking Requirements	
E. Loading Space	

11.6	DRAINAGE, EXCAVATION AND SEWER AND WATER PROVISIONS	120
	A. Drainage	
	B. Dumping and Disposal of Excavated Materials	
	C. Sewer and Water Provisions	
11.7	LANDSCAPING, BUFFERS, AND SCREENING	121
	A. Landscaping	
	B. Screening	
11.8	FENCES, HEDGES, WALLS AND OBSTRUCTIONS IN ALL DISTRICTS	123
	A. Intent	
	B. Permit Required	
	C. Height	
	D. Location	
	E. Construction	
	F. Prohibited Fences	
	G. Maintenance	
11.9	RETAINING WALLS	125
	A. Purpose	
	B. Permit Required	
	C. Application	
	D. Setbacks	
	E. Maintenance	
11.10	SIGNS	126
	A. Definitions	
	B. Purpose	
	C. General Regulations	
	D. Design, Construction and Maintenance	
	E. Sign Classifications	
	F. Construction and Maintenance Standards	
	G. Nonconforming Signs	
	H. All Other Signs	
12.0	ZONING DISTRICTS AND USES.....	135
12.1	ZONING DISTRICTS	135
	A. Establishment of Districts	
	B. Boundaries and Official Zoning Map	
	C. Zoning for Newly Annexed Land	
12.2	R-1 SINGLE-FAMILY RESIDENCE DISTRICT.....	137
	A. Intent	
	B. Permitted Uses	
	C. Conditional Uses	
	D. Accessory Uses	
	E. Dimensional Requirements	
12.3	R-2 RESIDENCE DISTRICT	139

A. Intent	
B. Permitted Uses	
C. Conditional Uses	
D. Accessory Uses	
E. Dimensional Requirements	
12.4 R-3 MULTIFAMILY RESIDENCE DISTRICT	140
A. Intent	
B. Permitted Uses	
C. Conditional Uses	
D. Accessory Uses	
E. Dimensional Requirements	
F. Other Requirements	
12.5 B-1 LIMITED BUSINESS DISTRICT	142
A. Intent	
B. Permitted Uses	
C. Conditional Uses	
D. Accessory Uses	
E. Dimensional Requirements	
F. Other Requirements	
12.6 B-2 DOWNTOWN BUSINESS DISTRICT	143
A. Intent	
B. Permitted Uses	
C. Conditional Uses	
D. Accessory Uses	
E. Dimensional Requirements	
F. Central Business District	
G. Litchfield Commercial Historic District	
H. Other Requirements	
12.7 B-3 ROADSIDE BUSINESS DISTRICT	145
A. Intent	
B. Permitted Uses	
C. Conditional Uses	
D. Accessory Uses	
E. Dimensional Requirements	
F. Other Requirements	
12.8 B-4 GENERAL BUSINESS DISTRICT	146
A. Intent	
B. Permitted Uses	
C. Conditional Uses	
D. Accessory Uses	
E. Dimensional Requirements	
12.9 I-1 LIMITED INDUSTRY DISTRICT	147
A. Intent	

B. Permitted Uses	
C. Conditional Uses	
D. Accessory Uses	
E. Dimensional Requirements	
F. Performance Standards	
12.10 I-2 GENERAL INDUSTRY DISTRICT.....	149
A. Intent	
B. Permitted Uses	
C. Conditional Uses	
D. Accessory Uses	
E. Dimensional Requirements	
F. Performance Standards	
12.11 MINIMUM REQUIREMENTS BY ZONING DISTRICT.....	151
A. Additional Setback Requirements	
12.12 LAND USES.....	152
A. Use Regulations	
154.140 ADULT ORIENTED BUSINESSES	155

1.0 TITLE. This Ordinance shall be known as the “Litchfield Zoning Ordinance” except as referred to herein, where it shall be known as “this Ordinance”.

2.0 AUTHORITY. This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, *Minnesota Statutes, Section 462.351 to 462.363*.

3.0 PURPOSE

- A. The intent of this Ordinance is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land.
- B. These regulations are established to assist the City in:
 - 1. Implementing its Comprehensive Plan,
 - 2. Protecting and enhancing the natural environment and resources that currently exist within the City,
 - 3. Ensuring orderly and quality development and redevelopment,
 - 4. Protecting the quality and diversity of the City's tax base,
 - 5. Protecting the quality of residential neighborhoods,
 - 6. Providing opportunities for an affordable and diverse housing supply,
 - 7. Managing traffic,
 - 8. Ensuring compatibility between different land uses, and
 - 9. Regulating businesses that may have adverse secondary effects on the quality of life of Litchfield residents. These regulations are also established to provide for administration of this Ordinance, to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City staff, Planning Commission and City Council in relation to this Ordinance.

4.0 RELATION TO COMPREHENSIVE PLAN. It is the policy of the City of Litchfield that the enforcement, amendment, and administration of this Ordinance be accomplished consistent with the recommendations contained in the City Comprehensive Plan, as developed and amended from time to time by the Planning Commission and City Council of the City. The Council recognizes the City Comprehensive Plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with *Minnesota Statutes Chapter 473*, the City of Litchfield will not approve any rezoning or other changes in these regulations that are inconsistent with the City Comprehensive Plan.

5.0 SCOPE

- A. **Jurisdiction.** This Ordinance shall apply to all the area inside the corporate limits of the City of Litchfield, Minnesota
- B. **Compliance.**
1. All buildings erected hereafter, all uses of land or buildings established hereafter, all structures, alterations or relocation of existing buildings occurring hereafter and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, uses or land shall be located.
 2. However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Ordinance, which has not by its terms expired prior to such effective date and provided that construction is begun before the permit's expiration and within one (1) year of its effective date and diligently pursued to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit was issued; and further, may upon completion be occupied under a certificate of zoning compliance by the use for which originally designated, subject thereafter to the provision of this Ordinance relating to nonconformities.
- C. **Conflict.** Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other law, ordinance, rule, or regulation of the City, State or Federal government, the law, ordinance, rule or regulation which imposes the more restrictive condition, standard or requirement shall prevail.
- D. **Conflicts of Law.** All Ordinances or parts of Ordinances in conflict here with are hereby repealed.

6.0 SEVERABILITY. This Ordinance and the Chapters, Sections, Subsections, paragraphs, sentences and clauses herein are hereby declared to be severable. Should any of the contents or provisions of this Ordinance be declared by the courts to be unconstitutional or invalid, the decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than that part declared to be unconstitutional or invalid.

7.0 INTERPRETATION AND APPLICATION

7.1 RULES. For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

- A. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. Words used in the present tense shall include the future; words used in the singular number shall include the plural number and the plural the singular.
- C. The word “shall” is mandatory and not discretionary and the word “may” is permissive.
- D. Any words not defined herein shall be construed in their generally accepted meanings as defined in the most recent publication of Webster’s Dictionary.

7.2 FEES. The City Council shall establish a schedule of fees, charges and expenses and a collection procedure for permits, appeals, amendments, conditional uses, interim uses, variances and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the City Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

7.3 VIOLATIONS

- A. Any building or structure being erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or site hereafter erected or maintained, or land use made or permitted in violation of this Ordinance, is hereby declared unlawful. In the event of violation or threatened violation of this Ordinance or other official control adopted under *Minnesota Statutes 394.21 to 394.37*, in addition to other remedies, the City Council or any member thereof may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violations and it is the duty of the City Attorney to institute such actions.
- B. If it is found that any of the provisions of this Ordinance are being violated, it shall be the duty of the Zoning Administrator to take the following action:
 - 1. Document the violation in writing, with photographs, historical records and dates of information if necessary.
 - 2. Notify in writing the person responsible for such violations indicating the nature of the violation and outlining action necessary to correct it.
 - 3. Order the discontinuance of illegal use of land, buildings or structures.
 - 4. Order the removal of illegal buildings or structures or of illegal additions, alterations or structural changes.
 - 5. Order discontinuance of any illegal work being done.
 - 6. Take any other action authorized by this Ordinance to ensure compliance with or to prevent violations of its provisions.

- C. **Appeal.** It is the intent of this Ordinance that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator, and that such questions shall be presented to the Planning Commission only on appeal from the decision of the Zoning Administrator.

7.4 PENALTIES

- A. Any person, firm, corporation or entity who violates any of the provisions of this Ordinance or any order of the Zoning Administrator issued in accordance with this Ordinance, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine and/or imprisonment as defined by law for each offense, plus the costs of prosecution.
- B. Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this Ordinance, and the City may pursue, by appropriate actions or proceedings, any or all additional remedies.

7.5 ZONING ADMINISTRATOR

- A. The City Administrator shall appoint the Zoning Administrator. It shall be the duty of the Zoning Administrator to:
1. Administer the requirements of this Ordinance for all permits and approve or deny each application in accordance with the provisions of this Ordinance.
 2. Conduct inspections of buildings and the use of land to determine compliance with the terms of this Ordinance.
 3. Publish and attend to the service of all notices required under the provisions of this Ordinance.
 4. Receive, file and forward applications for appeals, variances, conditional use permits, amendments or other action to the appropriate official bodies.
 5. Maintain permanent and current records pertaining to this Ordinance including, but not limited to, maps, amendments, conditional uses, variances, appeals and applications thereof.
 6. Provide technical assistance to the Planning Commission.
 7. Make recommendations to the City Council and the Planning Commission as necessitated by this Ordinance.
 8. Refer to the City Attorney all violations of this Ordinance which cannot be handled administratively.
 9. Maintain permanent and current records of this Ordinance, including maps, amendments, conditional uses and variances.
 10. Keep current records of all non-conforming uses.

11. Notify County Recorder of all variances and conditional use permits granted so they can be attached to the deed.

- B. Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this Ordinance and any claim based upon the performance of the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are hereby enumerated as exceptions to *Minnesota Statutes, Section 466.02* and said Section does not apply. The City shall defend, save harmless and indemnify any of its officers or employees whether elective or appointed, against any tort claim or demand whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this Zoning Ordinance except as provided in *Minnesota Statutes, Section 466.07*.

7.6 PLANNING COMMISSION

- A. **Membership and Organization.** The Planning Commission shall consist of six (6) citizens-at-large and one (1) City Council representative. Members shall be appointed by the City Council.
1. Terms shall be for staggered three (3) year periods. Vacancies for unexpired terms shall be filled by the City Council.
 2. Eligibility – members of the Commission shall reside within the incorporated limits of the City.
 3. Chairperson shall be chosen by the Commission and shall serve for a period of two (2) years. A Vice Chairperson shall also be chosen in the same manner and for the same term in the absence of the Chairperson.
 4. The Zoning Administrator or representative shall attend all meetings to provide technical assistance when requested and to record proceedings and serve as Secretary.
- B. **Powers and Duties.** It is the intent of this Ordinance that the duties of the City Planning Commission shall include the following:
1. Review or initiate applications for amendments and changes to this Ordinance and report the findings and recommendations to the City Council as provided in this Ordinance.
 2. Review, hear and make recommendations to the City Council of all applications for conditional use permits as provided in this Ordinance.
 3. Conduct appropriate public hearings as regards to this Zoning Ordinance.
 4. Prepare, in cooperation with the Zoning Administrator, an annual review related to the effectiveness of this Ordinance as provided in this Ordinance.
 5. Review and make recommendations on site plans as provided in this Ordinance.
 6. Variances. To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

C. Records.

1. Minutes shall be kept for all Planning Commission meetings.
2. The minutes shall include all important facts pertaining to each meeting which will include, but not be limited to,
 - a. Names and addresses of all persons appearing before the Commission
 - b. A record of all hearings and testimony, all exhibits presented to the Commission,
 - c. A copy of each resolution acted upon by the Commission
 - d. The vote of each member upon each question,
 - e. The reasons for the Commission's determination
 - f. The members absent or failing to vote
3. These records shall be immediately filed in the office of the Zoning Administrator and shall be a public record.

D. Decisions.

1. All actions and recommendations of the Planning Commission pertaining to this Ordinance shall require a simple majority of those members attending official Commission meetings
2. Record of all actions and recommendations shall be forwarded to the City Council for necessary formal action

7.7 **DEFINITIONS.** For the purpose of interpreting this Ordinance, the following definitions shall apply:

A

Abutting. Making direct contact with or immediately bordering.

Accessory Building. A building in which is conducted as an accessory use to a principal use on the lot on which the principal use is situated. Accessory buildings include: garages, carports, barns, tool sheds and the like.

Accessory Use or Structure. A use or structure subordinate to the principal use of a building or to the principal use of land and is located on the same lot and serving a purpose customarily incidental to the use of the principal building or land use. Accessory uses or structures to residential principal uses include: swimming pools, tennis courts, fences and the like.

Administrative Review. Administrative Review is a review of an application by the head of each City Department and / or other division of the City as determined by the Zoning Administrator and does not require review and / or approval by the Planning Commission or City Council.

Adult-Use Cannabis Product. As defined under Minnesota Statutes, section 342.01, subd. 4.

Agriculture. The use of an area of land for agricultural purposes including farming, agriculture, horticulture, floriculture and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage to swine or other animals.

Alley. A public or private thoroughfare which affords only a secondary means of access to abutting property.

Alteration. Any change, addition, or modification in construction or type of occupancy or in the structural members of a building such as foundations, walls, partitions, columns, beams or girders, the completed nature of which may be referred to as 'altered' or 'reconstructed'.

Animal, Domestic. An animal, including, but not limited to a dog and cat, that is commonly referred to as a pet, and that can generally be kept inside a dwelling. This term does not include a horse, pig, or similar animal that is typically kept only on agricultural or rural properties, and is not typically kept inside a dwelling.

Antenna. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and omni-directional antennas, such as whip antennas.

Apartment. One (1) or more rooms with private bath and kitchen facilities designed, intended or used as a residence for an individual, family, or group of individuals.

Applicant. A natural person completing the registration form prescribed herein.

Appraised Valuation. The market value of a structure or lot as determined by the current records of the Meeker County Assessor.

Approved. To give formal or official sanction to by the Building Inspector, Zoning Administrator, Planning Commission, City Council, or other responsible entity.

Assembly Hall. An establishment providing meeting space for social gatherings, including but not limited to wedding receptions, graduation parties, and business functions. This term includes, but is not limited to, a banquet hall, rental hall, meeting space for a club or membership organization. This term does not include a convention center.

Attorney. The City Attorney.

Automobile Repair – Major. Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers including collision service, body work, framework, welding and major painting service.

Automobile Repair – Minor. Incidental repairs, replacement of parts and motor service to automobiles not specified under ‘Auto Repair – Major’.

Automobile Service Station or Gas Station. A place where gasoline or any other automobile engine fuel, kerosene or motor oil and lubricants or grease are retailed directly to the public on the premises, including the sale of minor accessories and the servicing of minor automobile repairs.

Automotive, Implement, and Recreational Vehicle Sales. An open area, other than a street, used for the display, sale or rental of new or used motor vehicles, implements or trailers in operable condition and where no repair work is done.

Awning. A shelter, of canvas or other material, projecting from and supported by the exterior wall of a building, constructed on a supporting framework.

B

Bank or Other Financial Institution. An establishment providing retail banking, credit, and mortgage services. This term does not include a currency exchange, a payday loan establishment, or a title loan agency.

Barrier (Swimming Pool Barrier). A fence, a wall, a building wall, or a combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

Basement. Means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Bathroom. A room containing plumbing fixtures including a toilet and a sink, and in some cases a bathtub or shower.

Best Management Practices (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Blight. A deteriorated condition.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroads, rights-of-way, shorelines of waterways or boundary lines of the city.

Board of Adjustment. The City Council acting as the Board of Adjustments and Appeals of the City of Litchfield.

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

Boulevard. The portion of the street right- of – way between the curb line and the property line.

Buffer. A protective vegetated zone located adjacent to a natural resource, such as a water of the state, that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat.

The buffer strip begins at the “ordinary high water mark” for wetlands and the top of the bank of the channel for rivers and streams. This start point corresponds to the Minnesota Department of Natural Resources’ definition of a “shoreline” in Minnesota Rules 6115.0030. Therefore a stream with a width of 30 feet between banks and 100 foot buffer strips has a total protected width of 230 feet.

Acceptable buffer vegetation includes preserving existing predevelopment vegetation and/or planting locally distributed native Minnesota trees, shrubs and grassy vegetation. Alteration of buffers is strictly limited. Buffer areas are designated with permanent markers.

Buildable Area. The space remaining on a lot after the minimum setback and open space requirements of this Ordinance have been met.

Building. Any temporary or permanent structure intended for the shelter, support, or enclosure of persons, animals or property of any kind. When separated by division walls without openings, each portion of such building shall be deemed a separate building.

Building Code. The Minnesota State Building Code.

Building Height. Building height is the vertical distance measured from the average ground level at the front of the proposed structure, to the top cornice line of a flat and mansard roof, to the uppermost point on a round, or other arch-type roof, or to the midpoint of the tallest gable of a pitched or hipped roof.

Building Official or Building Inspector. The Building Official or Building Inspector shall be the Minnesota Certified Building Official designated by the City of Litchfield.

Building Permit. A permit required from the responsible governmental agency before any site work, construction, or alteration to any structures can be started.

Business. The purchase, sale, barter, or exchange of goods, wares or merchandise, or the maintenance or operation of offices, recreational or amusement enterprise, or the furnishing of services for compensation.

C

Cannabis Business. A cannabis microbusiness, cannabis mezzobusiness, cannabis cultivator, cannabis manufacturer, dispensary, cannabis wholesaler, cannabis transporter, cannabis

testing facility, cannabis delivery services, or medical cannabis combination business licensed, or any use otherwise authorized, under Minnesota Statutes, Chapter 342.

Cannabis Cultivation. A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.

Cannabis Delivery Service. A person or entity licensed or otherwise authorized to purchase cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products from licensed cannabis microbusinesses with a retail endorsement, cannabis mezzobusinesses with a retail endorsement, dispensaries, medical cannabis dispensaries, and medical cannabis combination businesses; transport and deliver cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumable products to customers; and perform other actions pursuant to Minnesota Statutes, Chapter 342.

Cannabis or Lower-Potency Hemp Edible Manufacturing. An entity licensed or otherwise authorized for the creation of cannabis concentrate and manufacture of cannabis products and hemp-derived consumer products for public consumption pursuant to Minnesota Statutes, Chapter 342, an entity licensed or authorized to purchase hemp and artificially derived cannabinoids to make hemp concentrate; manufacture artificially derived cannabinoids and hemp edibles for public consumption; package and label lower-potency hemp edibles for sale to customers; sell hemp concentrate, artificially derived cannabinoids, and lower-potency hemp edibles to other cannabis businesses and hemp businesses; and perform other actions pursuant to Minnesota Statutes, Chapter 342, or an entity in possession of a medical cannabis processor license pursuant to Minnesota Statutes, Chapter 342.

Cannabis Mezzobusiness. A person or entity licensed to cultivate, manufacture, and sell products containing cannabis and related supplies and products and perform other actions authorized under a cannabis mezzobusiness license pursuant to Minnesota Statutes, Chapter 342.

Cannabis Microbusiness. A person or entity licensed to cultivate, manufacture, and sell products containing cannabis and related supplies and products and perform other actions authorized under a cannabis microbusiness license pursuant to Minnesota Statutes, Chapter 342.

Cannabis Retail Business. A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, excluding lower-potency hemp edible retailers. Cannabis Retailer: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

Cannabis Retailer. Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

Cannabis Testing Facility. A facility licensed to obtain and test immature cannabis plants and seedlings, cannabis flower, cannabis products, hemp plant parts, hemp concentrate, artificially derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products from cannabis microbusinesses, cannabis mezzobusinesses, cannabis cultivators, cannabis manufacturers, cannabis wholesalers, lower-potency hemp edible manufacturers, medical cannabis cultivators, medical cannabis processors, medical cannabis combination businesses, and industrial hemp growers pursuant to Minnesota Statutes, Chapter 342.

Cannabis Transporter. An entity licensed or otherwise authorized to transport immature cannabis plants and seedlings, cannabis flower, cannabis products, artificially derived cannabinoids, hemp plant parts, hemp concentrate, lower-potency hemp edibles, and hemp-derived consumer products from a cannabis business to a cannabis business pursuant to Minnesota Statutes, Chapter 342.

Cannabis Wholesaler. An entity licensed or authorized to obtain, store, and sell or otherwise transfer cannabis or hemp seeds, plants, flower, or other products for the purpose of resale or other transfer to a cannabis business, but not to consumers, pursuant to Minnesota Statutes, Chapter 342.

Carport. An automobile shelter having one (1) or more sides open.

Car Wash. An establishment providing washing, waxing, or cleaning of light motor vehicles, including access and queuing lanes.

Cemetery. A lot or tract of land used or intended to be used for the burial of the dead including columbariums, crematories, mausoleums and mortuaries when operated with the boundaries of such cemetery.

Certificate of Occupancy. A certificate issued by the Building Official authorizing the use or occupancy of a building or structure.

Chair. The Chair of the Planning Commission or other body as the context requires.

City. The incorporated City of Litchfield, State of Minnesota.

City Council. The governing body of the City of Litchfield.

Clinic. An establishment where patients, who are not lodged overnight, are admitted for examination and treatment by one (1) or more of a group of physicians, medical specialists or dentists, or a combination thereof, practicing together.

Club or Association. A nonprofit association of persons who are bona fide members, paying regular dues, and are organized for some common purpose, but not including a group of organized solely or primarily to render a service customarily carried on as a commercial enterprise.

College. An educational institution authorized by the State of Minnesota to award baccalaureate or higher degrees, or any campus of the State of Minnesota vocational, technical, and adult education system. This term includes any classroom, sporting facility, music hall, office and related uses associated with such institution. This term does not include a dormitory.

Co-location. The location of wireless telecommunication equipment from more than one (1) provider on a common tower or structure.

Commercial Historic District. The land generally located along Sibley Avenue, between Depot Street and Fourth Street. (Shown in detail on the City of Litchfield Historic Districts map). The district is a designated Heritage Preservation Site and is under the jurisdiction of the Historic Preservation Commission.

Commercial Wireless Telecommunication Services. Licensed commercial wireless communication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Common Open Space. Land held in common ownership used for natural habitat, pedestrian corridors, and / or recreational purposes that are protected from future development.

Comprehensive Plan. The Litchfield Comprehensive Plan including the policy statements, goals, standards, functional classes of land use, places and structures, and the general physical development of the City of Litchfield.

Conditional Use. Means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(A) Certain conditions as detailed in the zoning ordinance exist.

(B) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood

Conditional Use Permit. A permit issued by the City Council in accordance with procedures specified in *Subdivision 9.6: Conditional Use Permit*.

Condominium. An apartment building in which the units are owned separately by the individual or family which occupies them and not by a corporation or cooperative. The term refers to the building as a whole or any unit within such building.

Construction Site. An area upon which one (1) or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing activities may be taking place at different times and on different schedules, but under one plan.

Contiguous. Parcels of land that share a common lot line or boundary.

Contour Map. A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines

Conveyance. As defined in *Minnesota State Statutes 272.12*.

County. Meeker County, Minnesota.

Court. An open, unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings.

Cul-de-sac. A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of the traffic movement.

Day Care Facility. Any facility, public or private, which for gain or otherwise regularly provides one (1) or more persons with care, training, supervisions, habitation, or developmental guidance on a regular basis, for periods less than twenty-four (24) hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity centers, day treatment programs, and day services.

Day Care Facility, In-Home. Any state licensed facility where childcare is provided to twelve (12) children or less in the principal residence.

Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site.

Density. The number of dwelling units permitted per acre of land.

Development. Any human made changes to improve or unimproved real estate, including, but not limited to the construction of buildings, structures, or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of manufactured homes or mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation, or drilling operations, and the deposition or extraction of earthen materials.

Dispensary. An entity in possession of a cannabis retailer license or otherwise authorized to acquire, possess, transfer, sell, dispense, or distributes products containing cannabis and related supplies and products pursuant to Minnesota Statutes, Chapter 342.

District. A section or sections of the City of Litchfield for which the provisions of this Ordinance are uniform.

Dock. A structure that extends past the ordinary high water level of a water body and is intended to provide access to the water.

Dredging. The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

Drive-Thru. Any use where products and / or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.

Driveway. A private drive leading from a public street or right-of-way to a garage, carport or any place of storage of a motor vehicle.

Duplex, Triplex, and Quad. A dwelling structure on a single lot, having 2, 3 and 4 units, respectively, being attached by common walls, and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

Dwelling. A building or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including single-family, two-family and multiple-family dwelling units, either owner occupied or rental; but not including hotels, motels, boarding or lodging houses, nursing homes, house trailers or mobile homes.

Dwelling, Single – Family. A dwelling unit designed exclusively for occupancy by one (1) family.

Dwelling, Single – Family Attached. A dwelling unit which is joined to one another by a party wall.

Dwelling, Single – Family Detached. A dwelling unit which is not attached to another dwelling or structure.

Dwelling Unit or Rental Unit. A room or group of rooms located within a dwelling or apartment building which are used or intended to be used for living, sleeping, cooking and eating purposes.

E

Easement. A grant by a property owner for the use of a strip of land by the general public, a corporation or a certain person or persons, for a specific purpose or purposes.

Engineer. The City Engineer.

Environmental Impact Worksheet, Assessment or Statement. A document that may be required under Minnesota Statutes or this Ordinance to determine the environmental effects resulting from a ground disturbing, development, or construction activity.

Equipment. The implements used in an operation or activity.

Erosion. The process by which the land's surface is worn by action of wind, water, ice, or gravity.

Essential Services. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith but not including buildings. For the purpose of this Ordinance, commercial telecommunication service facilities shall not be considered public utility uses, and are defined separately.

Excavation, Land. Any man-made cut, cavity, trench, or depression in the earth's surface formed by earth removal.

Exterior Storage. The storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.

F

Façade. Any side of a building facing a public way or space and finished accordingly.

Federal Emergency Management Agency (FEMA). The federal agency that administers the National Flood Insurance Program.

Fence. A partition structure, wall or gate erected as a dividing marker, visual or physical barrier, or enclosure.

Fill. Any act, by which soil, earth, sand, gravel, rock, or any-similar material is deposited, placed, pushed, or transported and shall include the conditions resulting thereupon.

Final Stabilization. Means that all soil disturbing activities at the site have been completed, and that a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of seventy-five (75) percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or range land, final stabilization constitutes returning the land to its preconstruction agricultural use.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land area caused by one of the following conditions:

- The overflow or rise of inland waters;
- The rapid accumulation or runoff of surface waters from any source;
- The inundation caused by waves or currents of water exceeding anticipated cyclical levels;
- The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a sever storm, or by an unanticipated force of nature.

Flood Frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Insurance Rate Map (FIRM). A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can be amended by the Federal Emergency Management Agency.

Floodplain. The beds proper and the area adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Floor Area, Gross (GFA). The sum of the gross horizontal areas of the floors of a building or buildings measured from the exterior faces of exterior walls or from the centerline of party walls separating two (2) buildings.

Floor Plan, General. A graphic representation of the anticipated use of the floor area within a building or structure.

Footing. A footing is that portion of the foundation of a structure which spreads and transmits loads directly to the soil or the piles.

Footprint. The area of the land covered by a building's foundation.

Front Setback Line. A line parallel to the front lot line which establishes the minimum front depth of the lot. The location of the front setback line shall be determined by this Ordinance.

Frontage. The width of a lot or building site measured on the line separating it from a public street or way.

Funeral Home. An establishment providing services involving the care, preparation, or disposition of deceased humans. This term includes, but is not limited to, a crematorium or a mortuary. This term does not include cemetery.

G

Garage, Private. A detached accessory building or portion of the principal building, including a carport, which is used primarily for storing passenger vehicles and other personal property.

Gardening. Plantings on a parcel that are intended for the production of food for the primary occupants of the parcel. The term is intended to include a typical vegetable garden associated with a dwelling. This term does not include agriculture.

Governing Body. The City Council.

Grade, Street. The elevation of the established street in front of the building measured at the center of such front. Where no street grade has been established, the City Engineer shall establish such street grade or its equivalent for the purpose of this Ordinance.

Growth. Any object of natural growth, including trees, shrubs, or foliage, except farm crops that are cut at least once a year.

H

Hazardous Material. A chemical or substance, or a mixture of chemicals or substances, which:

- Is regulated by the Federal Occupational Safety and Health Administration regulations; or
- Is either toxic or highly toxic materials, an irritant, corrosive, a strong oxidizer, a strong sensitizer, combustible, either flammable or extremely flammable, dangerously reactive, reproductive toxic agent, or that otherwise, according to generally accepted documented medical or scientific evidence, may cause substantial acute or chronic personal injury or illness during or as a direct result of any customary or reasonably foreseeable accidental or intentional exposure to the chemical or substance.

Home Occupation. Any occupation which is clearly incidental to the principal use of the premises, is conducted by a resident occupant, and does not change the character of the principal use.

Hospital. A state-licensed institution providing primary health services and medical, psychiatric, or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other physical or mental conditions, and as an integral part of the institution, related accessory uses or facilities, including, but not limited to, laboratories, central service facilities for inpatient or outpatient treatment, as well as training, research and administrative services for patients and employees. Also included are health services and care, which are shared with other hospitals or other health care providers.

Hot Tub. See 'Swimming Pool'.

Hotel. A building in which there are more than eight (8) sleeping rooms offered with or without meals for compensation and open to transient or permanent guests where no provision is made for cooking in any individual room or apartment.

I

Impervious Surface. A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

Improvement. Any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

Industry. An enterprise which involves the production, processing or storage of materials, goods or products.

Infestation. The presence of insects, rodents, vermin or other pests within or contiguous to a structure or premises.

Infiltration. The entry of precipitation or runoff into or through the soil.

Infiltration System. A device or practice such as a basin, trench, rain garden, or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of roof downspouts onto lawns, or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

Interim Use Permit. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Inoperative. Incapable of movement under its own power.

Institution. A nonprofit organization of a public character, or a building occupied by such organization.

K

Kennel. The keeping of five (5) or more regulated animals, or any combination thereof, on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a kennel.

Key Map. A map drawn to comparatively small scale which definitely shows the area proposed to be platted and the areas surrounding it to a given distance.

L

Laboratory. A place devoted to experimental study such as testing and analyzing materials, not including manufacturing or packaging of such materials, except incidentally.

Land. The earth, water, and air above, below, or on the surface, and includes any improvements or structures regarded as land.

Land Alteration. The reclaiming of land by depositing, removing or moving material so as to alter the grade or topography.

Landscaping. Plantings intended to enhance the aesthetic and / or environmental qualities of a parcel.

Loading Space. A dust-free and durable, hard surfaced area of adequate size for delivery vehicles expected to be used, logically and conveniently located for bulk pickup and delivery, readily accessible when required parking spaces are filled, which shall be located totally outside of any street or alley right-of-way.

Lot. A portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

Lot, Area. The area of a horizontal plane within the lot lines.

Lot, Buildable. A lot which meets or exceeds all requirements of this Ordinance without the necessity of variances.

Lot, Corner. A lot or lots within a plat and situated at the corners thereof so that they are bounded on 2 sides by streets. This term applies to any lot within the plat at street intersections and bounded on 2 sides by streets.

Lot, Depth. The mean horizontal distance between the front and rear lot lines. In order to allow flexibility in determining lot depth for parcels of unusual configuration, lot depth can be measured by averaging side property lines or by measuring a straight line extending from the front lot line to the rear lot line and passing through the building, subject to determination by the Zoning Administrator. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.

Lot, Double Frontage. Lots which have a front line abutting on one street and a back or rear line abutting on another street.

Lot, Lines. A lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.

Lot, Lines Related.

- a. **Front Lot Line.** That boundary of a lot which abuts an existing or dedicated public street or a private road.
- b. **Rear Lot Line.** That boundary of a lot which is opposite to the front lot line.
- c. **Side Lot Line.** Any boundary of a lot which is not a front lot line or a rear lot line.
- d. **Corner Side Lot Line.** That boundary of a corner lot which abuts the secondary existing or dedicated public street or private road.

Lot, Width. The shortest distance between lot lines measured at the front building line.

Lot of Record. A lot which is a part of a subdivision, the map of which has been recorded in the office of the Registrar of Deeds or County Recorder's office, or a lot described by metes

and bounds, the deed to which has been recorded in the office of the Registrar of Deeds or the County Recorder's office at the time of this Ordinance is passed.

Lower Potency Hemp Edible. As defined under Minnesota Statutes, section 342.01, subd. 50.

Lower Potency Hemp Edible Retailer. A person or entity licensed or authorized to acquire, possess, transfer, sell, dispense, or distribute lower-potency hemp edible products and related supplies and products pursuant to Minnesota Statutes, Chapter 342.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

M

Machinery. Machines in general or as a functioning unit; a mechanically, electrically, or electronically operated device for performing a task.

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

Material, Durable and Dustless (pertaining to ground surfacing). A hard-surfaced material such as concrete or asphalt but not including gravel or crushed rock.

Medical Cannabis Combination Business. An entity authorized to cultivate, manufacture, and sell cannabis, hemp, and cannabis and hemp related supplies and products, and perform other actions authorized under a medical cannabis combination license pursuant to Minnesota Statutes, Chapter 342.

Metes and Bounds Description. A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.

Minor Street. A street of limited continuity used primarily for access to the abutting properties and local needs of the neighborhood.

Model Home. A model home is a dwelling manufactured, prefabricated, or otherwise erected or installed upon a parcel for purposes of temporarily exhibiting the same as a sample, rather than for occupancy as a residence.

Motel. A building or group of buildings owned and used as a unit to furnish overnight, transient living accommodations.

Motor Vehicle. Every vehicle which is self-propelled not including a vehicle moved solely by human power.

N

Natural Water Way. Any natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also means to include any and all drainage

structures that have been constructed or placed for the purpose of conducting water from one place to another.

Nonconforming Building or Structure. Any building or structure lawfully existing at the time of the approval of this Ordinance or any amendment to it, rendering such nonconforming, which:

- a. does not comply with all of the regulations of this Ordinance, or any amendment hereto, governing building height and yard requirements for the zoning district in which such building or structure is located; or
- b. is designed or intended for a use neither permitted nor conditionally permitted in the zoning district in which it is located.

Nonconforming Lot of Record. An unimproved lot which was legally recorded on or before the effective date of this Ordinance which does not comply with the lot size requirements for any permitted use in the district in which it is located.

Nonconforming Use. Any building or land lawfully occupied by a use at the time of the approval of this Ordinance, or any amendment hereto, governing use for the zoning district in which such use is located.

Non-Riparian Lot. A lot of record that does not abut a public water.

Nursing Home. An establishment licensed by the State having accommodations for the continuous care of two (2) or more invalid, infirmed, aged, convalescent patients or physically disabled persons that are not related, excluding hospitals, clinics, sanitariums or similar institutions.

O

Occupant. Any person over one year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit

Office. Use of a building for government, business, professional, or administrative office. A general office is characterized by a relatively low proportion of vehicles trips attributable to visitors or clients in relationship to employees. Examples include, but are not limited to, offices of firms or organizations providing professional services, such as accounting, insurance, architectural, and legal. This term does not include a bank or other financial institution or the office of a physician, dentist, optometrist, chiropractor, and similar professions.

Office of Cannabis Management. State of Minnesota Office of Cannabis Management, as may be referred to as “OCM” in reference to this title.

Official Zoning Map. A map adopted in accordance with the provisions of *Minnesota State Statute 394.361*.

Off-Street Parking. The parking of vehicles on a parcel, as opposed to a street right-of-way.

On-Street Parking. The parking of vehicles on a street right-of-way, as opposed to a parcel.

Open Space, Private or Public. Private or public land or water, or a combination of land and water, that is free of development, including agriculture uses. This term includes wildlife

areas and conservation areas, but it does not include public parks or commercial outdoor recreation facilities.

Operator. Any person having charge, care, management or control of any dwelling or part of it, in which dwelling units or rooming units are let.

Outlot. A portion of a platted subdivision or other parcel of land not intended by its owner for immediate building development or dedication or land for purposes other than development.

Owner. Owner or his or her duly authorized agent or attorney in fact, a purchaser, devisee, fiduciary and a person having vested interest in the property in question.

P

Parcel. See 'Lot'.

Park. Public or private land, including accessory structures, used primarily for outdoor recreation or for the enjoyment of open space. This term does not include a community center, museum, commercial outdoor recreation facility, commercial indoor recreation facility, or similar use.

Parking Lot. A parcel of land containing five (5) or more unenclosed parking spaces.

Parking Space. An area of definite length and width designed for parking of motor vehicles exclusive of drives, aisles or entrances and readily accessible to a public street or alley.

Patio. An unenclosed, level, landscaped and/or surfaced area built at ground level and attached or functionally related to a dwelling unit.

Pedestrian Way. A public right-of-way across a block or providing access within a block, to be used by pedestrians and for the installation of utility lines

Pedestrian Way. A public or private right-of-way across or within a block or tract to be used by pedestrians.

Performance Standards. A minimum criterion established to control the environmental effects generated by or inherent in uses of land or buildings.

Permit. A written authorization made by the approval authority to the applicant to conduct an activity for which a permit is required.

Person. An individual, firm, partnership, association, corporation or joint venture or organization of any kind.

Personal Wireless Service. Licensed commercial wireless communication service, including cellular, personal communication services (PCS), enhanced specialized mobilized radio (EMR), paging, and similar services.

Pervious Surface. An area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests, or other similar vegetated areas are examples of surfaces that typically are pervious.

Planned Unit Development. 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.

Planning Commission. The duly appointed Planning Commission of the City of Litchfield.

Plat. A map or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record of title. The plat is a recorded legal document and must conform to all Minnesota State Laws.

Pollutant. As it relates to storm water and erosion control, any dredged soil, solid waste, incinerator, residue, sewage, garbage, refuse, oil, sludge, munitions, chemical wastes, biological materials, radioactive substances, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural wastes discharged into water.

Pollution. As it relates to storm water and erosion control, human made or human induced alteration of chemical, physical, and biological, or radiological integrity of water.

Porch. A structure that is designed for home occupancy that includes a floor and roof, and may include walls, but is not designed for winter use. A porch may be attached or detached. A detached porch (for example, a gazebo) is classified as an accessory structure.

Practical Difficulties. Practical difficulties as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

Pre-Development Condition. The extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Premises. A platted lot or part thereof or unplatted parcel of land, either occupied or unoccupied by any dwelling or non-dwelling structure, including such building, accessory structure or other structure thereon.

Principal Use. The purpose for which land or a building or structure thereon is designed, arranged, intended or maintained, or for which it is or may be used or occupied.

Principal Building. A building in which the principal use is conducted.

Private Club or Lodge. A building and related facilities owned or operated by a corporation, association or group of persons for social education or recreational purposes of members regularly paying dues, but not primarily for profit or to render a service which is customarily carried on as a business.

Private Street. A street serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

Professional Consultants. The City’s planning, engineering, inspection, legal and any other paid consultants retained by the City.

Public Land. Land owned and / or operated by a governmental unit, including school districts.

Public Park. Land owned or leased by a government entity for the purpose of providing public recreation and /or open space.

Public Place. A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.

Public Waters. Any waters as defined in M.S. § 103G.005, subd. 15 and 18, as they may be amended from time to time.

Public Way. All or any part of a road, street, land, or paved alley.

R

Recreational Vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

Refuse. All putrescible and nonputrescible waste, decomposed matter, and solids including garbage and rubbish.

Regulation. An authoritative rule dealing with details or procedure.

Religious Institution. A facility where people regularly assemble for religious worship and any incidental religious education, which is maintained and controlled by a religious body organized to sustain public worship. This term does not include an elementary or secondary school, a specialty or personal instruction school, or a college. This term is also known as a place of worship.

Repair. To restore to a sound and acceptable state of operation, serviceability, or appearance.

Repair Shops. Establishments engaged in miscellaneous repair of household items and smaller business equipment for the general public and business.

Restaurant, Drive-In. A retail outlet where food or beverages are sold to substantial extent for consumption in parked motor vehicles.

Restaurant, Fast Food or Carry-Out. A restaurant, other than a sit-down restaurant, where the establishment offers quick food, which is accomplished through limited menu of items already prepared and held for service, or prepared quickly. Orders are generally not taken at a customer’s table and food is generally served in disposable wrapping and containers. Food and beverages may be taken off premises for consumption. This term does not automatically include nor preclude the use of a drive-through window. Refer to the district provisions for information on drive-through windows.

Restaurant, Sit Down. A restaurant where food and beverage orders are generally taken at tables and food and beverages are consumed at tables located on the premises, where taking food or beverages from the premises is purely incidental, where food or beverages are normally served using non-disposable containers and utensils, and where the consumption of food or beverages in vehicles on the premises in which the building is located does not regularly occur. This term does not automatically include nor preclude the use of the drive-through window. Refer to the district provisions for information on drive-through windows. This term does not include a tavern.

Retail. Sale to the ultimate customer for direct consumption and not for resale.

Retail Registration (Cannabis). An approved registration issued by the city to a cannabis retail business.

RFI. Radio frequency interference.

RFR. Radio frequency radiation.

Right-of-Way, Public. An area owned and maintained by government jurisdiction, for public use.

Riparian Lot. A lot of record that abuts a public water that is subject to the City of Litchfield's Shoreland Management regulations.

Roadway. The paved portion of the street available for vehicular traffic.

Rooming House. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to 3 or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rooming Unit. A room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes, along with private or shared sanitation facilities

Runoff. Storm water or precipitation, including rain, snow or ice melt, or similar water that moves on the land surface via sheet or channelized flow.

S

School – Elementary, Middle, High. A public, parochial, or private school that provides an educational program for one (1) or more grades between pre-kindergarten and grade twelve (12), inclusive, and which is commonly known as an elementary school, grade school, middle school, junior high school and senior high school.

School, Specialty or Personal Instruction. A business, professional, or other specialty school. This term includes, but is not limited to, a school offering instruction in music, art, dance, martial arts, computer use or programming, and cosmetology.

Screening. Includes earth mounds, berms, or ground forms, fences and walls, or landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object throughout the year.

Sediment. Settleable solid materials that are transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Setback. 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.

Shoreland. 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.

Sign. A structure or device designed or intended to convey information to the public in written or pictorial form.

Site. The entire area included in the legal description of the land on which the activity is proposed or being conducted.

Slope. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. (Example: 3:1 slope is 3 feet horizontal and 1 foot vertical.)

Smoke. Small gas-borne particles other than water that form a visible plume in the air.

Standard. Something set up and established by authority as a rule for the measure of quantity, weight, extent, value or quality.

Standard, Performance. A criterion established in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases, and other objectionable or dangerous elements generated by the inherent in or incidental to land use.

State. The State of Minnesota.

State License (Cannabis). An approved license issued by the Office of Cannabis Management to a cannabis retail business.

Stop Work Order. An order issued by the Building Inspector or other Authorized Agent that requires all construction activity on the site to be stopped.

Storm Water Management Plan. A comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it or if there be no floor above it, the space between such floor and the ceiling next above it.

Street. A public or private right-of-way to abutting properties, whether designated as a street, avenue, highway, road, boulevard and/or however designated, which affords primary access by pedestrians and vehicles.

Street Width. The shortest distance between the lines delineating the right-of-way of a street.

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

Structural Alteration. Any change, other than incidental repairs, which would affect the supporting members of a building such as bearing walls or partitions, columns, beams or girders, foundations, or any substantial changes in the roof.

Subdivider. Any person, corporation, partnership, association, individual, firm, trust, or agent dividing or proposing to divide land.

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

Supplied. Installed, furnished or provided by the owner or operator at his or her expense.

Surveyor. A land surveyor registered under Minnesota State Laws.

Swimming Pool. A swimming pool is any basin or tank, above ground level or below ground level, containing an artificial body of water sufficiently deep for swimming.

T

Tavern. An establishment providing alcohol beverages by the drink to the public, where food or packaged alcohol beverages may be served or sold only as accessory to the primary use. This term does not include an assembly hall or recreation facility.

Terrace. A level plane or surfaced patio, directly adjacent to the principal building on the surface of the land or on the roof of a building.

Theater. An establishment for presenting motion pictures or live performances for observation by patrons. This term includes a movie theater, an outdoor stage, band shell, or amphitheater, but does not include an adult entertainment establishment.

Thoroughfare. Shall be considered the same as an arterial street or highway.

Tower. Any ground or mounted pole, spire, steeple, structure, or combination thereof taller than fifteen (15') feet, including supporting lines, cables, wires, braces and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Tower, Multi-User. A tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

Tower, Single-User. A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this Ordinance.

Townhouse. A group of attached single-family dwelling units on a common lot.

U

Underlying Zone. The zoning district classification within an overlay district determining requirements including, but not limited to permitted, conditional and prohibited uses.

Use. The purpose or activity, for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

Use, Accessory. A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

Use, Permitted. A use which conforms with the purpose and objectives of a particular District and conforms with all requirements, regulations and performance standards.

Use, Principal. The main use of land or buildings for an activity which is an allowable use of the Zoning District in which the land or buildings are located.

V

Variance. A variance is a modification or variation of the provisions of this Ordinance where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the Ordinance would cause practical difficulties, or that strict conformity with the provisions of this Ordinance would be unreasonable, impractical or unfeasible under the circumstances.

Vegetation, Natural. Plant life which is native to the location and which would normally grow if the ground were left undisturbed.

Vehicle. A machine propelled by power, other than human power and designed to travel along the ground, air or water by use of wheels, treads, runners, or slides and used to transport persons or property or to pull machinery, including, without limitation because of enumeration, automobiles, trucks, trailers, motor homes, motorcycles, tractors, buggies, wagons, boats and aircraft.

Ventilation. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, and space.

Veterinary Clinic. An establishment providing medical and surgical treatment of household animals including dogs, cats, birds, and similar animals. Large farm animals including cattle, horses, hogs, and similar animals shall not be treated at a small animal veterinary clinic. This term includes grooming and boarding for not more than thirty (30) days (if incidental to the medical care) and an animal crematorium.

Visual Screen. A permanent fence or wall that permits no view into the area to be screened; or plantings or vegetation that permit no view into the area to be screened and that admit a maximum penetration of light through no more than an evenly distributed twenty-five percent (25%) of their vertical surface during any season of the year.

W

Warehouse, General. A building used primarily for the storage of goods and materials. This term does not include Self-Storage Mini-Warehouses.

Wetland. Includes the following types of wetlands: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes, and seasonally flooded basins. Wetlands also includes degraded wetlands that are dominated by invasive species, such as reed canary grass.

Y

Yard. An open space between a building and any lot line which is open to the sky unobstructed by any permanent or temporary uses or structures.

Yard, Corner Side Yard. The yard extending from the front yard to the rear yard and lying between an open public right-of-way and the principle structure.

Yard, Front. A yard extending across the entire front of the lot and measured between the front line of the lot and the front line of the building, or any projection thereof other than steps, balconies, paved terraces, porches or bay windows.

Yard, Open. A yard in addition to front, side, and rear setbacks, in which no structure, driveway, or parking space shall be located.

Yard, Rear. A yard extending across the entire rear of a lot and measured between the rear lot line and the rear of the building, or any projection thereof other than steps, balconies, paved terraces, porches or bay windows. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side. A yard between the building and the side line of the lot extending from the front yard to the rear yard and measured between the sideline of the lot and the side of the building, or any projection thereof other than steps, balconies, paved terraces, porches or bay windows.

Z

Zoning Administrator. The person designated by the City Administrator to administer the requirements of the Zoning Code.

Zoning District. An area or areas for which the regulations and requirements governing land use are uniform.

Zoning Map. The map or maps incorporated into this Ordinance as a part thereof designating the City's Zoning Districts.

Zoning Permit. A permit indicating that a proposed development will meet the applicable provisions of the Litchfield Zoning Ordinance if the proposed development proceeds in accordance with the approved plan.

8.0 NONCONFORMITITES

8.1 PERPETUATION OF NONCONFORMITIES. Within the various districts established by this Ordinance or amendments that may later be adopted, there exists lots, structures and uses of land and structures which were lawful prior to the adoption of this Ordinance which would be prohibited, regulated or restricted under the provisions of this Ordinance. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that such nonconformities shall not be enlarged upon, expanded or extended.

8.2 NONCONFORMING LOTS OF RECORD OR SUBSTANDARD LOTS

- A. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of the adoption or amendment of this Ordinance, subject to the limitations imposed by other provisions of this Ordinance.
1. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.
 2. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district. However, yard dimensions and other requirements not involving area or width or both of the lot shall conform to the regulations for the district in which such lot is located.
 3. Variance of area, width and yard requirements shall be obtained only through action of the Planning Commission.
- B. If two or more lots or combination of lots and proportions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the land involved shall be considered to be an undivided parcel for the purpose of this Ordinance.
1. No portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves a remaining lot with width or area below the requirements stated in this Ordinance.

8.3 NONCONFORMING USES OF LAND

- A. Where, at the effective date of adoption or amendment of this Ordinance, there exists lawful use of land that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
4. When a nonconforming use is superseded by a conforming use, the nonconforming use shall not thereafter be resumed.

8.4 NONCONFORMING STRUCTURES

- A. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:
 1. No such structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
 2. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its current market value it shall not be reconstructed except in conformity with the provisions of this Ordinance. If less than fifty (50) percent is damaged, it may be restored, reconstructed or used as before, provided that it is done within twelve (12) months of such happening and that it be built of like or similar materials, or the architectural design and building materials are approved by the City Council after recommendations from the Planning Commission and appropriate officials.
 3. If the nonconforming structure is moved to another lot, it shall thereafter conform to the regulations for the district to which it is moved.
 4. Any nonconforming structure or portion of a structure containing a nonconforming use may be maintained and improved by ordinary repairs or by repair or replacement of non-bearing walls, fixtures, wiring or plumbing if the area when it became nonconforming is not increased. This Ordinance does not prevent the strengthening or restoring of any structure or part declared to be unsafe by order of an official charged with protecting the public safety.

8.5 NONCONFORMING USES OF STRUCTURES

- A. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it exists.
 2. Any nonconforming use may be extended throughout any part of the building which was originally arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
 3. If no structural alterations are made, any nonconforming use of a structure and/or premises in combination may be changed to another nonconforming use provided that the Planning Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.
 4. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall conform to the regulations for the district in which such structure is located and the nonconforming use may not be resumed.
 5. When a nonconforming use of a structure or structure and premises in combination is discontinued for twelve (12) months, the structure and/or structure and premises shall not be used except in conformity with the regulations of the district in which it is located.
 6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage of any kind of more than sixty (60) percent, exclusive of the foundation, of its appraised value at the time of destruction.

8.6 CONDITIONAL USES AND NONCONFORMITIES. Any use for which a conditional use is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district. This statement does not apply to changes as allowed by City Council action from a nonconforming use to another use not generally permitted in the district.

8.7 NONCONFORMITIES CREATED BY AMENDMENT

- A. When a nonconformity in a structure or the use of land or a structure created by an amendment to this Ordinance, the rights granted by this section to continuance of nonconformities existing prior to the date of the amendment.
- B. The above provisions shall apply to buildings, land and uses which may become nonconforming due to classification or Reclassification of districts under this Ordinance.

9.0 APPLICATIONS

A. Types of Development Reviews and Approvals. There shall be the following three (3) types of reviews and approvals associated with development in the City of Litchfield.

1. **Public Hearing.** Development or actions that require special opportunities for broad public input require a public hearing pursuant to *Subdivision 9.0, C: Procedures for Public Hearing and Noticing Requirements*.
2. **Informational Meetings.** Development that requires action by an elected or appointed body, but does not require a public hearing, shall require a public information meeting, held at the Planning Commission and/or City Council.
3. **Administrative Review and Approval.** Development or action that does not require public review, but is administratively reviewed and approved by staff.

B. Development Review Elements and Procedures.

1. **Pre-Application Meeting.** Prior to the submission of an application as required by this Ordinance, a pre-application meeting is encouraged by the Zoning Administrator or other Authorized Agent as follows:
 - a. **Purpose of the meeting.** A pre-application meeting is a meeting between a potential applicant and the Zoning Administrator or other Authorized Agent(s) of the City. Where beneficial / appropriate, other review bodies may also be included in a preapplication meeting. The meeting is an opportunity for the applicant(s) to describe what application is being considered, and for the Zoning Administrator, review body, or other Authorized Agent, to indicate which application is appropriate and what criteria will be used to determine whether the application should be approved.
 - b. **Meeting format.** Unless otherwise specified in this Ordinance, there is not a required format for a pre-application meeting.
 - c. **Combined meetings.** Pre-application meetings may be combined when an applicant anticipates making simultaneous applications for the same project.
 - d. **No approval action.** Participation in a pre-application meeting does not imply or assume subsequent approval, approval with conditions, or denial of an application.
2. **Application Forms and Fees.**
 - a. **Forms.** Applications shall be submitted on forms, with any requested information and attachments, and in such numbers as required by the City. The Zoning Administrator or other Authorized Agent of the City shall have the authority to request any other pertinent information required to ensure compliance with this Ordinance.
 - b. **Application fees.** Fees for those applications required by this Ordinance shall be in accordance with the City's current fee schedule, which the City Council may update from time to time. The fees are intended to cover the City's actual costs in processing the application, publishing notices, and

mailing notices regarding the application. The fee is payable at the time the applicant files a petition.

- c. **Escrow funds.** Escrow funds may be required to be used to pay any and all out-of-pocket expenses the City incurs in employing Professional Consultants who review and process the applicant's petition or petitions. The applicant must pay any and all outstanding out-of-pocket expenses in excess of deposits of the initial escrow funds and the additional escrow funds within thirty (30) days of the applicant's receipt of billings from the City. The applicant is responsible for all out-of-pocket expenses the City incurs. The City will return to the applicant any amount of initial escrow funds / additional escrow funds remaining after the City's final billing of its out-of-pocket expenses.
3. **Application Deadline.** All applications shall be completed and submitted to the Zoning Administrator or other Authorized Agent thirty (30) days prior to the next regular meeting of the Planning Commission, unless otherwise determined by the Zoning Administrator or other Authorized Agent.
4. **Application Completeness.**
 - a. **Completeness requirements.** An application shall be considered submitted only after the Zoning Administrator or other Authorized Agent has determined it is complete, it is in the required form, it includes all mandatory information, and it is accompanied by the applicable fee.
 - b. **Completeness review period.** A determination of application completeness shall be made by the Zoning Administrator or other Authorized Agent within fifteen (15) working days of the City's receipt of the application.
 - c. **Incomplete application.** If the application is determined to be incomplete, the Zoning Administrator or other Authorized Agent shall provide written notice to the applicant along with an explanation of the deficiencies associated with the application. No further processing of the application shall occur until the deficiencies are corrected.
5. **Limit of Time Relating to Final Action.** Upon the receipt of a complete application, the City and the applicable review authorities shall review the application and take final action on the application in a timely manner consistent with Minnesota Statutes. The allowable time to take final action on an application is specified in the review procedures of the application. However, the allowable time to take final action may be extended in writing by mutual acceptance of the approval authority and the applicant.
6. **Limit on Reapplication.** If any application is denied by the approval authority as specified in this Ordinance, another application or petition for the same permit, approval, or amendment for the same property (or any portion thereof) may not be filed within a period of ninety (90) days from the date of final denial, unless allowed by the appropriate approval body and based on the demonstration of any of the following conditions:

- a. **Change in circumstances.** There is substantial change in circumstances relevant to the issues and / or facts considered during the review of the application that might reasonably affect the approval body's application of the relevant standards to the development proposed in the application; or
 - b. **New information.** New or additional information is available that was not available at the time of the review that might reasonably affect the approval body's application of the relevant review standards to the development proposed; or
 - c. **Significant difference.** A new application is proposed to be submitted that is significantly different from the prior application; or
 - d. **Mistake made.** The final decision on the application was based on a mistake of fact.
7. **Review and Approval Criteria.** In reviewing and taking final action on an application or required permit, the review and approval authorities shall consider all approval criteria as specified in this Ordinance and shall consider all pertinent facts, public comments, and consistency with all applicable laws.
- C. **Procedures for Public Hearing and Noticing Requirements.** The procedures for holding a public hearing whenever such is required under the provisions of this Ordinance shall be as follows:
- 1. **Setting of Hearings.** For all requests brought before the Planning Commission for which a public hearing is required by this Ordinance, the Planning Commission shall select a reasonable time and place for the public hearing on the request.
 - 2. **Notice of Hearings.** After receipt of a completed application, a date must be set for a public hearing before the Planning Commission. Not less than ten (10) days before the public hearing, the city must publish notice in the official newspaper and send notice by mail to the applicant and to the owners of all properties located wholly or partially within three hundred – fifty (350) feet, as reflected in the certified records of the Meeker County auditor. Such notice shall be sent by the Office of the Zoning Administrator. Such notice shall include the date, time and place of the public hearing, a description of the contents of the request to be heard, and the address or location of the property to which the request applies.

A copy of the list of owners and addresses to which the notice was sent shall be attested to by the Zoning Administrator, and shall be made a part of the records of the proceedings. The failure to give written notice shall not invalidate the proceedings, provided a bonafide attempt to comply with the requirements has been made.

- 3. **Conduct of Hearings.** Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney.
- 4. **Administrative Procedures and Recordings at Public Hearings.** The body responsible for the hearing shall designate one (1) person to record all pertinent data and comments at the hearing for later preparation of a written public record. Such written record shall be filed with the Assistant City Administrator within a reasonable period of time, but in no event later than thirty (30) days from the date of the hearing.

The hearing shall be conducted in an orderly manner according to rules of procedure established or accepted by the City. The Chair or acting Chair of the responsible body shall conduct the hearing and shall require that all participants furnish name, address and position of interest prior to comment on the subject under consideration during such hearing.

5. **Continuance; Determination.** The responsible body may close the hearing or schedule a date, time and place for a continuance of the same, subject to the requirements of the matter under consideration. Following closure, the responsible body shall meet to make the appropriate determination which shall be prepared and filed as written public record in the office of the Assistant City Administrator.

9.1 ZONING PERMIT

Permits are required to ensure conformance with the Zoning Ordinance. A zoning permit is required for items such as fences, accessory structures up to two hundred (200) square feet, detached decks and the like. These permits are reviewed by the Zoning Administrator or other Authorized Agent.

- A. **Permit Required.** Unless and until a zoning permit shall first have been obtained from the Zoning Administrator, the construction, reconstruction, or moving of any structure requiring a zoning permit shall not be commenced.
- B. **Application for Zoning Permit.** Any application for a zoning permit where required by the City, which contains the information required by this Subdivision shall be deemed to be an application for a Zoning Permit.
 1. **Application.** Every application for a zoning permit shall contain at least the following information and shall be accompanied by at least the following documents, unless any specifically required information or document is waived in by the Zoning Administrator as not relevant or necessary to determine that all provision of this Ordinance have been met in a particular case:
 - a. Completed Zoning Permit application form
 - b. A site plan or survey indicating location, size and placement of proposed structures, parking and loading facilities, vehicular access and egress, or pedestrian walkways.
 - c. Exterior elevation drawings of the proposed structure which accurately indicate the height, size, design, and appearance of all elevations of the proposed structure, and a description of the construction and materials to be used.
- C. **Period of Validity.**
 1. The work for which a zoning permit is issued shall commence within one hundred – eighty (180) days after the date thereof unless an extension request has been submitted and approved by the Building Official or other Authorized Agent. The work shall be completed within twelve (12) months from the date of permit issuance, unless a request for an extension has been submitted and approved by the Zoning Administrator.
 2. A zoning permit shall become null and void twelve (12) months after the date on which it was issued unless within such period construction, reconstruction, remodeling or moving of a structure is commenced or a use is commenced, or unless an request for an extension has been submitted and approved by the Building Inspector or other Authorized Agent.
- D. **Zoning Permit Appealed.** In the event that the Zoning Administrator or other Authorized Agent denies a zoning permit application, the applicant may choose to appeal the denial decision to the City Council, acting as the Board of Adjustments and Appeals. Such appeal must be made in writing to the Zoning Administrator within ten (10) days of the denial and shall be subject to *Subdivision 9.10: Appeal of an Administrative Decision*.

9.2 BUILDING PERMIT

Permits are required to ensure conformance with the Zoning Ordinance and / or the Building Code. All building permits require review and approval of a permit from the Building Official and, if applicable, the Zoning Administrator. A building permit is required for items such as new residential dwellings, commercial, industrial, and public buildings, accessory buildings over two hundred (200) square feet, and the like.

A. Permit Required. Unless and until a building permit shall first have been obtained from the Building Official or other Authorized Agent:

1. The construction, reconstruction, major remodeling affecting use of the structure, or moving of any structure shall not be commenced;
2. The improvement of land preliminary to any use of such land shall not be commenced; and
3. Building or other permits pertaining to any use of such land shall not be commenced.

B. Application for Building Permit. Any application for a building permit where required by the City, which contains the information required by this Subdivision shall be deemed to be an application for a Building Permit.

1. **Application.** Every application for a building permit shall include the following information and shall be accompanied by at least the following documents unless any specifically required information or document is waived by the Zoning Administrator or other Authorized Agent as not necessary:
 - a. Boundary survey or site plan showing existing property lines and dimensions, platting and easements, buildings, street and railroad rights – of – way, utilities, topography, waterways, and ownership of all parcels.
 - b. A site plan indicating location, size, and placement of proposed structures and yards, parking and loading facilities, vehicular access and egress, pedestrian walkways, landscaping, free – standing signs, utilities, grading and drainage.
 - c. Exterior elevation drawings of the proposed structure which accurately indicates the height, size, design, and appearance of all elevations of the proposed structure and a description of the construction and materials to be used.
 - d. Complete construction plans prepared by a registered architect or engineer as required by State law, including footing plan, framing detail cross section, floor plans and elevations.
2. **Denial of a Building Permit.** The Building Official may refuse to issue a permit for any of the following:
 - a. The construction of any building which construction or necessary grading incidental thereto obstructs any natural waterway, unless provisions have been made to leave such natural waterway open in a manner satisfactory to the Building Inspector.

- b. The construction of a dwelling unit upon ground which, according to the information furnished, is too low for property drainage, or otherwise deemed unsuitable for building through provisions of this Ordinance.
- c. The construction of any residential dwelling located on a lot that does not have frontage on an improved public street, as improvement is defined by *Minnesota State Statute 429.021*.

C. Period of Validity.

1. The work for which a building permit is issued shall commence within one hundred – eighty (180) days after the date thereof unless a request for extension has been submitted and approved by the Building Official or other Authorized Agent. The work shall be completed within twelve (12) months from the date of permit issuance, unless a request for an extension has been submitted and approved by the Building Official or other Authorized Agent.
2. A building permit shall become null and void twelve (12) months after the date on which it was issued unless within such period construction, reconstruction, remodeling or moving of a structure is commenced or a use is commenced, or unless a request for an extension has been submitted and approved by the Building Inspector or other Authorized Agent.

D. Building Permit Appealed. In the event that the Zoning Administrator or other Authorized Agent denies a building permit application, the applicant may choose to appeal the denial decision to the City Council, acting as the Board of Adjustments and Appeals. Such appeal must be made in writing to the Zoning Administrator within ten (10) days of the denial and shall be subject to *Subdivision 9.10: Appeal of an Administrative Decision*.

9.3 SIGN PERMIT

A. Applicability. It shall be unlawful for any person to erect, construct, enlarge, relocate, or structurally modify a sign or cause the same to be done in the City of Litchfield without first obtaining a sign permit for each such sign pursuant to this Subdivision and *Subdivision 11.10 Signs*, unless otherwise stated in this Ordinance.

B. Review Process.

1. **Application Submittal.** A complete application shall be submitted to the Zoning Administrator or other Authorized Agent pursuant to *Subdivision 9.0, B (2): Application Forms and Fees*. The application shall contain the following information:
 - a. The name, address and telephone number of the applicant, the business name where the sign is or shall be located, and the location of the proposed sign.
 - b. The zoning district in which the sign will be installed.
 - c. Clear and legible sign drawing showing the construction, size, dimensions, materials to be used, and the location of the proposed sign and any existing signs on the premises.

- d. Type of sign (wall, pole, monument, etc.) If a wall sign, include a schematic of the frontage of the building on which wall signs will be installed including linear footage of the wall frontage.
- e. Signature of the applicant.
- f. Such other information as the Zoning Administrator other Authorized Agent may require to show full compliance with the provisions of this Ordinance.
- g. Payment of all required fees.

2. **Staff Review.** The Zoning Administrator or other Authorized Agent shall complete the following tasks:

- a. Determine if the application is complete pursuant to *Subdivision 9.0, B (4): Application Completeness*; and
- b. Review the application, considering the criteria for approval, and submit the application to other City Staff for their review and comment as necessary or desired.

C. **Approval Criteria.** The Zoning Administrator or other Authorized Agent shall issue a sign permit when the permit application is properly made, all appropriate fees have been paid and the sign complies with the application provisions of this Ordinance.

D. **Period of Validity.** Any sign for which a permit is issued shall be erected in place within six (6) months from the date of permit issuance, unless a request for an extension has been submitted and approved by the Zoning Administrator or other Authorized Agent. Failure to erect the approved sign within six (6) months or receive approval of a submitted request for extension will result in the permit automatically becoming void and a new permit must be applied for pursuant to the provisions of this Ordinance.

9.4 SITE PLAN REVIEW

A. Applicability. All planned buildings and/or structures or uses of land unless exempted, whether they be new, substantially changed, converted or reconstructed, must secure approval of a site plan from the Zoning Administrator and/or the Planning Commission and City Council. No permit shall be issued prior to approval of the site plan. The site plan may be required to be drawn by an architect or engineer.

1. **Exempt Uses** The following may, with approval from the Zoning Administrator, be determined to be an exempt use and shall not have to comply with the site plan requirements described herein:

- a. Temporary uses (not to exceed six (6) months) of land different from its existing state.
- b. One and two-family dwellings.

2. Review Body

a. A site plan for minor projects shall be reviewed and approved administratively by the Zoning Administrator. A minor project shall be defined as:

- 1) Building projects that comprise of up to thirty percent (30%) building footprint expansion and / or up to fifty percent (50%) increase in the assessed value of the structure as determined by the Meeker County Assessor.
- 2) Plantings, landscaping or other site work that does not involve grading or require additional impervious surface coverage. (Example: the planting of trees, shrubs, sod and the like, or refinishing / resurfacing of an existing parking lot that does not involve grading or increased impervious surface coverage).

b. All other projects shall be considered major projects and shall be subject to review and approval by the Planning Commission and City Council.

B. Submittal Requirements. The following elements shall be submitted for site plan review. These items may be modified by the Zoning Administrator. Additional information may be required by the Planning Commission and/or City Council.

1. Name and address of the developer and property owner.
2. Certificate of Survey
3. Proof of ownership or authorization
4. Existing conditions: topography at two (2) foot contours, area of land in square feet, significant woodlands, wetlands and waterbodies, existing structures and easements
5. Proposed grading and drainage;
6. Proposed location and dimensions of all proposed structures, public and private streets or drives, and exterior parking and drive areas and walkways;
7. Location and use of all buildings and adjacent lands that are within fifty (50) feet of the property line in question.

8. Drainage design for roof areas, parking lots and driveways showing area for or method of disposal of surface run-off waters.
9. Existing and proposed street curb cut radii and curb cut width.
10. Limits and location of proposed or existing streets, cart ways, curbs, sidewalks, easements and rights-of-way.
11. Location, size and elevation of proposed or existing sanitary sewerage facilities, storm sewers, catch basins and drywells.
12. Location and approximate diameter of proposed or existing trees and other woody stemmed plantings together with the common names of the plantings.
13. Limits and location of plantings or physical structures designed for screening.
14. Limits, location and size of retaining walls and the type of material to be used in construction.
15. Limits and location of parking lots, driveways, parking bays, outside storage, garbage areas, loading and unloading areas and surfacing and screening thereof.
16. Directions of vehicular traffic flow to, from and within the area, together with traffic control signs and markings.
17. Locations, height, candle power and type of all outside lighting including street lighting and sign lighting.
18. Proposed signage.
19. Location of underground utilities, e.g. city water, natural gas, electrical, phone and cable.
20. Such other or different information as may be required by the design standards set forth hereinafter or as required elsewhere in this Ordinance.

C. Criteria for Approval. The review body shall approve the site plan if it finds that the plan meets the following standards.

1. Consistency with the City's adopted Comprehensive Plan;
2. Compliance with all applicable Ordinances including, but not limited to provisions for parking, landscaping and screening;
3. Reasonable accommodation of unique geologic, geographic or historically significant characteristics;
4. Consideration of adjacent and neighboring properties through adequate design and provision for such matters as surface water drainage, building location and orientation, parking and access drives, lighting, and trash storage;
5. Reasonable consideration for the safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.

D. Performance. To ensure performance that development proposed in the plan submitted abides by all conditions of the City, and that all tasks planned and all development proposed

are completed within the established time frame, the City may require a warranty, and be given security, through performance bond or other security means.

- E. Expiration of Approval.** Approval of a site plan shall remain valid for one (1) year. Failure to commence development in accordance with an approved site plan within one (1) year after the date of approval shall result in revocation of approval. An extension of site plan approval for up to one (1) year may be granted by providing a written request to the City Council for their review and approval. The City Council may decline to grant an extension if there has been a change in circumstances affecting the property or if there are other reasons to justify the denial. A change in circumstances may be an approved modification to the Comprehensive Plan, substantial changes to the surrounding development pattern or other items as determined by the City. Three (3) consecutive one – year extensions shall be conclusive proof that the development has not made adequate progress toward completion, and no further extensions shall be granted, except upon a variance from this provision.

9.5 VARIANCES

A. Applicability. The City Council, acting as the Board of Adjustments and Appeals, may authorize variances from the provisions of this Ordinance, except as otherwise specified in this Ordinance. Under no circumstances shall a variance be granted to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district. The presence of nonconformities in the district or uses in an adjoining district shall not be considered as grounds for a variance.

B. Review Process.

1. **Optional Pre-Application Meeting.** If a proposed development requires the approval of a variance, then the property owner or their designated agent is encouraged to request a pre-application meeting with the Zoning Administrator or other Authorized Agent pursuant to *Subdivision 9.0, B (1): Pre-Application Meeting*.
2. **Initiation.** Initiation of a variance may be made upon application of the property owner or their designated agent.
3. **Application Submittal.** A complete application shall be submitted to the Zoning Administrator or other Authorized Agent and should include:
 - a. A description of the proposed use and how it varies from the applicable provisions of the Zoning Code;
 - b. A legal description of the property, including plot and parcel number;
 - c. A site plan showing the location and extent of the proposed building, parking, loading, access drives, utilities, landscaping and any other improvements;
 - d. A statement of the applicant, referring to specific facts, describing the following:
 - i. The exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which do not apply generally to land, buildings, or uses in the same zone classification;
 - ii. The practical difficulty to the applicant if the variance is not granted;
 - e. Any other information required by the Zoning Administrator, Planning Commission, City Council, or other Authorized Agent.
 - f. An application fee as established from time to time by resolution of the City Council.
4. **Staff Review.** The Zoning Administrator or other Authorized Agent shall complete the following review tasks:
 - a. Determine if the application is complete pursuant to *Subdivision 9.0, B (4): Application Completeness*;
 - b. Notice a public hearing pursuant to *Subdivision 9.0, C: Procedures for Public Hearing and Noticing Requirements*; and
 - c. Review the application, considering the approval criteria, and prepare a report to the Planning Commission with a recommendation for final action.

5. **Planning Commissions Review.** The Planning Commission shall complete the following tasks:
 - a. The Planning Commission shall hold a public hearing pursuant to *Subdivision 9.0, C: Procedures for Public Hearing and Noticing Requirements*; and
 - b. The Planning Commission (considering the approval criteria) shall make a recommendation of approval, approval with conditions, or denial to the City Council. In the event the Planning Commission recommends denial of any application for a variance, the reasons for such denial shall be provided identifying the ways in which the proposed request fails to meet the standards and intent of this Ordinance and is otherwise injurious to the health, safety, and welfare.

6. **City Council Final Action.** The City Council, acting as the Board of Adjustments and Appeals, shall complete the following tasks:
 - a. Within sixty (60) days of the City's receipt of a complete application, the City Council shall review the request, the Planning Commission's recommendation, and the approval criteria and take action to approve, approve with conditions, or deny the request by a simple majority of the Council, unless extended pursuant to *Minnesota State Statute 15.99: Time Deadline for Agency Action*.
 - b. A variance may be approved by an affirmative vote of a simple majority of the City Council.
 - c. The City may extend the time limit of this Subdivision before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.
 - d. An applicant may, by written notice to the City, request an extension of the time limit under this Subdivision.
 - e. Denial. If an application for a variance is denied by the City Council, the denial shall be accompanied by written findings setting forth the reasons for the denial in terms of the ways in which the proposed request fails to meet the standards and intent of this Ordinance.
 - f. Limit on Reapplication. Limits on reapplication shall be as specified in *Subdivision 9.0, B (6): Limit on Reapplication*.
 - g. Expiration of Approval. Any variance granted by the city shall run with the land and shall be perpetual unless no building permit has been issued or substantial work performed on the project within one (1) year from the date of approval, in which case the variance shall be null and void. The Planning Commission may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension. An extension of a variance approval for up to one (1) year may be granted by providing a written request to the City Council for their review and approval. The City Council may decline to grant an extension if there has been a change

in circumstances affecting the property or if there are other reasons to justify the denial. A change in circumstances may be an approved modification to the Comprehensive Plan, substantial changes to the surrounding development pattern or other items as determined by the City. Three (3) consecutive one – year extensions shall be conclusive proof that the development has not made adequate progress toward completion, and no further extensions shall be granted, except upon a variance from this provision.

C. **Approval Criteria.** No variance from the terms of this Ordinance shall be authorized unless the City Council finds failure to grant the variance will result in practical difficulties on the applicant. The burden of proof is on the applicant to show that all of the following criteria have been met:

1. That the variance is in harmony with the general purposes and intent of the ordinance and consistent with the comprehensive plan.
2. That there are practical difficulties in complying with the zoning ordinance.

“Practical difficulties”, as used in connection with granting of a variance, means that

- a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- b. The plight of the landowner is due to circumstances unique to the property not created by the landowners; and
- c. The variance, if granted, will not alter the essential character of the locality and will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity of the parcel of land

Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

3. The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of a parcel of land.

D. **Appeal.** Any person or persons, any private or public board, or taxpayer of the City aggrieved by any decision of the City Council acting as the Board of Adjustments and Appeals shall have the right to seek review of the decision with a court of record in the manner provided by the laws of the State of Minnesota, as such statutes may be from time to time amended, supplemented or replaced.

9.6 CONDITIONAL USE PERMIT

A. Applicability. A conditional use permit is required for development that generally would not be appropriate within a district but might be allowed within certain locations within the district if specific requirements are met. The compatibility must be judged on the basis of the particular circumstances and may require the imposing of conditions before development or occupancy is permitted. The intent is to allow a reasonable degree of discretion in determining the suitability of a particular development at a specific location.

B. Review Process.

1. **Optional Pre-application Meeting.** If a proposed development requires the issuance of a conditional use permit, then the property owner or their designated agent is encouraged to request a pre-application meeting with the Zoning Administrator or other Authorized Agent pursuant to *Subdivision 9.0, B (1): Pre-Application Meeting*.
2. **Initiation.** Initiation of a conditional use permit may be made upon application of the property owner or their designated agent.
3. **Application Submittal.** A complete application shall be submitted to the Zoning Administrator or other Authorized Agent and should include:
 - a. A legal description of the property, including plot and parcel number;
 - b. Evidence that the applicant has sufficient control over the tract to effectuate the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed development;
 - c. Plans drawn to convenient scale, showing the current zoning classification and existing land use of the tract, and those tracts directly adjacent to it, and any significant topographical or physical features of the tract;
 - d. A site plan showing the location and extent of the proposed building, parking, loading, access drives, utilities, landscaping and any other improvements;
 - e. A statement as to how the proposed development is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable district regulations;
 - f. Any other information required by the Zoning Administrator, Planning Commission, City Council, or other Authorized Agent;
 - g. An application fee as established from time to time by resolution of the City Council.
4. **Staff Review.** The Zoning Administrator or other Authorized Agent shall complete the following review tasks:
 - a. Determine if the application is complete pursuant to *Subdivision 9.0, B (4): Application Completeness*;
 - b. Notice a public hearing pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*; and
 - c. Review the application, considering the approval criteria, and prepare a report to the Planning Commission with a recommendation for final action.

5. **Planning Commissions Review.** The Planning Commission shall complete the following tasks:
 - a. The Planning Commission shall hold a public hearing pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*; and
 - b. The Planning Commission (considering the approval criteria) shall make a recommendation of approval, approval with conditions, or denial to the City Council. In the event the Planning Commission recommends denial of any application for a conditional use, the reasons for such denial shall be provided identifying the ways in which the proposed request fails to meet the standards and intent of this Ordinance and is otherwise injurious to the health, safety, and welfare.
6. **City Council Final Action.**
 - a. Within sixty (60) days of the City's receipt of a complete application, the City Council shall review the request, the Planning Commission's recommendation, and the approval criteria and take action to approve, approve with conditions, or deny the request by a simple majority of the Council, unless extended pursuant to *Minnesota State Statute 15.99: Time Deadline for Agency Action*.
 - b. A conditional use permit may be approved by an affirmative vote of a simple majority of the City Council.
 - c. The City may extend the time limit of this Subdivision before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.
 - d. An applicant may, by written notice to the City, request an extension of the time limit under this Subdivision.
 - e. Denial. If an application for a conditional use permit is denied by the City Council, the denial shall be accompanied by written findings setting forth the reasons for the denial in terms of the ways in which the proposed request fails to meet the standards and intent of this Ordinance and is otherwise injurious to the public health, safety and welfare.
 - f. Limit on Reapplication. Limits on reapplication shall be as specified in *Subdivision 9.0, B (6): Limit on Reapplication*.
 - g. Expiration of Approval. Approval of a conditional use permit shall remain valid for one (1) year. Failure to commence development in accordance with an approved conditional use permit within one (1) year after the date of approval shall result in revocation of approval. An extension of conditional use permit approval for up to one (1) year may be granted by providing a written request to the City Council for their review and approval. The City Council may decline to grant an extension if there has been a change in circumstances affecting the property or if there are other reasons to justify the denial. A change in circumstances may be an approved modification to the Comprehensive Plan, substantial changes to the surrounding development pattern or other items as determined by the City. Three (3) consecutive one – year extensions shall be conclusive proof that the development has not made

adequate progress toward completion, and no further extensions shall be granted, except upon a variance from this provision.

C. Approval Criteria. In determining whether to approve, approve with conditions, or deny a request for issuance of a conditional use permit, the Planning Commission and the City Council shall consider all relevant factors specified in other applicable subdivisions of this Ordinance, including standards for specific requirements for certain land uses and activities. In addition, the following approval criteria shall apply:

1. Criteria

- a. Conforms to the District and conditional use provisions and all general regulations of this Ordinance.
- b. Does not involve any element or cause any conditions that may be dangerous, injurious or noxious to any other property or persons and shall comply with the performance standards in *Provision D: Performance Standards* herein.
- c. Is sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
- d. Produced a total visual impression and environment which is consistent with the environment of the District and neighborhood in which it is located.
- e. Organized vehicular access and parking to minimize traffic congestion in the District.
- f. Promotes the objectives of this Ordinance and the overall Comprehensive Land Use Plan of the City.

D. Performance Standards. Conditional uses shall comply with the requirements of this Subdivision. In order to determine whether a proposed use will so conform, the City Council may obtain a qualified consultant to testify. The costs for said consultant's services shall be borne by the applicant. The following performance standards shall apply:

1. **Fire Protection.** Fire prevention and fighting equipment required by the Fire and Building Code shall be readily available when any activity involving the handling or storage of flammable, hazardous or explosive materials is carried on.
2. **Electrical Disturbance.** The activity shall not cause electrical disturbance adversely affecting radio or other electronic equipment in the vicinity of the use.
3. **Noise.** Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled in accordance with generally acceptable noise level standards. Fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.
4. **Vibrations.** Vibrations detectable without instruments on neighboring property in any District is prohibited.
5. **Odors.** No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property. State standards on odor emissions may be used in measuring such odors.

6. **Air Pollution.** Air pollution shall be subject to the standards established by the Minnesota Pollution Control Agency.
7. **Glare.** Lighting devices which produce directly reflected glare on adjoining properties or thoroughfares shall not be permitted.
8. **Erosion.** No offensive erosion by wind or water shall be permitted onto adjacent properties.
9. **Water Pollutions.** Water pollution shall be subject to the standards established by the Minnesota Pollution Control Agency.
10. **Drainage.** No land shall be developed and no use shall be permitted that results in water run-off causing flooding, erosion, or deposit of minerals on adjacent properties. Such runoff shall be properly channeled into a storm drain, water course, ponding area, or other public facilities.
11. **Pollution Control.** All performance standards shall be subject to the Minnesota Pollution Control Agency rules and regulations.

E. Conditions That May be Attached to a Conditional Use Permit. The City Council may attach any conditions to the approval of a conditional use permit that deems necessary to address any of the following conditions or other applicable conditions not here listed:

1. Minimize any adverse impact of the development upon other land, including the hours of use and operation and the type of intensity of activities that may be conducted;
2. Control the sequence of development, include when it must be commenced and completed;
3. Control the duration of the use of development and the time within which any structures must be removed;
4. Ensure that development is maintained properly in the future;
5. Designate the exact location and nature of development; and
6. Establish more detailed records by submission of drawings, maps, plats or specifications.

F. Additional Information.

1. A conditional use permit, once issued, shall be transferable in the event of change of property ownership or control providing, however, that those conditions attached to the original permit shall be applicable to the responsible agent following such change. It shall be the duty of the original permit holder to advise the party assuming control regarding the conditions of such permit.

9.7 INTERIM USES

- A. **Applicability.** An Interim Use Permit may be issued rather than a Conditional Use Permit for time limited temporary uses. All requirements of *Subdivision 9.6: Conditional Use Permit* apply to the Interim Use, including the application and review process. In addition, the following provisions apply:
1. **Additional Provisions.**
 - a. The date or event that will terminate the use need to be identified with certainty.
 - b. Permission of the use will not impose additional public costs.
 - c. The applicant needs to demonstrate a need for such a use.
 2. **Permit Duration.**
 - a. An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:
 - 1) The date stated in the permit; or
 - 2) A violation of conditions under which the permit was issued; or
 - 3) A change in the City's Zoning Ordinance render the use nonconforming.
 - b. Nothing in this section shall prevent the City Council from enacting or amending official controls to change the status of interim uses, including new regulations that are designed to protect the public's safety, health and general welfare.
 3. **Permit Review.**
 - a. If a periodic review is imposed as a condition in the granting of an interim use permit, the interim use permit shall be reviewed by the Planning Commission at a public meeting at least thirty (30) days prior to the expiration of the permit. It shall be the responsibility of the Zoning Administrator to schedule such public meeting and the owner of the land having an interim use permit shall not be required to pay a fee for said review. If the required review does not occur as provided herein, the interim use permit shall remain in effect until such time as the Zoning Administrator schedules a public meeting before the Planning Commission on the issue.
 - b. The Planning Commission shall recommend to the City Council whether or not the interim use permit should be renewed and what, if any, additional conditions may be necessary to comply with the provisions of this Ordinance.

9.8 ZONING MAP AMENDMENT (REZONING)

A. Applicability. The Zoning Map may be amended whenever the public necessity, convenience, general welfare, or good zoning practice require. Amendments may also be made to correct errors in the Zoning Map or to address changed or changing conditions in a specific area or within the city generally. All Zoning Map Amendments must be consistent with the Comprehensive Plan and the provisions of this Subdivision.

B. Review Process.

1. **Optional Pre-application Meeting.** If a proposed development requires the issuance of a conditional use permit, then the property owner or their designated agent is encouraged to request a pre-application meeting with the Zoning Administrator or other Authorized Agent pursuant to *Subdivision 9.0, B (1): Pre-Application Meeting*.
2. **Initiation.** A Zoning Map Amendment may be initiated by any of the following:
 - a. The property owner or their designated agent;
 - b. The Planning Commission;
 - c. The City Council;
 - d. The Zoning Administrator or other Authorized agent.
3. **Application Submittal.** A complete application shall be submitted to the Zoning Administrator or other Authorized Agent and shall include the following information:
 - a. A legal description and street address of the property proposed to be reclassified;
 - b. The name and address of the owner or owners of the said property;
 - c. The present zoning classification and existing uses of the property proposed to be reclassified;
 - d. The area of the property proposed to be reclassified, stated in square feet or acres, or fraction thereof;
 - e. A map, drawn to scale, clearly showing the property proposed to be reclassified and its present zoning classification and existing uses, together with an abstractor's certificate with the names and addresses of the owners of land within three hundred and fifty (350) feet of the area proposed to be rezoned;
 - f. A written statement of how the rezoning would fit in with the general zoning pattern of the neighborhood, and the zoning plan of the entire City;
 - g. Proof of ownership of the property consisting of an Abstract of Title currently certified or a current Certificate of Title; and
 - h. Such other information as the Zoning Administrator or other Authorized Agent may require.
4. **Staff Review.** The Zoning Administrator or other Authorized Agent shall complete the following review tasks:

- a. Determine if the application is complete pursuant to *Subdivision 9.0, B (4): Application Completeness*;
 - b. Notice a public hearing pursuant to *Subdivision 9.0, C: Procedures for Public Hearing and Noticing Requirements*;
 - c. Review the application, considering the approval criteria and prepare a report to the Planning Commission with a recommendation for final action.
5. **Planning Commission Recommendation.** The Planning Commission shall complete the following tasks:
- a. The Planning Commission shall hold a public hearing pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*; and
 - b. The Planning Commission (considering the approval criteria) shall make a recommendation of approval or denial of the proposed amendment to the City Council.
6. **City Council Final Action.**
- a. Within sixty (60) days of the City’s receipt of a complete application, the City Council (considering the approval criteria) shall approve, approve with conditions, or deny the requested Ordinance amending the Zoning Map, unless extended pursuant to *Minnesota State Statute 15.99: Time Deadline for Agency Action*.
 - b. Approval, or approval with conditions, shall require a majority vote of the entire City Council, unless otherwise required by State Law.
 - c. Failure to deny a request within sixty (60) days of the receipt of a petition is approval of the request, unless extended pursuant to *Minnesota State Statute 15.99: Time Deadline for Agency Action*.
 - d. The City may extend the time limit of this Subdivision before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.
 - e. An applicant may by written notice to the City, request an extension of the time limit under this subdivision.
 - f. Denial. If an application for a zoning map amendment (rezoning) is denied by the City Council, the denial shall be accompanied by written findings setting forth the reasons for the denial in terms of the ways in which the proposed request fails to meet the standards and intent of this Ordinance.
 - g. Limit on Reapplication. Limits on reapplication as specified in *Subdivision 9.0, B, (6): Limit on Reapplication*.

C. **Approval Criteria.** In determining whether to approve or deny an application for a Zoning Map Amendment (rezoning), the following criteria shall be considered:

1. The Zoning Map Amendment is consistent with the Comprehensive Plan;
2. The Zoning Map Amendment promotes public health, safety, morals and the general welfare, as well as efficiency and economy in the process of development;
3. The Zoning Map Amendment is compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood; and
4. The property to be amended (rezoned) is suitable for the uses permitted by the Zoning District that would be applied by the proposed Zoning Map Amendment.

9.9 ZONING ORDINANCE TEXT AMENDMENT

A. Applicability. The text of the Zoning Ordinance may be amended whenever the public necessity, convenience, general health, safety or welfare, or good zoning practice require. Amendments may also be made to correct errors in the text of the Zoning Ordinance or to address changed or changing conditions affecting the City. All text amendments shall be consistent with the Comprehensive Plan.

B. Review Process.

1. **Pre-Application Meeting.** If a proposed development requires a text amendment to the Zoning Ordinance, the property owner or their designated agent is encouraged to request a pre-application meeting pursuant to *Subdivision 9.0, B (1): Pre-Application Meeting*.
2. **Initiation.** A text amendment may be initiated by any of the following:
 - a. The Planning Commission;
 - b. The City Council;
 - c. The Zoning Administrator or other Authorized Agent; or
 - d. A property owner or their Authorized Agent
3. **Application Submittal.** A complete application shall be submitted to the Zoning Administrator or other Authorized Agent and shall include the following:
 - a. The Applicant's name and address;
 - b. The precise wording of any proposed amendment to the text of this Ordinance; and
 - c. In the event that the proposed amendment would change the zoning classification of any property, the submittal requirements of *Subdivision 9.8, B (3) Application Submittal* shall apply.
4. **Staff Review.** The Zoning Administrator or other Authorized Agent shall complete the following review tasks:
 - a. Determine if the application is complete pursuant to *Subdivision 9.0, B (4): Application Completeness*.
 - b. Notice a public hearing pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*; and
 - c. Review the application, considering the approval criteria, and prepare a report to the Planning Commission with a recommendation for final action.
5. **Planning Commission Recommendation.** The Planning Commission shall complete the following tasks:
 - a. The Planning Commission shall hold a public hearing pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*; and

- b. The Planning Commission (considering the approval criteria) shall make a recommendation of approval or denial of the proposed amendment to the City Council.

6. City Council Final Action.

- a. Within sixty (60) days of the City's receipt of a complete application, the City Council (considering the approval criteria) shall approve, approve with conditions, or deny the requested Ordinance amending the Ordinance Text, unless extended pursuant to *Minnesota State Statute 15.99: Time Deadline for Agency Action*.
- b. Approval, or approval with conditions, shall require a majority vote of the entire City Council.
- c. Failure to deny a request within sixty (60) days of the receipt of a petition is approval of the request, unless extended pursuant to *Minnesota State Statute 15.99: Time Deadline for Agency Action*.
- d. The City may extend the time limit of this Subdivision before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.
- e. An applicant may, by written notice to the City, request an extension of the time limit under this Subdivision.
- f. Denial. If an application for a zoning ordinance text amendment is denied by the City Council, the denial shall be accompanied by written findings setting forth the reasons for the denial in terms of the ways the proposed request fails to meet the standards and intent of this Ordinance.
- g. Limit o Reapplication. Limits on reapplication shall be as specified in *Subdivision 9.0, B (6): Limit on Reapplication*.

C. Approval Criteria. In determining whether to approve, approve with conditions, or deny an application for a text amendment to the Zoning Ordinance, the following criteria shall be considered:

1. The text amendment is consistent with the Comprehensive Plan;
2. The text amendment promotes public health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development;
3. The text amendment is compatible with the present zoning and conforming use of the property and the character of the neighborhoods, existing conditions and the conservation of property values, as well as the direction of building development to the best advantage of the entire City and for the uses to which the property affected is being devoted at the time.

9.10 APPEAL OF AN ADMINISTRATIVE DECISION

A. **Applicability.** The City Council, acting as the Board of Adjustments and Appeals, shall hear and decide appeals from the review and any order, requirement, decision or determination made by the Zoning Administrator or other Authorized Agent in the enforcement of this Ordinance, or where it is alleged that there is an error.

B. Review Process.

1. **Initiation.** Any appeal may be taken to the City Council by any person or by any officer, department, board or commission of the City affected by a decision of the Zoning Administrator or other Authorized Agent. An appeal from the ruling of an administrative officer of the City shall be filed with the Zoning Administrator within fifteen (15) days after the making of the order being appealed. The Administrative Officer shall forthwith transmit to the City Council all of the papers constituting the record upon which the action appealed from was taken.
2. **Application Submittal.** A request for an appeal of an administrative decision shall be made in writing to the Zoning Administrator or other Authorized Agent. The request shall provide sufficient information for the City Council to make an informed and just decision.
3. **Staff Review.** The Zoning Administrator or other Authorized Agent shall complete the following tasks:
 - a. The Zoning Administrator shall instruct the appropriate staff person to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation of the action to the City Council acting as the Board of Adjustment and Appeals; and
 - b. Notice a public hearing pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*.
4. **Planning Commission Recommendation.** The Planning Commission shall complete the following tasks:
 - a. The Planning Commission shall hold an informational meeting and make a recommendation to the City Council.
5. **City Council Final Action.** The City Council acting as the Board of Adjustments and Appeals shall complete the following tasks:
 - a. The City Council shall hold a public hearing pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*; and
 - b. The City Council may reverse the decision by a majority vote of the City Council.
 - c. Denial. If an application for an appeal of an administrative decision is denied by the City Council, the denial shall be accompanied by written findings setting forth the reasons for the denial in terms of the ways in which the proposed request fails to meet the standards and intent of this Ordinance. Denial by the City Council shall be the final decision and ruling of the City Council acting as the Board of Adjustments and Appeals.

- d. The Zoning Administrator shall serve a copy of the final order of the City Council upon the petitioner by certified mail.
- C. **Appeals.** Any person or persons, any private or public board aggrieved by any decision of the City Council, acting as the Board of Adjustment and Appeals, shall have the right to seek review of the decision with a court of record in the manner provided by the laws of the State of Minnesota, as such statutes may be from time to time amended, supplemented, or replaced.
- D. **Approval Criteria.** In determining whether an administrative official's actions were appropriate, the City Council, acting as the Board of Adjustment and Appeals, shall consider the details of the case presented by the applicant and the administrative officials, and the City Council shall consider the requirements of this Ordinance. All findings and conclusions shall be based on reliable evidence.

9.11 CREATION OF A PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

- A. **Applicability.** A tract of land proposed to be developed as a Planned Unit Development (PUD) shall be under the control of a single owner, partnership, or corporation, where each owner agrees in advance to be bound by the conditions and regulations that will be effective within the district and to record such covenants, easements, and other provisions with the County. The provisions of this Subdivision are generally intended for application to larger and / or unique sites where a flexible approach to zoning regulations would facilitate more efficient use of the site and protection of natural resources achieved through clustering development and other innovative site planning and design techniques.
- B. **General Review Process.** The creation of a PUD Overlay District requires a zoning map amendment pursuant to *Subdivision 9.8: Zoning Map Amendment (Rezoning)*, and a text amendment pursuant to *Subdivision 9.8: Zoning Ordinance Text Amendment*. In addition, the review process for the creation of a PUD Overlay District involves two phases: review of a PUD – Preliminary Development Plan and review of a PUD- Final Development Plan.
- C. **PUD – Preliminary Development Plan Review Process.**
1. **Pre-application Meeting.** The property owner of a proposed development that is intended to proceed as a PUD is encouraged to request a pre-application meeting pursuant to *Subdivision 9.0, B (1): Pre-Application Meeting*
 2. **Initiation.** Application for a PUD – Preliminary Development Plan shall be initiated by the property owner or their designated agent.
 3. **Application Submittal.** A complete application shall be submitted to the Zoning Administrator or other Authorized Agent for approval of a PUD – Preliminary Development Plan and shall include the following information as applicable or as directed by the Zoning Administrator or other Authorized Agent:
 - a. **Context map.** A map of the project prepared by a Registered Civil Engineer or Registered Land Surveyor covering the entire tract proposed for development. Such map shall be drawn at a scale of 1"=50' and shall include its relationship to surrounding properties, topography at a two (2) foot contour interval, and other prominent site features such as existing buildings, land features and trees;
 - b. **Statement.** A statement as to why the Planned Unit Development (PUD) zoning is proposed. The statement shall identify reasons why Planned Unit Development (PUD) zoning is preferable to development under standard zoning districts and a narrative explanation of the general character of the Planned Unit Development, its integration with the surrounding land uses and justification of any requested density bonuses. The written statement must also include a statement identifying the final ownership and describing maintenance of all parts of the development including streets, structures and useable open space. It is also required that such statement include the total anticipated population of the Planned Unit Development, with breakdowns as to the estimated number of school age children, adults and families;

- c. **Site Plan.** A site plan of the Planned Unit Development (PUD) at a scale of not less than one inch equals one hundred feet (1"=100') showing the following:
1. Land use and development densities;
 2. The size, arrangement, and location of parcels;
 3. The proposed use, height, bulk, and approximate location of buildings and other structures;
 4. The location of public and private streets, parking of vehicles and location and width of proposed streets, curb and gutter;
 5. The location and size of recreational areas and open space, and description about who will own and maintain;
 6. A landscaping plan;
 7. A grading plan, indicating onsite storm water management facilities and indicating the amount and location of off-site drainage distribution of sanitary wastes, and the provisions of other utilities;
 8. Identification of mature vegetation on the site and a proposal to preserve such vegetation worthy of protection;
 9. Identification and / or delineation of wetlands and floodplains within the site and a proposal to protect such areas from encroachment or degradation;
 10. Statistical data on the size of the development, density / intensity of various sub-areas, and expected phasing or staging;
 11. A description of the intended organizational structure for a property owner's association, if any; and
 12. A description of the deed restrictions or restrictive covenants, if any.
 13. A schedule showing the proposed times within which application for final approval of all sections of the Planned Unit Development are intended to be filed.
 14. A topographical map prepared by a Registered Civil Engineer or Registered Land Surveyor covering the entire tract proposed for development indicating topography at a two (2) foot contour interval. It shall show in accurate detail the topography, existing buildings, land features and trees.
- d. **Written Statement.** A written statement is required at the time of submittal, and shall include the following information:

1. A narrative explanation of the general character of the Planned Unit Development (PUD), its integration with the surrounding land uses and justification of any requested density bonuses.
 2. A statement identifying the final ownership and describing maintenance of all parts of the development including streets, structures and useable open space.
 3. The total anticipated population of the Planned Unit Development, with breakdowns as to the estimated number of school age children, adults and families.
- e. **Additional Plans.** The Planning Commission or City Council may require other special studies, plans or additional information that would aid in consideration of the proposed development.
4. **Staff Review.** The Zoning Administrator or other Authorized Agent shall complete the following tasks:
- a. Determine if the application is complete pursuant to *Subdivision 9.0, B (4): Application Completeness*;
 - b. Notice a public hearing pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*;
 - c. Review the application, considering the approval criteria, and prepare a report to the Planning Commission with a recommendation for final action.
5. **Planning Commission Recommendation.** The Planning Commission shall complete the following tasks:
- a. The Planning Commission shall hold a public hearing pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*; and
 - b. The Planning Commission (considering the approval criteria) shall make a recommendation of approval or denial of the proposed amendment to the City Council.
6. **City Council Final Action.**
- a. Within sixty (60) days of the City's receipt of a complete application, the City Council (considering the approval criteria) shall approve, approve with conditions, or deny the requested ordinance amending the Zoning Map and the PUD – Preliminary Development Plan, unless extended pursuant to *Minnesota State Statute 15.99: Time Deadline for Agency Action*. The ordinance associated with the PUD – Preliminary Development Plan is an interim zoning classification that does not enable any development until the PUD – Final Development Plan is approved.
 - b. Failure to deny a request within sixty (60) days of the receipt of a petition is approval of the request, unless extended pursuant to *Minnesota State Statute 15.99: Time Deadline for Agency Action*.

- c. The City may extend the time limit of this Subdivision before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.
- d. An applicant may, by written notice to the City, request an extension of the time limit under this Subdivision.
- e. Denial. If an application for a zoning ordinance text amendment is denied by the City Council, the denial shall be accompanied by written findings setting forth the reasons for the denial in terms of the ways the proposed request fails to meet the standards and intent of this Ordinance.
- f. Limit on Reapplication. Limits on reapplication shall be as specified in *Subdivision 9.0, B (6): Limit on Reapplication*.

D. PUD – Final Development Plan Review Process.

1. Initiation. Application for PUD – Final Development Plan shall be initiated by a property owner or their designated agent.

2. Application Submittal.

- a. A complete application shall be submitted to the Zoning Administrator or other Authorized Agent for approval of the PUD – Final Development Plan pursuant to *Subdivision 9.0, B: Development Review Elements and Procedures*. The application shall contain all the information required for the Preliminary Development Plan review specified in this Subdivision, except that the information shall be in final and detailed form. In addition, the applicant shall submit all other required plans for review and action.
- b. The application shall be submitted within six (6) months of approval of the PUD- Preliminary Development Plan. Failure to provide the PUD- Final Development Plan within six (6) months of approval of the PUD – Preliminary Development Plan shall result in the automatic repeal of the previously approved PUD – Preliminary Development Plan. The City Council at its discretion may extend the period for filing of the Final Development Plan by six (6) months upon written request by the Applicant.

3. Staff Review.

- a. Determine if the application is complete pursuant to *Subdivision 9.0, B (4): Application Completeness*;
- b. Review the PUD – Final Development Plan. If the PUD – Final Development Plan is consistent with the PUD- Preliminary Development Plan, then the Zoning Administrator or other Authorized Agent shall prepare a report and a recommendation to the Planning Commission that directs the Planning Commission to hold an informational meeting to take their final action on the plan.

- c. If the PUD – Final Development Plan is not consistent with the PUD – Preliminary Development Plan, then the Zoning Administrator or other Authorized Agent shall prepare a report to the Planning Commission that identifies the discrepancies and directs the Planning Commission to hold a public hearing pursuant to the public hearing requirements for the PUD – Preliminary Development Plan.
4. **Planning Commission Recommendation.** The Planning Commission shall complete the following tasks:
- a. If the Zoning Administrator or other Authorized Agent’s report identifies that the PUD – Final Development Plan is substantially consistent with the approved PUD- Preliminary Development Plan, then the Planning Commission (considering the approval criteria) shall hold an informational meeting and make a recommendation to the City Council to approve, approve with conditions, or deny the PUD – Final Development Plan.
 - b. If the Zoning Administrator or other Authorized Agent’s report identifies that the PUD – Final Development Plan is substantially inconsistent with the approved PUD – Preliminary Development Plan, then the Planning Commission shall hold a public hearing pursuant to the public hearing requirements for the PUD – Preliminary Development Plan. Following the public hearing, the Planning Commission (considering the approval criteria) shall make a recommendation to the City Council to approve, approve with conditions, or deny the PUD – Final Development Plan.
5. **City Council Final Action.**
- a. After reviewing the recommendation of the Planning Commission, the City Council may order another public hearing before the City Council pursuant to *Subdivision 9.0, C: Public Hearing and Noticing Requirements*.
 - b. Within sixty (60) days of the City’s receipt of a complete application, the City Council (considering the approval criteria) shall approve, approve with conditions, or deny the requested ordinance amending the Zoning Map and approving the PUD – Final Development Plan, unless extended pursuant to *Minnesota State Statute 15.99: Timeline Deadline for Agency Action*. The ordinance associated with the PUD – Final Development Plan shall incorporate the Final Development / Implementation Plan, including any conditions or restrictions that may be imposed by the City Council.
 - c. Failure to deny a request within sixty (60) days of the receipt of a petition is approval of the request, unless extended pursuant to *Minnesota State Statute 15.99: Time Deadline for Agency Action*.
 - d. Denial. If an application for a zoning ordinance text amendment is denied by the City Council, the denial shall be accompanied by written findings setting

forth the reasons for the denial in terms of the ways the proposed request fails to meet the standards and intent of this Ordinance.

- e. Limit on Reapplication. Limits on reapplication shall be as specified in *Subdivision 9.0, B (6): Limit on Reapplication*.
- f. Expiration of Approval. Approval of a PUD – Final Development Plans shall remain valid for one (1) year. Failure to commence development in accordance with an approved PUD – Final Development Plans within one (1) year after the date of approval shall result in revocation of approval. An extension of PUD- Final Development Plans approval for up to one (1) year may be granted by providing a written request to the City Council for their review and approval. The City Council may decline to grant an extension if there has been a change in circumstances affecting the property or if there are other reasons to justify the denial. A change in circumstances may be an approved modification to the Comprehensive Plan, substantial changes to the surrounding development pattern or other items as determined by the City. Three (3) consecutive one – year extensions shall be conclusive proof that the development has not made adequate progress toward completion, and no further extensions shall be granted, except upon a variance from this provision. Denial of an extension by the City Council will result in the revocation of the PUD – Preliminary Development Plan and the PUD – Final Development Plan approval and will revert the site zoning to its previous zoning district classification.

E. **Approval Criteria**. In determining whether to approve, approve with conditions, or deny a PUD – Preliminary Development Plan or a PUD – Final Development Plan, the Planning Commission and City Council shall consider the approval criteria for a zoning map amendment as specified in *Subdivision 9.8: Zoning Map Amendment (Rezoning)* as well as the following approval criteria with special consideration given to whether the plan would or would not be in the public interest:

1. Criteria.

- a. The plan is consistent with Litchfield’s Comprehensive Plan.
- b. The plan is designed to form a desirable and unified development within its own boundaries.
- c. The proposed uses will not be detrimental to present and future land uses in the surrounding area.
- d. Any exceptions to the standard requirements of the Zoning and Subdivision Codes are justified by the design of the development.
- e. The plan will not create an excessive burden on parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the Planned Unit Development.

- f. The Planned Unit Development (PUD) will not have an undue and adverse impact on the reasonable enjoyment of neighboring property.
- F. **Conditions.** The City Council may attach any conditions to the approval of a PUD – Preliminary Development Plan and / or the approval of a PUD – Final Development Plan that it deems necessary to address any of the following conditions or other applicable conditions not herein listed:
 - 1. Minimize any adverse impact of the development upon other land, including the hours of use and operation and the type and intensity of activities that may be conducted;
 - 2. Control and sequence of development, including when it must be commenced and completed;
 - 3. Control the duration of the use of development and time within which any structures must be removed;
 - 4. Ensure that development is maintained property in the future;
 - 5. Designate the exact location and nature of development; and
 - 6. Establish more detailed records by submission of drawings, maps, plats, or specification.
- G. **Effect of the PUD – Final Development Plan Approval.** The approved PUD – Final Development Plan, together with the conditions and restrictions imposed by the City Council, shall constitute the final zoning for the subject property. The zoning provisions applicable to the underlying zoning districts shall continue to be applicable where consistent with the PUD – Final Development Plan.
- H. **Zoning.** When the Planned Unit Development plan has been approved, it shall be appropriately identified on the Zoning Map as an overlay district.

10.0 SPECIFIC USE STANDARDS

10.1 ACCESSORY USES

A. General Accessory Uses

1. Accessory uses and structures are permitted in any district, but not until such time as the principal structure is present or under construction.
2. Accessory uses shall be customarily incidental to the principal use of the property and shall occupy less than 50% of the area of the building or property.
3. Uses accessory to residential district developments shall not involve the conduct of any business, trade or industry except for home and professional occupations as defined herein.

B. Accessory Buildings

1. Accessory Building without a Principal Building. Accessory buildings shall not be constructed prior to the time of construction of the principal structure to which it is accessory, unless a conditional use permit is obtained.
2. Size of Accessory Buildings on Residential Parcels.
 - a. An attached garage shall be considered to be part of the principal structure and shall meet the space requirements thereof. An attached garage may not exceed one-thousand-two-hundred (1,200) square feet.
 - b. Each property shall have no more than two accessory buildings (including detached garage), with a maximum combined area of 1,200 square feet.
3. Separation from Principal Buildings. Detached accessory buildings shall be at least six (6) feet from the principal building situated on the same parcel.
4. Accessory Buildings in Front Yards Limited.
 - a. An accessory building shall meet the minimum front yard setback requirement of the zoning district in which it is located.
 - b. On all lots, accessory buildings other than detached garages may not be located closer to a front lot line than the principal building. A detached garage may be nearer the front lot line than the principal building but not nearer the minimum required setback from the front lot line for a principal building
5. Accessory Building Side and Rear Setback. Detached accessory buildings shall not be located less than three (3) feet from the side parcel lines, and must be located outside of any drainage and utility easements.
6. Accessory Building Setback from Alley. Detached accessory buildings shall not be located less than seven (7) feet from a property line abutting an alley.
7. Accessory Building Setback on Corner Parcels. Detached accessory buildings shall not be located less than twenty (20) feet from corner side parcel lines.

8. Industrial Districts. Accessory buildings, such as buildings for parking attendants, guard shelters, gate houses, and transformer buildings, may be located in the required front yard.
 9. Accessory Building Height. No accessory building shall have more than one (1) level nor shall it exceed the height of the principal building in all zones. The City Council may allow accessory structures with more than one level pursuant to *Subdivision 9.6: Conditional Use Permit* procedures of this Legislative Code. Detached weather protective canopies, such as those used for covering gas pump areas, shall be exempt from the foregoing height provision in recognition of the minimum clearance requirement of 14'6", but shall be limited to twenty (20) feet overall height.
 10. Appearance. Any accessory building exceeding two hundred (200) square feet in area shall be constructed of materials that are the same or similar to the principal building. All accessory structures shall be visually compatible with the principal structure (similar or coordinating color, does not drastically contrast).
 11. Garage Door Openings. No accessory building shall contain more than thirty (30) feet of vehicle door openings as measured horizontally.
 12. Accessory Building Use.
 - a. No accessory building shall be used for dwelling purposes.
 - b. Accessory buildings in residential districts are permitted only for the purpose of personal use and the storage of personal belongings.
 - c. No accessory building shall be principally used for the storage of agricultural commodities.
 13. Permit Requirements. A zoning permit shall be required for all accessory buildings up to two hundred twenty (200) square feet in area. All accessory buildings over two hundred (200) square feet shall require a building permit. Exteriors shall be fully finished within forty-five (45) days from commencement of construction / the date the structure is placed on the property.
 14. Non-Permanent Sheds. Temporary, canvas, hoop and similar structures shall be permitted subject to the following requirements:
 - a. One such structure shall be permitted per residential parcel.
 - b. The maximum size of such structures shall be four hundred (400) square feet.
 - c. Such structures shall be maintained in a state of good repair, and shall be immediately repaired, removed or replaced if damaged.
 - d. Such structure shall be subject to all setback requirements for accessory buildings.
- C. **Dwelling Unit Restriction**. Excluding the City's camping facilities that has its own rules and regulations for short term camping, the following dwelling unit restrictions shall apply:
1. No model home, garage, tent, accessory building, or recreational camping vehicle shall at any time be used as living quarters, temporarily or permanently, except as may be approved in emergency cases by the Zoning Administrator as an administrative permit.

During the time of City celebrations, the City will allow the temporary use of tents and recreational camping vehicles.

2. Tents, play houses or similar structures may be used for play or recreational purposes. When adult supervision is present on the property, children are allowed to camp over night.
3. Basements may be used as living quarters or rooms as a portion of the principal residential dwelling. Living quarters and bedrooms in basements must follow the regulations of the Minnesota State Building Code for adequate sized windows for emergency egress.
4. Energy conservation designs in housing, including earth sheltered residential dwellings, are not prohibited by this provision of the Section, provided that a conditional use permit is approved by the City Council and the structure complies with standards imposed by the State and the Minnesota State Building Code.

D. Patio, Deck, Terrace and Similar Use

1. Patio. A patio shall be no closer than five (5) feet to any side, side corner, or rear property line, and shall be located outside of all easements.
2. Deck and / or Terrace. Decks and terraces shall comply with the minimum required setback of the principal building from the front, and side parcel lines, except as stated below for corner lots. Decks shall be set back twenty –five (25) feet from the rear parcel line in R-1, and twenty (20) feet from the rear parcel line in the R-2 and R-3 Districts. On corner lots, decks shall be set back twenty (20) feet from the corner side parcel lines in all residential districts.
3. Porch. A porch shall meet the required setback of the principal building.

E. Solar Equipment and Solar Rights.

1. Solar equipment shall be consistent with the setback and height requirements of the principal or accessory building, whichever is applicable. Solar equipment that is not consistent with the setback and height requirements may be considered pursuant to the conditional use permit procedures as specified in *Subdivision 9.6: Conditional Use Permit*.
2. No person in control of property shall allow a tree or shrub to be placed or grow as to cast a shadow between the hours of 9:00 a.m. and 3:00 p.m. upon a solar collector energy system capable of generating more than one million (1,000,000) British thermal units (BTUs) per year, and that supplies a part of energy requirements for improvements on the property where the solar energy system is permanently located.

F. Swimming Pool.

1. **Intent**. The intent of this Subpart is to ensure that swimming pools, as defined by this Ordinance, are constructed and maintained in a manner that protects the health, safety, and welfare of the intended users of the swimming pool. It is also the intent of this Subpart to ensure swimming pools have adequate barriers to deter children and other unauthorized persons from gaining unsupervised access to the swimming pool.

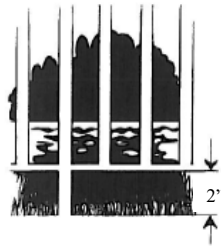
For the purpose of this Ordinance, a swimming pool shall mean any pool, hot tub, or similar device as defined by this Ordinance.

2. **Required Permits.** All swimming pools as defined by this Ordinance shall be consistent with the swimming pool barrier requirements of this Ordinance. In addition, any swimming pool with a capacity of over three thousand (3,000) gallons or with a depth of over three (3) feet of water shall require the issuance of a building permit.
3. **Required Plans.** An application for a development permit and building permit shall include the following information
 - a. The type and size of pool; and
 - b. A site plan indicating the location of the pool; the location of the dwelling and /or other buildings on the subject parcel; other improvements on the parcel; location of the filter unit; pump heating unit, and wiring indicating the type of such units (if applicable); location of back flush and drainage outlets; grading and / or surface drainage plan; location of existing overhead or underground utilities; drainage and utility easements, final treatment (decking, landscaping, etc.) around pool; trees over eight (8) inches in diameter; and any other existing features as may be necessary to determine whether the proposed pool is consistent with this Ordinance.
4. **Setbacks.** The setback shall be measured at the edge of the waterline closest to the property line. Swimming pools shall comply with the following setbacks:
 - a. Swimming pools shall not be located less than five (5) feet from any side or rear property line.
 - b. Swimming pools shall not be located with the front yard.
 - c. Swimming pools shall not be located less than six (6) feet from any principal structure.
 - d. Swimming pools shall not be located less than ten (10) feet from any overhead utility lines or less than five (5) feet from any underground utility lines.
 - e. Swimming pools shall not be located within any existing private utility, walkway, drainage, or other easement.
5. **In – Ground Pools.** In the case of in – ground swimming pools, necessary precautions shall be taken during construction to avoid damage, hazards, or inconvenience to adjacent or nearby property and to avoid erosion, dust, or other infringements on adjacent property from the stockpiling of excavated material.
6. **Back Flush Water or Pool Drainage Water.** Back flush water or water from pool drainage shall be directed into the street storm water system or onto the owner’s property unless otherwise authorized by the Building Official or other Authorized Agent.
7. **Mechanical Equipment.** The filter unit, pump, heating unit, and any other noisemaking mechanical equipment shall be located at least thirty (30) feet from any adjacent residential structure and at least five (5) feet from any parcel line.

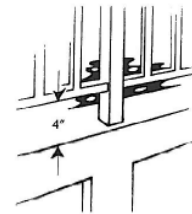
8. **Swimming Pool Barrier.** An outdoor swimming pool shall be provided with a barrier that shall be installed, inspected, and approved prior to plastering or filling the swimming pool with water. The barrier shall comply with the following:



- a. Height of Barrier. The top of the barrier shall be at least forty-eight (48) inches above grade measured on the side of the barrier that faces away from the swimming pool.
- b. Maximum Vertical Clearance. The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches measure on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance at the bottom of the barrier may be increased to four (4) inches when grade is a solid surface such as a concrete deck, or when the barrier is mounted on the top of the above ground pool structure.



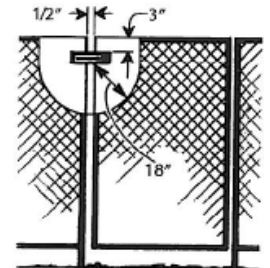
The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches on the side of the barrier that faces away from the swimming pool.



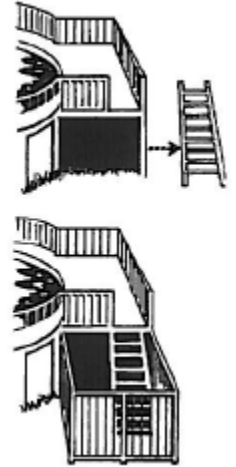
The maximum vertical clearance between grade and the bottom of the barrier may be increased to four (4) inches when grade is a solid surface such as a concrete deck or when the barrier is mounted on the top of the above ground pool structure.

- c. Openings in Barrier. Openings in the barrier shall not allow passage of a four (4) inch diameter sphere.
- d. Chain Link Fences. Chain link fences used as barriers shall not be less than eleven (11) gauge. The mesh size should not exceed 1¾ inches square.
- e. Access Gates. Access gates shall be self – closing and have a self – latching device.

- 1) For all access gates with a latching device located less than fifty-four (54) inches in height above grade, the latching device shall be located on the pool side of the access gate at least three (3) inches below the top of the gate; and



- 2) For all access gates with a latching device located fifty-four (54) inches or more in height above grade, the latching device may be located on either the inside or outside face of the access gate; and
- 3) When the latching device is located less than 54 inches in height above grade, the gate and barrier shall have no opening greater than one – half (½) inch within eighteen (18) inches of the latching device.



f. Above Ground Pool. Where an above ground pool structure is used as a barrier, or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:

- (1) The ladder or steps shall be capable of being secured, locked or removed to prevent access; or
- (2) The ladder or steps shall be surrounded by a barrier that meets the requirements of *Subprovisions a through e* above.

When the ladder steps are secured, locked or removed, any openings created shall be protected by a barrier complying with *Subprovisions a through e* above.

9. **Water Safety.** Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type.
10. **Inspection.** All wiring, installation of heating units, grading, installations and construction shall be subject to inspection.
11. **Lighting.** Lighting for the pool shall be arranged and shaded to reflect light away from adjacent property.
12. **Structures Covering the Pool.** Any structure covering an outdoor pool shall require a conditional use permit pursuant to *Subdivision 9.6: Conditional Use Permit*.
13. **Access During Construction.** All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.

10.2 STORAGE STANDARDS

A. Exterior Storage in Residential Districts

1. All materials and equipment shall be stored within a building or fully screened from view.
2. Exceptions, when stored in an orderly fashion:
 - a. Laundry drying facilities.
 - b. Play structures and play equipment.
 - c. Construction and landscaping materials currently being used on the premises.
 - d. Garden equipment and materials if they are used or intended for use on the premises.
 - e. Recreational equipment or furniture used and constructed explicitly for outdoor use.
 - f. Firewood may be stored in the rear or interior side yard, at least three (3) feet from any property line. Firewood shall be neatly stacked.
 - g. Between collection days, containers for the storage of trash, recycling and yard waste may be stored within the rear or interior side yards, beyond the front line of the principal structure.
 - h. Not more than three (3) licensed and operable recreational vehicles and equipment, including trailers, may be parked or stored outside a building, as follows:
 1. In the front yard, provided they are kept on an established driveway, entirely on the equipment or vehicle owner's own property. Recreational vehicles may not be parked or stored on public property or street right-of-way.
 2. In the interior side or rear yard, provided they are stored at least five (5) feet from any property line.
 3. In the side yard of a corner lot abutting public right-of-way, provided they are stored abutting a principal or accessory structure, and are at least twenty (20) feet from the corner side property line.

B. Exterior Storage in Commercial and Industrial Districts

1. Exterior storage and display shall be governed by the respective Zoning District in which the use is located.
2. All exterior storage shall conform with all building setback requirements.
3. All exterior storage shall be located in the rear or side yard except for the following permitted activities:
 - a. Materials and equipment currently being used for construction on the premises.
 - b. Merchandise being displayed for sale in accordance with Zoning District requirements. The merchandise being displayed may not use space required as a parking lot, except which is allowed below in this section under seasonal

unenclosed areas and temporary, outdoor promotional events. The following merchandise shall not be given an exception under this section, and therefore must meet the exterior storage requirements described above:

1. Automobiles, trucks, tractors and other motorized vehicles which are incapable of movement under their own power due to mechanical deficiency.
2. Parts for vehicles and machinery.
4. All exterior storage areas must be on a durable and dustless surface and include storm drainage management facilities as required by the City. The one exception to this section is for storage areas in industrial districts may have a gravel surface, provided the storage area is used only to store heavy machinery and the access to the storage area is not less than one hundred (100) feet from a public right-of-way.
5. Temporary, Promotional or Seasonal Displays. The sale and display of items shall be permitted as an accessory use so long as it is conducted in connection with an existing business and all other setback and ordinance provisions are followed. Any such use shall not be permitted if it poses a threat to the health, safety and general welfare of the public, including but not limited to traffic, signage, lighting and parking.

C. Bulk Storage (Liquid)

1. All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshall, the Minnesota State Pollution Control Agency (MPCA) and the United States Environmental Protection Agency (EPA) and have documents from those offices stating that the use is in compliance.
2. Buried gas and/or diesel bulk storage for vehicles is not permitted in Residential Districts.

D. Shipping Containers/Moving Pods

1. A shipping container or similar is not considered an “accessory structure”.
2. A shipping container or similar may not be placed in any residential or commercial district for the purpose of long-term storage or to function as an accessory building.
3. Pods or similar structures designed for the storage or transport of property may be utilized in any district on a short-term basis for the purpose of moving, interior remodel or construction, or if damage has occurred to the home due to water damage or natural disaster.
4. A shipping container or similar may be stored outdoors on industrially zoned properties, subject to all exterior storage standards.

10.3 TEMPORARY FAMILY HEALTH CARE DWELLINGS

- A. **Purpose and Intent.** On May 12, 2016, Governor Dayton signed into law the creation and regulation of temporary family health care dwellings, codified at *Minn. Stat. §462.3593*, which permit and regulate temporary health care dwellings and cities are allowed to “opt out” of those regulations. The City of Litchfield has chosen to opt out of the requirements of *Minnesota Statutes, Section 462.3593*.
- B. **Authority.** This ordinance is enacted pursuant to authority granted by *Minnesota Statutes, Section 462.3593, subdivision 9*, the City of Litchfield opts-out of the requirements of *Minn. Stat. §462.3593*, which defines and regulates Temporary Family Health Care Dwellings.
- C. **Effective Date.** This Ordinance shall be effective on October 4, 2016.

10.4 HOME OCCUPATIONS.

- A. **Applicability.** A home occupation is defined as an accessory use of a dwelling carried on for gainful employment which is clearly incidental and subordinate to the use of the dwelling as a residence. A home occupation is allowed as an accessory uses within all residential Districts.
- B. **Intent.** It is the intent of this Subpart to provide for those customary home occupations of a primarily service character which will not be detrimental to the desired low intensity residential environment of Litchfield's neighborhoods. The basic philosophy underlying the following regulations is that preservation of a quiet residential environment and the use of dwelling for living purposes is primary, and the conduct of home occupations is secondary.
- C. **Permitted Home Occupations.** A home occupation may include such uses as professional offices, small service establishments or offices, and home crafts which are typically considered accessory to a dwelling unit. Examples of home occupations include, but are not limited to, the following: architects, artists, writers, manufactures representatives, music teachers, beauticians and seamstresses. A home occupation shall be allowed in those zoning districts where they are a permitted accessory use provided that the home occupation use obtains a home occupation permit made upon a form furnished by the City Administrator or other Authorized Agent of the City. Such permit shall be issued for as long as the home occupation is being conducted, shall be personal to the applicant, and shall be consistent with all the following standards:
1. A state licensed day care or residential facility as defined and regulated by state law is considered a permitted single family use, and shall not be subject to home occupation regulations set forth herein.
 2. It is intended that retail sales of goods and products shall not be permitted with the following exceptions:
 - a. Articles made or originating on the premises such as home crafts;
 - b. Articles incidental to a permitted commercial service such as shampoo sold by a beautician or barber;
 - c. Sales conducted by mail.
 3. It is intended that manufacturing, defined as the conversion of raw materials to finished products, shall not be permitted except for minor, unobtrusive activities such as home crafts and clothes making;
 4. There shall be no exterior evidence of the occupation including:
 - a. No exterior display of articles for sale
 - b. No sign, except as permitted for a dwelling in the district pursuant to *Subdivision 11.10: Signs*.
 - c. No exterior storage of equipment or materials used in the occupation.

5. Home occupations shall be carried on wholly within the principal building. No home occupation shall be allowed in attached or detached garages or accessory buildings;
6. No more than four hundred (400) square feet of the principal building shall be devoted to the home occupation;
7. There shall be no structural alterations, enlargements, or construction to the dwelling for the primary purpose of conducting the home occupation;
8. There shall be no repair or construction of vehicles, motors, equipment, or machinery;
9. There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, dust, smoke, gas, heat, vibration, toxic or noxious emissions, electrical interference, customer traffic, number of deliveries, hours of operation or any other annoyance resulting from the home occupation. Home occupations shall be subject to the performance standards set forth in this Ordinance.
10. Classes held on the premises shall have no more than four (4) students at any given time and shall be given within the principal structure only;
11. Only persons residing in the dwelling and a maximum of one (1) non – resident equivalent shall be engaged in the home occupation. A non – resident equivalent is defined as one (1) or more persons who work a combined total of forty (40) hours per week in the residence; and
12. The home occupation shall not result in the need for more than two (2) parking spaces at any given time, in addition to the off – street parking spaces required for the primary dwelling pursuant to Subdivision 11.5: Parking and Loading.
13. The following activities or similar shall be prohibited:
 - a. Motor vehicle service or repair of any vehicles other than those registered to residents of the property;
 - b. A commercial food service requiring a license;
 - c. Activities that generate significant amounts of customer traffic to the premises, in excess of ten (10) vehicles per day;
 - d. Activities that generate significant amounts of truck traffic to the premises in excess of five (5) deliveries or pick – ups per week. Deliveries and pick – ups by semi – truck / trailer shall be prohibited.

D. Home Occupation Permitted with the Issuance of a Conditional Use Permit. No home occupation use shall exceed any of the standards specified in Provision B of this Subpart unless a conditional use permit has been issued pursuant to *Subdivision 9.6: Conditional Use Permit*.

E. Non-Compliant Home Occupations. In the event a permitted home occupation becomes non – compliant with the standards and criteria established above, the City shall have the authority to require the non – conforming feature to desist or be removed.

F. **Home Occupations for Handicapped Persons.** Home occupations for handicapped persons that do not meet the conditions listed above may be reviewed by the City Council, acting as the Board of Adjustments and Appeals, which may modify or waive the above requirements.

10.5 BED AND BREAKFAST INN

A. Bed and Breakfast Inn Standards.

1. Bed and breakfast inns shall only be allowed through the granting of a conditional use permit, pursuant to *Subdivision 9.6 Conditional Use Permit*, for those meeting at least the minimum criteria outlined herein, and only after it is determined that the single-family character of the property and the quality of the neighborhood will be preserved. A bed and breakfast inn must be an existing residential building and have no greater impact than, or be perceived to be other than, a private home with house guests. The intent is not to permit or allow yards to be destroyed, landscaping to be removed or the integrity of the neighborhood to be altered in order to convert the property to a bed and breakfast inn.
2. **Obligation to Comply.** The bed and breakfast owner shall at all times be subject to all lawful exercise of the police power of the City and to such reasonable regulations as the City hereafter by Ordinance provides.
3. An application for this conditional use permit shall include the following:
 - a. A site plan.
 - b. A landscape plan.
A set of floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation.
 - c. Sign drawings showing location, dimensions and detail.
4. Bed and breakfast inns may be granted permits in zones subject to the following standards and conditions:
 - a. The main residential building must contain a minimum of one thousand five hundred (1,500) square feet of area.
 - b. The proprietor shall be the owner or manager of the property and no dwelling unit other than that of the proprietor, no home occupation, roomers or boarders shall be permitted.
 - c. Two (2) off street parking spaces for the home occupants plus one (1) for each guest room shall be provided.
 - d. Parking layouts and construction shall be considered on a case-by-case basis prior to approval.
 - e. Only breakfast or light refreshments shall be provided to guests. Dining and other facilities shall not be open to the public, but shall be used exclusively by the registered guests and residents, unless allowed by a separate permit.
 - f. There shall be a limitation of no more than six (6) on the number of guest rooms permitted based on the character and size of the building, and guest rooms shall have traditionally been bedrooms.
 - g. One sign may be erected on the property, not to exceed four (4) square feet in size. Such signage shall not be illuminated and shall complement the architecture of the structure.

- h. Guests stays shall be limited to fourteen (14) consecutive days.
- i. The bed and breakfast shall be a subordinate use to the single-family use of the structure.
- j. Employee Restriction. The bed and breakfast shall employ not more than the equivalent of two full-time persons who are not domicile in the principal structure.
- k. The inn shall comply with all applicable laws, rules and regulations governing its existence and operation, including the State Fire Code and Health Code.
- l. Such other conditions deemed necessary by the Planning Commission and/or City Council to ensure the use complies with the purpose of this subsection.

10.6 MANUFACTURED HOMES/MOBILE HOME PARKS

A. Park Permit Required.

1. It shall be unlawful for any person to establish, maintain, or operate a manufactured home/mobile home park or the facilities therein unless such person shall first procure a permit from the City.
2. Compliance with the provisions of this Ordinance is necessary to obtain said conditional use permit.

B. Procedure. The following procedure shall be followed for a park permit application:

1. Application. An application for a conditional use permit shall be filed with the Zoning Administrator and shall contain the following information:
 - a. Name and address of developer and landowner.
 - b. Location and legal description of the proposed park property.
 - c. Survey and engineering information including distances with angles, bearings, lengths and legal descriptions of property involved. This shall be shown on drawings not to exceed one (1) inch equals fifty (50) feet and including the following information:
 1. Location and size of the park.
 2. Location and size of each lot with dimensions and boundary lines.
 3. Limits and location of proposed or existing streets, cartways, curbs, driveways, sidewalks, easements and rights-of-way.
 4. Location of off-street parking facilities. Plans for sanitary sewer collection, water systems and storm water drainage system. Plans for electrical services, telephone services, fuel systems and garbage collection.
 5. Detailed landscaping plans and specifications.
 6. Location and construction plans for park structures such as auxiliary sanitary facilities, laundries and utility buildings.
 7. Location of required park and/or recreation site including type of equipment.
 8. Such other information as may be requested by the Zoning Administrator to enable him to determine if the proposed park will comply with all legal requirements including this Ordinance.
2. The following general design requirements shall be incorporated into the park site plan:
 - a. General location and size.
 1. Each park shall comply with applicable Ordinances and codes of the City and the laws of the State of Minnesota. The developer shall provide evidence that the plans have been approved by the Minnesota Department of Health before the conditional use permit will be issued.

2. The park shall be located on a well-drained site suitable for the purpose, and so the drainage of the park area will not endanger any water supply. All plans for the disposal of surface storm water must be approved by the City.
 3. The park shall be located on a minimum lot size of fifty thousand (50,000) square feet.
 4. Each park shall have frontage to and access to a public street which is deemed adequate to serve the anticipated traffic needs of the park. Access to parks shall be as approved by the City.
- b. Roads and parking.
1. Each park shall contain all-weather hard surfaced interior roadways free from dust and mud and include adequate provisions for surface drainage. This requirement shall be applicable no later than one (1) year following the initial construction of said interior private roadways. Such streets shall be private streets. Curbing is required on all streets/roadways per City Engineer's specifications.
 2. An adequate entrance road of forty-four (44) foot pavement width shall be constructed to the municipality's street or road specifications capable of handling heavy service vehicles such as fire and garbage trucks without injury to surface or base.
 3. Interior roads shall be not less than thirty-six (36) feet in width for two (2) lane roads, measured from back of curb to back of curb.
 4. Off-street parking for the park shall be provided in the ratio of two (2) all-weather, permanent, hard surfaced spaces per unit. The combined width of these spaces shall be a minimum of ten (10) feet, with a minimum area of four hundred (400) square feet.
 5. Provisions shall be made for each home site to have access on an approved roadway.
 6. Streets approved for dedication to the City shall be constructed in accordance with applicable City standards.
- c. Bulk and space requirements.
1. Each home space shall have a minimum area of forty-eight hundred (4,800) square feet exclusive of roadways and common space.
 2. Each home space shall have a minimum width of not less than fifty (50) feet.
 3. No home shall be placed closer than thirty (30) feet to any adjacent mobile home, except that when awnings, porches or cabanas are attached, the minimum distance between each mobile home shall be twenty (20) feet.
 4. No home shall be located closer than twenty (20) feet to the traveled portion of an interior street.
 5. No home shall be placed closer than fifteen (15) feet from the side lot line, closer than fifteen (15) feet from the rear lot line.

6. No building or structure hereafter erected or altered in a park shall exceed twenty-five (25) feet or one and one-half (1.5) stories in height.
 7. No home shall be located nearer than twenty (20) feet to any property line of the park and adjacent properties.
 8. The occupied area of a home site shall not exceed seventy-five (75) percent of the total area of the site, the individual home sites.
- d. Utilities and essential services.
1. Each park shall be served by a sanitary sewer system as provided by this Ordinance.
 2. Each park shall be served by a central water supply system as provided by this Ordinance and shall include fire hydrants located in accordance with generally accepted practices.
 3. Where bottled gas is used, the container shall be firmly connected to the appliance by tubing or copper of suitable metallic material. Cylinders containing bottled gas shall not be located within five (5) feet of any manufactured home door. The container shall not be installed or stored even temporarily inside any manufactured home. No container may be permitted to stand free, but must be firmly mounted in an upright position.
 4. All piping from outside fuel storage tanks or cylinders to manufactured homes shall be permanently installed and securely fastened in place. All fuel oil storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath any manufactured home or less than five (5) feet from any manufactured home exit. All fuel oil containers shall be mounted upon a stand or rack constructed of a non-combustible material.
 5. All electrical and telephone or any other cable service shall be underground facilities from the existing City's distribution system.
 6. All utility connections shall be approved by the City.
 7. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related mobile home equipment.
 8. The proposed method of garbage, waste and trash disposal must be as approved by the City.
 9. Fire protection shall be provided in accordance with the requirements of the State Fire Marshall.
- e. Landscaping and parks.
1. A boundary of fifteen (15) feet around the entire park site shall be provided. This boundary area shall be landscaped and screened as may be required by the Planning Commission.
 2. The front yard of each site shall be landscaped except for driveways and parking needs.
 3. Landscaping shall provide for at least one (1) tree on each site.

4. At least ten (10) percent, with a minimum of ten thousand (10,000) square feet of the land area within each park shall be designed for development into a recreational space. Such space shall be of appropriate design and provided with appropriate equipment and maintained by the owner of the park.
5. The corners of each home site shall be clearly marked and each site shall be numbered.
6. A compact hedge, wood fence, or landscaped area shall be installed around each park and be maintained in first class condition at all times as approved.
7. Additional requirements as to screening, landscaping and space reserved for recreation and playground may be required by the Planning Commission for proper development and protection of the park's occupants and that of the surrounding area.

C. Processing.

1. At least five (5) copies of the application and park site plan shall be filed with the Zoning Administrator.
2. The Zoning Administrator shall forward the application and park site plan to the Planning Commission and to other agencies as deemed necessary.
3. After Planning Commission review, the City Council shall consider the application in accordance with its procedures for acting on conditional use permits as provided in this Ordinance.

D. Permit Issuance.

1. Subsequent to City Council approval, the Zoning Administrator shall be instructed to issue a conditional use permit, providing all other provisions of this Ordinance have been met.

E. Compliance Required.

1. It shall be the duty of the Zoning Administrator to ensure that the approved conditional use permit is followed by the owner and/or developer.
2. No departure from the approved conditional use permit shall be made without the express written permission of the City. The procedure for review and approval or disapproval of changes shall be the same as for the initial application.
3. No building or site shall be used or occupied until all requirements and provisions of this Ordinance and any special conditions as provided by this Section have been complied with.
4. The City may require performance bonds or other forms of security for reasons and in amounts as specified in the City's special assessment policies.

F. Additional Regulation. The following additional regulations shall apply to manufactured homes/mobile homes and manufactured homes/mobile home parks:

1. Other than what is allowed under the "Home Occupations" section of this Ordinance, no commercial operation shall be conducted within the park other than those

necessary to the operation thereof. Commercial sales lots for homes are prohibited within the home park.

2. Any enlargement or extension to any existing park shall require application for a conditional use permit as if it were a new establishment.
3. A request for transfer of the permit shall be treated in the same manner as an original application for a permit.
4. No additions, building or other structure shall be attached to a home without a City permit and approval of the park operator. Such additions shall not encroach upon the set backs herein provided.
5. All manufactured homes as defined by *M.S. 327.31-327.35* shall be anchored in accordance with the MINNESOTA CODE OF AGENCY RULES - BUILDING CODE DIVISION -SECTION 2 MCAR - 1.904.50 "Stabilizing System for Mobile Homes".
6. Skirting for homes is required and shall be in accordance with the decor of the home and in good repair. Each home shall be parked upon a jack or block approved by the park operator.
7. One accessory building not to exceed one hundred (100) square feet in floor area shall be allowed for each home space. Accessory buildings shall be located within the rear yard five (5) feet from lot lines.
8. In addition to the foregoing, the Planning Commission may impose such other conditions, requirements or limitations concerning the design, development and operation of each park as it may deem necessary for the protection of adjacent properties and the public interest.
9. The park grounds shall be lighted as approved by the City from sunset to sunrise. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment and the like.
10. Advertising the home park shall be limited to one sign not to exceed six (6) square feet, with lighting, height and location as approved by the City.
11. There shall be no outdoor camping anywhere in the park.
12. No public address or loudspeaker shall be permitted.
13. The operator of every park shall maintain a registry of the park showing both the name and address of the residents and the make, type and license number of each home.
14. All dwellings within the park shall contain a minimum gross area of 800 square feet.
15. The park must meet all licensing, rules, and regulations from the Minnesota Department of Health. See Minnesota Statutes Chapter 327, "Hotels, Motels, Resorts and Manufactured Homes" for details.

10.7 LIVESTOCK

- A. No livestock shall be permitted, including but not limited to those normally associated with feedlots. Such as but not limited to cows, swine, horses, chickens, etc.

10.8 TELLECOMMUNICATION TOWERS AND ANTENNAE PERFORMANCE STANDARDS

- A. **Purpose.** To meet the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, the City of Litchfield finds that the following Section is necessary in order to:
1. Facilitate the provisions of the wireless telecommunications services to the residents and businesses of the community.
 2. Through setback requirements and structural standards, avoid potential damage to adjacent properties from tower failure.
 3. Minimize adverse visual effects of towers through careful design and siting standards.
 4. Reduce the number of towers necessary to serve the area by maximizing the use of existing and approved towers and buildings that can accommodate new wireless telecommunication antennas.
- B. **Consistency with Federal Law.** In addition to other findings required by this section, the City of Litchfield shall find that its decision regarding an application is intended to be consistent with Federal law, particularly the Telecommunications Act of 1996. This section does not:
1. Prohibit or have the effect of prohibiting the provision of personal wireless services.
 2. Unreasonably discriminate among providers of functionally equivalent wireless services.
 3. Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.
- C. **Required Permits.**
1. Prior to any construction activities, the following permits must be secured from the City:
 - a. A Conditional Use Permit
 - b. A Building Permit
 2. An applicant for a telecommunications tower or facility permit must be a telecommunications provider or must provide a copy of its executed contract to provide land or facilities to an existing telecommunications provider to the City at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.
 3. No construction, alteration, modification (including the installation of antennas for new uses) or installation of any telecommunications tower or facility shall commence without a conditional use permit first being obtained from the City.
- D. **Zoning District Use.**

1. Telecommunication towers and antennae shall only be allowed in the Business, Commercial and Industrial Zoning Districts in the City upon the approval of the two permits required above.
2. The City may, by conditional use permit, authorize the use of City property for towers in accordance with the procedures of this code. The City has no obligation to allow the use of City property for this purpose.

E. Area, Setback and Height Restrictions.

1. Lot Area. The minimum lot area requirements are determined by the Zoning District in which the tower development site is located and as determined by any additional area needed to meet all setback requirements of this Ordinance.
2. Tower Setbacks. The minimum setback from all property lines and public rights of way for telecommunications towers, exclusive of attached antennae, shall be equal to its height.
3. Height Restrictions. A maximum height for telecommunications towers is one hundred fifty (150') feet, excluding attached antennae. Measurement of tower height must include the tower structure itself, the base pad and any other telecommunications facilities attached thereto. Tower height is measured from grade.
4. Notwithstanding the above, additional height may be approved upon a finding by the City that additional height is necessary in order to provide coverage in the City of Litchfield or to accomplish collocation of facilities and that the additional height will not cause an undue visual impact on the scenic character or appearance of the area.

F. Collocation Requirements. An application for a new telecommunications tower shall not be approved unless the City finds that the telecommunications facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or structure due to one of the following reasons:

1. The proposed antennas and equipment would exceed the structural or spatial capacity of the existing or approved tower or facility, as documented by a qualified engineer licensed to practice in the State of Minnesota. Additionally, the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility.
2. The proposed antennas and equipment would cause interference, materially impacting the usefulness of other existing or permitted equipment at the existing or approved tower or facility as documented by a qualified engineer licensed to practice in the State of Minnesota and such interference cannot be prevented at a reasonable cost.
3. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFI in violation of Federal standards or requirements.
4. The proposed antennas and equipment, either alone or together with existing facilities, equipment or antennas, would create RFR in violation of Federal standards or requirements.

5. Existing or approved towers and structures cannot accommodate the planned equipment at a height necessary to function reasonably or are too far from the area of needed coverage to function reasonably as documented by a qualified engineer licensed to practice in the State of Minnesota.
6. Aesthetic reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.
7. There is no existing or approved tower in the area in which coverage is sought.
8. Other unforeseen specific reasons make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

G. Tower Design Requirements. Proposed or modified towers and antennae shall meet the following design requirements:

1. Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by Federal or State authorities.
2. Commercial wireless telecommunication service towers shall be of a monopole design unless the City Council determines that an alternative design would better blend in to the surrounding environment.
3. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

H. Construction Requirements.

1. All antennae, towers and accessory structures shall comply with all applicable provisions of this Ordinance.
2. Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and Electronics Industry Association.
3. No part of any antenna or tower nor any lines, cable, equipment, wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.
4. Towers and associated antennae shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
5. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8') feet above the ground at all points, unless buried underground.
6. Every tower affixed to the ground shall be protected by an eight (8) foot security fence to discourage climbing of the tower by unauthorized persons.

7. Tower locations should provide the maximum amount of screening possible for off-site views of the facility. Existing on-site vegetation shall be preserved to the maximum extent practicable. The area around the base of the tower and any accessory structures shall be landscaped and/or screened.

I. Site Plan Requirements. In addition to site plan requirements found elsewhere in this Zoning Ordinance or within Litchfield's Subdivision Ordinance and permit requirements, site plans for telecommunications facilities shall include the following supplemental information:

1. Location Map. A copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed tower site.
2. Vicinity map showing the entire vicinity within a 2500-foot radius of the tower site, including the telecommunications facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, historic site and habitats for endangered species. It shall indicate the property lines of the proposed tower site parcel and all easements or rights of way needed for access from a public way to the tower.
3. Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.
4. Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.
5. Construction sequences and time schedule for completion of each phase of the entire project.
6. Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50) feet.

J. Lights and Other Attachments.

1. No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers or other illuminating device, except as required by the Federal Aviation Agency (FAA) or the Federal Communications Commission (FCC), nor shall any tower have constructed on, or attached to, in any way, any platform, catwalk, crow's nest or like structure, except during periods of construction or repair.
2. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

K. Accessory Utility Buildings.

1. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the Zoning District in which the tower site is located.
2. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

L. Screening Standards.

1. When used, walls or fences must provide for full visual screening of accessory buildings or storage areas, as viewed from residential areas and state and county roads.
2. The materials used for constructing the wall or fence shall be specified in the site plan and shall be subject to recommendation by the Planning Commission and approval by the City Council.
3. Berms, if used, shall be constructed with a slope not to exceed 3:1 and shall be covered with sod or other landscape material sufficient to prevent erosion of the berm.
4. Trees, hedges or other vegetative materials, when used, must provide at least 75 percent (75%) screening capacity throughout the year. Such screening must also conform to all vegetative setback requirements of this Ordinance.

M. Security.

1. Towers must be reasonably secured to protect against trespass.
2. Appropriate signage shall be posted indicating that trespassing and/or vandalism to the property may be punishable under local, State, or Federal laws.

N. Access.

1. Parcels upon which towers are located must provide access during normal business hours to at least one paved vehicular parking space on site.

O. Maintenance Requirements.

1. The yard area in front of fences and walls shall be trimmed and maintained in a neat and attractive manner.
2. Repairs to damaged areas of walls or fences shall be made within thirty (30) days of sustaining said damage.
3. Areas left in a natural state and vegetative screening areas shall be properly maintained in a slightly and well kept condition.
4. Diseased, dying or dead vegetative screening elements shall be removed and then replaced, at a minimum, with healthy plants of the same size required when first planted.
5. The telecommunications facility owner shall maintain adequate insurance on all telecommunications facilities.

P. Abandoned or Unused Towers or Portions of Towers.

1. All abandoned or unused towers and associated facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the City Council. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and any associated facilities upon the cessation of their operations shall be submitted at the time of application. In the event that a tower is not removed within six (6) months of cessation of operations at a site, the tower and associated facilities may be removed by the City and the cost of removal assessed against the property.

2. Unused portions of towers above manufactured connection shall be removed within six (6) months of the time of antenna relocations. The replacement of portions of a tower previously removed requires the issuance of a new building/conditional use permit.

Q. Antennas Mounted on Roof, Walls and Existing Towers.

1. The placement of wireless telecommunication antennae on roofs, walls and existing towers may be approved by the City Council, provided the antennae meet the requirements of this Ordinance, after submittal of:
 - a. A site and building plan.
 - b. A report prepared by a qualified and licensed professional engineer indicting the existing structure or tower's suitability to accept the antenna and the proposed method of affixing the antenna to the structure. A complete detailing of all fixtures and couplings needed and the precise point of attachment shall be indicated.

R. Additional Submittal Requirements. In addition to the information required elsewhere in this Ordinance, applications for towers shall include the following supplemental information:

1. Documentation of the area to be served by the tower including a narrative describing why the site chosen is the most appropriate site for the tower location, the results of any environmental review conducted on the chosen site and a discussion of why existing structures within the search area would not be suitable as locations or co-locations for the purpose of antennae.
2. A copy of an agreement between the applicant and property owner that the site and tower will be designed for not less than three (3) users. The agreement shall also include a statement that any unused or obsolete tower shall be removed by the property owner or applicant. This agreement shall be signed by the applicant and property owner and shall be attached to and become part of the permit.
3. A report from a qualified and licensed professional engineer which:
 - a. Describes the tower height and design including a cross section and elevation.
 - b. Documents the height above grade for all potential mounting positions for co-locating antennae and the minimum separation distances between antennae.
 - c. Provides written evidence from the engineer that at the proposed site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements regarding both radio frequency interference (RFI) and radio frequency radiation (RFR). The City may hire independent engineers to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times.
 - d. Includes an engineer's stamp and registration number.
 - e. Includes other information necessary to evaluate the request.

4. Before the issuance of a conditional use permit, the following supplemental information shall be submitted:
 - a. Proof that the proposed tower complies with regulations administered by the FAA.
 - b. A report from a qualified and licensed professional engineer that demonstrates the tower's compliance with the aforementioned structural and electrical standards.
5. Additional liability insurance equivalent to the minimum City requirements and proof of insurance be provided with all other information contained with the submittal materials.

S. Existing Antennas and Towers.

1. Antennas and towers in existence before the adoption of this Ordinance, that do not conform to or comply with this Ordinance are subject to the following provisions:
 - a. Towers and antennas may continue in use for the purpose now used and as now existing but may not be replaced or materially altered without complying in all respects with this Ordinance.
 - b. If such towers or antennas are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower or antenna may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this Ordinance, provided, however, that if the cost of repairing the tower to the former use, physical dimensions and location would exceed the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this Ordinance.

T. Temporary Wireless Communications. Any telecommunications facility designed for temporary use is subject to the following:

1. Use of a temporary facility is permitted only if the owner has received a temporary use permit from the City of Litchfield.
2. Temporary telecommunications facilities are permitted for no longer than five days-use during a special event.
3. The maximum height of a temporary facility is 50 feet from grade.
4. Temporary facilities must comply with all applicable portions of these regulations.

U. Evaluation and Monitoring.

1. As a condition of approval for telecommunication facilities the applicant shall reimburse the City for its costs to retain outside expert technical assistance to evaluate any aspect of the proposed siting of telecommunications facilities.
2. The owner of a telecommunications facility shall provide the City with current, technical evidence of compliance with FCC radiation emission requirements, annually or more frequently at the City's reasonable request. If the owner does not promptly provide the City with satisfactory technical evidence of FCC radiation

compliance, the City may carry out tests to ensure FCC radiation compliance using a qualified expert.

3. The owner shall reimburse the City for its reasonable costs in carrying out such compliance testing.

V. Interference With Public Safety Telecommunications.

1. No new telecommunications facility shall be placed or constructed in such a way as to interfere with public safety telecommunications.
2. All applications for new telecommunications facilities shall be accompanied by an intermodulation study that predicts no likely interference problems and certification that the study has been provided to the appropriate public safety agencies.
3. Before testing or operating new service or changes in existing service, telecommunications providers shall notify the City at least ten calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

W. Variances. The City Council may grant a variance to the setback, separation or buffer requirements, and maximum height provision of this section by the criteria set forth under this Ordinance, including the following additional variance criteria for telecommunication towers and antennae:

1. The location, shape, appearance or nature of use of the proposed tower will not substantially detract from the aesthetics of the area, not change the character of the neighborhood in which the tower is proposed to be located.
2. The variance will not create a threat to the public health, safety or welfare.
3. In the case of a requested modification to the setback requirement, that the size of the plat upon which the tower is proposed to be located makes compliance impossible, the only alternative for the applicant is to locate the tower at another site but poses a greater threat to the public health, safety or welfare or is closer in proximity to a residentially zoned land.
4. In the case of a request for modification of separation requirements, if the person provides written technical evidence from an engineer that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage needs of the applicant's wireless communications system and if the person agrees to create approved landscaping and other buffers to screen the tower from being visible to the residential area.
5. In the case of a request for modification of the maximum height limit, that the modification is necessary to (1) facilities co-location of telecommunications facilities in order to avoid construction of a new tower; or (2) to meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer.

X. Penalties. Any person, corporation or other entity that constructs, erects, places, reconstructs, enlarges, expands or repairs a tower or antenna in violation of this

Ordinance shall be guilty of a misdemeanor and shall be subject to any additional legal or equitable remedies available to the City.

Y. Effective Date and Fees. This Ordinance shall take effect from and after its passage and publication. The fees for filing an application to build or alter a telecommunications facility shall be set by the City. Fees may include the reasonable costs of an independent technical assessment of the application.

10.9 CANNABIS BUSINESS USES

A. Purpose. The purpose of this subdivision is to establish provisions for the opportunity as well as controls of cannabis business uses within the city.

B. General Performance Standards.

1. A cannabis retail business must be registered in accordance with Chapter 118 of the City Code.
2. A cannabis business must provide evidence of a state license under Minnesota Statutes, section 342.14.
3. All cannabis businesses must be in compliance with all relevant provisions of the City Code and all applicable state laws and regulations related to the operation of the cannabis business.
4. Any cannabis business shall not operate within 700 feet from the boundary line of a school property.

C. Standards for Cannabis Businesses in the B-4 General Business District:

1. Hours of Operation: A cannabis business operating in a Commercial District shall be limited to occur between the hours of ten o'clock (10:00) AM to ten o'clock (10:00) PM.
2. The cannabis business shall be conducted entirely with a principal structure and all outside storage is prohibited.
3. All waste and recycling containers shall be kept within a principal or accessory building.
4. All signage must comply with Subd. 11.10 Signs, and must not depict cannabis leaves, use slang terms for cannabis, or appeal to minors.

D. Standards for Cannabis Business in the I-2 General Industry District.

1. The cannabis business shall be conducted entirely with a principal structure and all outside storage is prohibited.
2. All waste and recycling containers shall be kept within a principal or accessory building.
3. All on-site consumption of cannabis (in a microbusiness licensed facility only) shall be entirely indoors.
4. Sufficient measures and means of preventing any gas, vapors, odors, smoke, debris, dust, fluids or other substances from exiting a cannabis business shall be provided for at all times.

5. Cannabis cultivation shall not be perceptible from the exterior of the building in which cultivation occurs.
6. Site, ventilation and building security plans must be submitted to the City for review and must be compliant with applicable state regulations.
7. Security:
 - a. Burglary alarm systems with audible and police notification components that are professionally monitored and maintained in good working condition shall be installed on all doors, windows, and access points.
 - b. Surveillance cameras are required and must operate twenty-four (24) hours a day, seven (7) days a week, with thirty (30) day video storage, to monitor all entrances and trash receptacles, along with the interior and exterior of the premises.
 - c. Exterior lighting shall be required sufficient for observers to see and for cameras to record, that is either constantly on or activated by motion detectors.
 - d. Deadbolt locks shall be installed and utilized on all exterior doors and locks shall be installed on all other windows or access points.
 - e. Additional security requirements including, but not limited to, security guards, steel doors, and steel window coverings shall be required as determined by city staff.
8. Vehicles:
 - a. All vehicles stored on site shall be enclosed in a secured fenced area. No non-business related vehicles shall be stored on site.

11.0 GENERAL DEVELOPMENT STANDARDS

- A. The following general regulations and performance standards of this Section shall apply equally to all districts within this Ordinance except where special provisions provide otherwise. It is not intended by this Ordinance to repeal, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.
- B. The general regulations and performance standards established in this Section are designed to encourage high quality residential and business development by providing assurance that neighboring land uses will be compatible. The general regulations and performance standards are also designed to prevent and eliminate those conditions that cause blight.
- C. All future development in the City shall be required to meet these standards. The standards shall also apply to existing development where so stated. The Zoning Administrator shall be responsible for enforcing these standards and may require the submission of information showing compliance or noncompliance with the standards.
- D. Before any building permit or site plan is approved, the Zoning Administrator shall determine whether the proposed use will conform to the general regulations and performance standards. The developer shall supply additional data about the proposed use (such as equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage, etc.), where required to do so by the Zoning Administrator. It may occasionally be necessary for a developer or business to employ specialized consultants to demonstrate that a given use will conform with any general regulation and/or performance standard.

11.1 LOTS

A. Lot Area Requirement.

1. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum required by this Ordinance.
2. The number or area of dwelling units shall not be increased in any manner except in conformity with the area regulations described herein.
3. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure or use for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, open space or off-street parking or loading space required under this Ordinance for another building, structure or use.

B. Double Frontage Lot. Double frontage lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.

C. Corner Lot. Corner lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.

D. Lot of Record.

1. A parcel legally created and existing at the time of passage of this Ordinance need not conform to the lot width or lot area of the district in which it is located. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance.
2. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

E. Adjacent Lots and Lots of Continuous Frontage in Single Ownership. If two (2) or more lots or combination of lots and portions of lots with continuous frontage or common property line are in single ownership, the following provisions shall apply:

- a. Each individual lot of record shall be dealt with as an individual lot in all cases, even though in common ownership with adjacent lots of record.
- b. No building, structure or use shall be constructed, altered, expanded or developed on an adjacent lot under single ownership, unless a conditional use permit is obtained.
- c. Nothing shall prohibit the legal joining together of separately described lots or parcels.

F. Approval of Plats. No proposed plat of a new subdivision shall be approved unless the lots within such plats equal or exceed the minimum requirements as delineated for the district in which the property is located. The plat shall further conform to all other statutes of the State of Minnesota and Ordinances and regulations of the City.

11.2 SETBACKS

A. Setback Measurements. All setbacks shall be measured from property lines.

B. Front Yard Exceptions.

1. When the majority of residential or commercial buildings have been built in a block at the time of adoption of this Ordinance, no building or structure hereafter erected or altered, shall project beyond the average setback line established by existing structures, provided no building will be required to set back more than forty-five (45) feet from the property line.
2. In the following circumstances, a new residential structure may not be required to conform to the minimum setback requirements of the Zoning District:
 - a. Where fifty percent (50%) or more of the residential lots on the same linear block (see definition) as the lot in question are developed with less than the required front yard setbacks, the average setback of the developed residential lots on the block with less than the required front yard setback shall be observed as the minimum setback for a new residential structure.
 - b. Where the lot on which the new residential structure is proposed is between two adjacent existing developed residential lots with less than the required setback front yard setback, the average setback of both adjacent residential lots shall be observed as the minimum front yard setback.

C. Corner Lot Setbacks.

1. Where a structure fronts on two (2) streets, the determination as to which is the front yard shall be made by the Building Inspector on the basis of prevailing setbacks in the immediate vicinity.

D. Minimum Requirements. Please refer to *Table 12.11: Minimum Requirements by Zoning District* for setback requirements for each zoning district.

11.3 BUILDING AND SITE DESIGN

- A. Maintenance.** In all districts, all structures, signs, required landscaping, and fences shall be maintained so as not to be unsightly to the adjoining areas or create hazards to public health or safety.
- B. Temporary Buildings.** Temporary buildings including mobile homes or travel coaches used as an office, temporary residence or storage for security purposes shall be permitted at construction sites for other than one-or-two family residences.
- C. Building Access.** Every building erected, moved or structurally altered, shall be on a lot or parcel having a frontage on a public street or road. All structures shall be located on lots so as to provide required off-street parking and the safe and convenient access for fire protection.
- D. Building Area.**
1. Outside stairways, fire escapes, porches, platforms, balconies, and other similar and attached projections shall be considered as part of the principal structure and subject to the space requirements thereof. This provision shall not apply to:
 - a. One (1) fireplace or one (1) chimney not more than eight (8) feet in length and projecting not more than thirty (30) inches into the allowable yard space.
 - b. Cornices not exceeding sixteen (16) inches in width.
 - c. Platforms, terraces and steps below the first floor level.
- E. Building Lot/Principal Structures.** Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one permitted principal building on one lot except that in commercial and industrial districts more than one permitted principal building may be located on one lot providing that all buildings shall meet all other requirements as set forth in this Ordinance as though it were on an individual lot.
- F. Residential Garage Space Requirement.**
1. Each newly created single and two-family dwelling unit shall be required to have use of an attached or detached garage space, at a minimum size of twelve (12) feet by twenty-four (24) feet.
 2. A property owner may request a conditional use permit, pursuant to *Subdivision 9.6: Conditional Use Permit*, if compliance with this requirement is not possible.
 3. This requirement shall not apply to multifamily/apartment housing.
- G. Buildings Under Construction.** Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been started, prior to the effective date of this Ordinance may be completed and used in accordance with the plans and application on which said permit was granted.
- H. Building Height.**
1. **Measuring Building Height.** Building height is the vertical distance measured from the average ground level at the front of the proposed structure prior to construction, to the top cornice line of a flat and mansard roof, to the uppermost point on a round or other arch-type roof, or to the midpoint of the tallest gable of a pitched or hipped roof.

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

I. Building Relocation.

a. **Review Process.** The relocation of a used building or structure older than 10 years on a lot or onto another lot within the City shall be subject to approval of a conditional use permit, followed by a building permit.

- i. Accessory buildings up to seven hundred twenty (720) square feet in floor area shall be allowed without issuance of a conditional use permit, but shall comply with all other provisions of this Section.

b. Performance Standards.

- i. Upon relocation, the building shall comply with all applicable building, plumbing, heating and electrical codes of the City.
- ii. The proposed relocated building shall comply with the character of the neighborhood in which it is being relocated as determined by the City Council.
- iii. The relocated use will not result in a depreciation of neighborhood or adjacent property values.
- iv. Except as otherwise allowed by the City Council, the relocated structure shall be ready for occupancy within six (6) months from the date of location on the site.

11.4 TRAFFIC

A. Visibility at Intersections and Railroad Crossings.

1. On a corner lot in all districts, except the B1 district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along the street lines fifty (50) feet from the point to the intersection.
2. Nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to obstruct the vision clearance at railroad crossings in any district.

B. Interference With Traffic Signals.

1. No sign, structure, tree, planting, or vegetation or any portion thereof shall protrude over or into any street so as to create confusion around, or otherwise interfere with, traffic signals of any kind.

C. Traffic Control.

1. The traffic generated by any use shall be channelized and controlled in a manner that will avoid:
 - a. Congestion on the public streets;
 - b. Traffic hazards; and
 - c. Excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to insure its safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forward moving with no backing onto streets.

11.5 PARKING AND LOADING

A. Parking and Storage of Certain Vehicles. The parking and storage of certain vehicles shall comply with *Chapter 91* of this Ordinance.

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

1. Adequate ingress and egress shall be provided.
2. Off street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales for cars, trucks, and other equipment.
3. Necessary curbs or other protections against damage to adjoining properties, streets and sidewalks shall be provided and maintained.
4. Plans for the construction of any parking lots must be approved by the Zoning Administrator and/or Planning Commission before construction is started. No such land shall be used for parking until approved.
5. Parking and driveway areas adjacent to the streets must have barriers. The barriers may be vegetative (i.e. shrubs) or physical (i.e. curbs).
6. Any lighting used to illuminate any off-street parking area shall be arranged to reflect the light away from adjoining premises in any "R" District. Other residential safeguards may also be required as necessary by the Zoning Administrator and/or Planning Commission.
7. All off-street parking spaces shall have access off driveways and not directly off the public street. Such driveway access shall not exceed 30 feet in width.
8. Property that constitutes required off-street parking area may not be separated, through sale or other means, from the property containing the principal use for which the parking area is required.
9. Signs located in any parking area necessary for orderly operation of traffic movement, shall be in addition to accessory signs.
10. Existing off-street parking spaces upon the effective date of this Ordinance shall not be reduced in number unless said remaining number exceeds the requirements set forth herein for a similar new use.
11. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or industrial establishments.

C. Off-Street Parking Location. All required off-street parking facilities shall be located as follows:

- a. One (1) and two (2) family dwellings--on the same lot as principal use served.
- b. Multiple family dwellings--on the same lot as the principal use served or within two hundred (200) feet of the main entrance to the principal building served.

- c. Business and Industrial off-street parking spaces shall not be less than twenty (20) feet from an adjacent lot zoned or used for residential purposes. In all other cases, no off-street parking area containing more than four (4) parking spaces shall be located closer than fifteen (15) feet from an adjacent lot zoned or used for residential purposes.
- d. Within eight hundred (800) feet of a main entrance to the principal building served in a business, commercial or industrial district.
- e. There shall be no off-street parking space within three (3) feet of any sidewalk or street right-of-way.
- f. Nothing in this section shall prevent the extension of, or addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area or an additional area within the required distance of such building.
- g. No off-street parking shall be permitted in the front or side yard of any "R" District except upon a driveway providing access to a garage, carport or parking area for a dwelling. No parking shall be permitted on the front lawn.

D. Off-Street Parking Requirements. In all Zoning Districts there shall be provided at the time any use or building is erected, enlarged, expanded or increased, off-street parking spaces for vehicles of employees, residents and/or patrons in accordance with the following requirements. An off-street parking space shall be a minimum of nine (9) feet wide for angle parking and ten (10) feet wide for 90 degree stall parking. It shall also provide proper access to a public street or alley, in which maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when the requirements below are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all applicable ordinances and regulations.

- a. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated, that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley so that any automobile may be parked and un parked without moving another.
- b. Loading space shall not be construed as supplying off-street parking space.
- c. When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space and fraction up to and including one-half (2) shall be disregarded and fractions over one-half (2) shall require one (1) parking space.
- d. Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this Ordinance, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.
- e. Floor area in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as

customers, patrons, clients, patients as tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise.

- f. Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve.
- g. Where a use is not specifically mentioned, off-street parking requirements shall be the same as for a similar use.
- h. Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses provided, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the following table.
- i. Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area or an additional area within three hundred (300) feet of such building.
- j. Off-street parking space may be located within the required front yard of any Business or Industrial District, but no off-street parking shall be permitted in the required front yard of any Residential District, except upon a driveway providing access to a garage, carport or parking area for a dwelling.
- k. The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table:

Table 11.5– Required Off-Street Parking Spaces		
<u>Use</u>	<u>Requirement</u>	<u>Additional Spaces Required</u>
Residential Uses		
Dwelling: SF	2 spaces per dwelling unit	
Dwelling: 2 family/duplex	2 spaces per dwelling unit	
Apartment/Multifamily	2 spaces per 1 bed unit 2.25 spaces per 2 bed unit 2.5 spaces per 3 bed unit	.05 spaces per dwelling unit for visitors
Mobile Home Park	2 spaces per dwelling unit	

<u>Use</u>	<u>Requirement</u>	<u>Additional Spaces Required</u>
Group Residential Uses		
State Licensed Residential Facility / Group Home	1 space per 6 residents	1 space per employee on maximum shift
Nursing Home/Care Facility	1 space per 3 beds	1 space per 2 employees
Commercial Uses		
Auto Repair	4 spaces per service stall	
Auto Sales	1 space per 2 employees	1 space per 2,000 SF of lot and building area uses to display
Bank/Financial Institution	1.75 spaces per 250 SF of gross floor area	
Bed & Breakfast/Rooming House	1 space per guest or sleeping room or suite	1 space per employee or 2 spaces if there is a dwelling unit
Bowling Alley	5 spaces per lane	
Car Wash	4 spaces per wash stall	1 space per employee on maximum shift
Commercial Day Care	1 space per employee on maximum shift	1 space per 10 children
Convenience Store with Gas	3 spaces per service stall	1 space per 250 SF of gross floor area
Food Sales (Grocery)	1 space per 200 SF of gross floor area	
Funeral Services	1 space per 3 seats based off maximum capacity design	

<u>Use</u>	<u>Requirement</u>	<u>Additional Spaces Required</u>
General Retail	1 space per 250 SF of gross floor area	
Hospital Services	2.5 spaces per 1,000 SF of gross floor area	4 spaces per bed
Hotel/Motel	1 space per room	1 space per employee on maximum shift
Laundromat	1 space per 300 SF of gross floor area	
Medical/Dental Offices	1 space per 200 SF of gross floor area	
Office	1 space per 300 SF of gross floor area	1 space per employee
Personal Service	1 space per 300 SF of gross floor area	
Restaurant (Fast-Food/Drive-Thru)	1 space per 4 seats for sit-down, 1 space per 50 SF of gross floor area	1 space per employee at max shift
Restaurant (Drive In - no seating)	1 space per 35 SF of gross floor area	
Restaurant (Sit Down)	1 space per 4 seats	1 space per employee at max shift
Theater/Auditorium/Assembly	1 space per 4 seats	
Veterinary Office	1 space per 250 SF of gross floor area	
Industrial Uses		
Manufacturing	1 spaces per 1,000 SF of gross floor area	1 space per employee

<u>Use</u>	<u>Requirement</u>	<u>Additional Spaces Required</u>
Warehouse/Distribution	0.5 spaces per 1,000 SF of gross floor area	1 space per employee
Public, Civic, and Institutional Uses		
Religious Assembly	1 space per 3 seats based off maximum capacity design	
School - Elementary or Middle	1 space per 2 classrooms	1 space per employee
School - High School	1 space per 7 students based on design capacity	2 spaces per classroom
School - College, Higher Learning	1 space per 2 students	1 space per employee

E. Loading Space. On the premises with every building, structure, or part there of, erected and occupied for industrial or commercial use storage, receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interferences with public use of the streets or alleys. Such loading berths shall be constructed and maintained subject to the following regulations:

1. Location. All required loading berths shall be off street and shall be located on the building or use to be served.
2. Access. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.
3. Surfacing. All loading berths and access ways shall be improved with a durable material to control dust and drainage.
4. Accessory Use. Any space allocated as a loading berth or access drive so as to comply with the terms of this Ordinance shall not be used for the storage of goods, inoperable vehicles or be included as part of the space requirements necessary to meet the off-street parking area.

11.6 DRAINAGE, EXCAVATION AND SEWER AND WATER PROVISIONS

A. Drainage.

1. No land shall be developed and no use shall be permitted that results in water run-off, flooding, or erosion on adjacent properties.
2. Such run-off shall be properly channeled into a storm drain, watercourse, ponding area or other public facility.

B. Dumping and Disposal of Excavated Materials. The dumping of dirt, rock or other earthen material is permitted in any district not part of a drainage channel provided the surface of such material is graded within a reasonable period of time in a manner preventing the collection of stagnant water and that the ground surface is left in a condition suitable for growing of turf or for other land uses permitted in the district. This shall not prevent the development of the property for its best use when adequate facilities are provided to maintain the primary purpose of the drainage way or flood plain, i.e. the uninterrupted flow of surface water.

C. Sewer and Water Provisions.

1. All sewage facilities shall be connected to community sewer facilities when available.
2. Where sewers are not available or in operation, as determined by the City Council, all sewage facilities shall be connected to individual sewage disposal systems, under the authority of the County and in accordance with any applicable regulations of State agencies.
3. This provision shall not apply to temporary construction sites, or portable units used in farming operations.
4. All water shall be procured from the public water system when available.
5. Where it is not feasible to connect to a public water supply or if on-site water supplementation is required, as determined by the City Council, a well may be drilled in accordance with the specifications and provisions of the Minnesota Department of Health, Water Well Construction Code.

11.7 LANDSCAPING, BUFFERS, AND SCREENING

A. Landscaping.

1. **Intent.** This Subdivision is intended to provide minimum landscaping and planting standards for the purpose of promoting and protecting the health, safety, and welfare of the public by creating an environment that is aesthetically pleasing and that promotes economic development through an enhanced quality of life.
2. **Landscaping Area.** All areas designated to be landscaped and street boulevards that are not devoted to drives, sidewalks, patios or other such uses shall be landscaped. All landscaped areas shall be kept neat, clean and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.
3. **Credit for existing trees.** Sites containing significant existing trees which will be retained may be given a credit against the planting requirements. Preservation of existing trees shall be a priority and should be accommodated wherever possible.
4. **Landscape Requirement for Single and Two-Family Residential.** Planting of two (2) trees per dwelling unit is required following construction.
5. **Landscape Requirements for all other Uses.** Tree planting at the rate of one (1) tree per 750 square feet of gross floor area.
6. **Size Standards.** The minimum size of trees at the time of planting shall be:
 - a. Deciduous trees: minimum of 1.5 caliper inches
 - b. Coniferous trees: minimum of three (3) feet in height
7. **Parking Lots.** Boundaries surrounding parking lots and islands within parking lots are highly encouraged to be planted with shrubs or other plantings. The Planning Commission may place parking lot planting requirements on a Site Plan approval.
8. **Landscape Requirements for Industrial Uses.** The City Council may reduce the tree planting requirement for industrial uses if the lot could not support the required number of trees.
9. **Compliance Time Frame.** All planting and sodding shall be completed, and all seeding established within one (1) year of issuance of Certificate of Occupancy.
10. **Maintenance.** All plant material shall be maintained in an attractive and healthy growing condition at no cost to the City. The property owner shall be responsible for timely replacement of any dead plant materials required by this Subdivision.

B. Screening.

1. **Intent.** This Subdivision is intended to provide standards for the screening of certain items from surrounding properties and right-of-ways. The screening required in this Subpart shall consist of a fence, wall, landscaping or earth berm, but shall not extend into the required clear vision triangle. Natural features, such as differences in elevation, tree masses or similar features may negate the need for man-made screening in certain areas. In general, plant materials are preferred as opposed to walls and fences. If walls and fences are used, they shall be architecturally harmonious with the principal building.

Color of freestanding fences and wall shall be compatible with natural surroundings; earth tone colors are encouraged.

2. **General Screening.** New and redevelopment shall provide screening where appropriate to mitigate potential impacts on neighboring property owners. Proposed screening shall be shown on the proposed site plan. The Planning Commission may require additional screening if the characteristics of the area warrant it.
3. **Buffer/Screening Between Incompatible Uses.** Screening, to be reviewed and approved by the Planning Commission at the time of Site Plan Review, shall be required in the following instances:
 - a. Industrial use abutting or across a right-of-way from any residential use
 - b. Multifamily use adjacent to single or two-family residential use
 - c. Commercial use abutting or across a right-of way from any residential use
 - d. Off-street parking lot containing more than five (5) parking spaces adjacent to any residential use
4. **Screening of Trash Containers.** Trash dumpsters and other trash containers associated with uses other than single and two – family residential uses shall be screened as follows:
 - a. Trash containers shall be screened on all four (4) sides, using an enclosure that is a minimum of one (1) foot above the top of the container;
 - b. To the maximum extent practical, the trash enclosure shall be constructed of materials that are harmonious with those of the principal structure and have a minimum opacity of ninety percent (90%);
 - c. A gate or door of the trash enclosure shall be closed at all times except as needed to access the trash container.

11.8 FENCES, HEDGES, WALLS AND OBSTRUCTIONS IN ALL DISTRICTS

A. Intent. This section is intended to provide for the regulation of the height and location of fences, walls, and similar obstructions, for the purpose of providing for light, air, and privacy and safeguarding the public welfare by preventing visual obstructions at street and highway intersections.

B. Permit Required. The construction of a fence or wall requires a Zoning Permit.

C. Height. For the purpose of this section, height shall mean the vertical distance from existing grade to the top of the fence, hedge or wall.

a. All Residential Districts.

- a. **Front Yard Setbacks.** No opaque fence, hedge, or wall over three (3) feet in height shall be permitted within any required front yard setback. A chain link fence up to four (4) feet in height, that does not impede sight, may be permitted within front yard setbacks.
- b. **Rear and Side Setbacks.** No fence (see exceptions below), hedge, or wall greater than six (6) feet in height shall be allowed within any required rear setback or side setback. In residential districts where the front yards of neighboring properties about the street at the rear lot line of the subject property, a fence within the front yard setback of the neighboring property at the rear lot line of the subject property shall not exceed three (3) feet in height.
- c. **Corner Lots.** A fence, hedge or wall up to six (6) feet in height may be erected within the corner side setback behind the nearest front corner of the principal building.

b. Business, Commercial and Industrial Districts. Fences and walls located in business and industrial districts that exceed the height of eight (8) feet, measured from its top edge to the ground at any point, shall require a conditional use permit.

c. Sport Court Fences. Fences up to ten (10) feet in height may be permitted to enclose sport courts provided all other requirements of this Ordinance are met, and shall not require a conditional use permit where a sport court is permitted as an accessory use or when the court is given a conditional use permit. Such fences, if they exceed six (6) feet in height must be constructed to have fifty (50) percent or less of solid material.

D. Location.

- a. All fences, hedges, walls and similar screening shall not exceed the property line. It is the property owner's responsibility to locate the property lines.
- b. No fence, wall, hedge, or other similar screening may be placed in a public right of-way. It is the property owner's responsibility to locate the public right-of-way lines.
- c. No fence, hedge, wall or other similar screening shall be permitted within the clear view triangle of an intersection, defined in Subdivision 11.4: Traffic Control.

E. Construction. All fences hereafter erected shall have the structural components thereof facing the side of the property for and on which the same are erected.

F. Prohibited Fences. The following fences are prohibited:

- a. Barbed Wire Fences. No fence constructed wholly or in part of barbed wire shall be located in the City, except in industrial or utility areas. Within these industrial and utility areas, the barbed wire fence may be placed above the top of other fencing not less than six feet, six inches high and none of which may be within five feet of any public street, alley or sidewalk. Within Ag Districts, barbed wire fences may be used to fence in livestock. Barbed wire fences shall require a conditional use permit.
- b. Snow fences, except for exclusive control of snow between November 1 and March 31 and authorized by the Zoning Administrator for special events or construction sites.
- c. Chicken wire, welded mesh wire and electrically charged wire fences.
- d. Fences made of solid plywood, scrap lumber, temporary fencing and similar non-customary materials.
- e. Fences on any portion of any public right-of-way, except fences erected by a governmental entity.
- f. Fences so constructed as to prevent natural water drainage and/or water runoff.

G. Maintenance. Every fence shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence shall be repaired or replaced immediately.

11.9 RETAINING WALLS

- A. **Purpose.** The purpose of this section is to protect public and private property from the effects of poorly designed and constructed retaining walls.
- B. **Permit Required.** A building permit shall be required for all retaining walls constructed that exceed forty-eight (48) inches in height, including terraced retaining wall projects where the total height of all walls exceeds forty-eight (48) inches, and are closer than fifteen (15) feet to a property line.
- C. **Application.** Application shall be made to the Building Official on forms provided and shall include a site plan and a set of construction plans. Plans signed by a professional engineer registered in the State and/or other information necessary to adequately review the proposed retaining wall may also be required by the Building Official.
- D. **Setbacks.** Setbacks for retaining walls shall be the same as for fences.
- E. **Maintenance.** Every wall shall be maintained in a good and safe condition at all times. Every damaged or missing element of any wall shall be repaired or replaced immediately.

11.10 SIGNS

- A. Purpose.** The purpose of this Part is to regulate the location, size, placement, and certain features of all signs placed on private property for public observation to protect and promote the general welfare, health, safety, and order within the City. The provisions contained within this ordinance are meant to encourage creativity and opportunities for effective communication, while ensuring that the public is not distracted or endangered by such communication. This ordinance must be interpreted in a manner consistent with the First Amendment guarantee of free speech.

This Ordinance is not intended to regulate official traffic signs and signals, government signs the City Council has no jurisdiction to regulate, maps and public directional signage, the copy or message of signs, produce dispensers, point of purchase displays, scoreboards on athletic fields, flags, religious symbols, commemorative plaques, holiday decorations, display of street numbers or any display or construction not defined herein as a sign. This Section shall not apply to building design unless said sign incorporates a sign as defined in this Ordinance, in which case that part of such design which is a sign shall be subject to the provisions of this Section of the Ordinance.

- B. Definitions.** Within this Ordinance, the following additional definitions of terms and phrases used under this Section for signs shall govern. Other applicable definitions found in this Ordinance shall continue to apply.

Awning or Canopy sign. Any sign that is part of or attached to an awning or canopy over a doorway or window. A marquee is not considered a canopy.

Banner sign. A sign constructed of cloth, flexible plastic, or fabric of any kinds which can be easily folded or rolled. (See also temporary sign and portable sign)

Balloon Sign. Any sign consisting of flexible nonporous materials that gain it's shape from air or gas.

Building Sign. Any sign attached or supported by a building.

Electronic Changeable Copy Sign. A sign or portion thereof that displays electronic characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

Flag. Any fabric of similar lightweight material, usually to a staff or pole, so as to allow movement of the materials by atmospheric changes and that contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

Flashing Sign. A directly or indirectly illuminated sign that exhibits changing light or color effect by any means, so as to provide intermittent illumination that includes the illusion of intermittent flashing light by means of animation. The term "flashing sign" also means mode of lighting that resembles zooming, twinkling or sparkling.

Freestanding Sign. Any sign structure that is self-supporting, placed in the ground, and not affixed to a building.

Height of Sign. The vertical distance measured from grade to the top of the highest attached component of the sign.

Illuminated Sign. Any sign that contains an element designed to emanate artificial light internally or externally.

Marquee Sign. Any sign attached, or affixed in any manner, or made a part of a marquee.

Multiple Tenant Site. Any site that has more than one tenant, each of which (tenant) has a separate ground level exterior public entrance.

Nonconforming Sign. Any sign and its support structure that was lawfully erected prior to the effective date of the regulations of this article that fails to conform to the requirements of this article. A sign that was erected in accordance with a variance granted before the adoption of this ordinance from which this chapter is derived and that does not comply with this code is deemed to be a nonconforming sign. A sign that was unlawfully erected is deemed to be an illegal sign.

Off-Premises Sign. A commercial speech sign that directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located.

On Premise Messages. Messages that identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

Pennant Sign. A sign made of flexible materials normally fastened from one or two corners to a stringer which is tethered to allow movement of the sign caused by movement of the atmosphere.

Portable Sign. A movable sign that is not permanently attached to a structure or the ground.

Projecting Sign. Any sign that is affixed to a building or wall in such a manner that its leading edge extends more than one foot beyond the surface of such building or wall face.

Roof sign. Any sign which is erected, constructed or attached wholly or in part upon or over the roof of a building, unless attached to a parapet or mansard structure that is an architectural component of the building.

Rotating sign. A sign or a portion of a sign which moves in a rotating, oscillating, or similar manner.

Sandwich board sign. A type of moveable pedestrian oriented sign constructed of two independent faces that are attached so its side view resembles a triangle or "T".

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

Sign Area. Sign area shall be measured as follows:

1. When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included.
2. When such sign consists only of letters, designs, or figures engraved, painted, projected, or in any manner affixed on a wall, or a fascia panel integrated into the building, canopy, marquee or other covered structure, the total area of such sign shall be deemed the area of the triangle, rectangle or circle within which all of the matter such sign consists may be inscribed.

Sign face. The area or display surface used for the sign message.

Temporary sign. Any sign which is erected or displayed on a non-permanent basis for a limited period of time.

Wall sign. A single-faced sign which is affixed to the exterior wall of a building and which is parallel to the building wall and which does not project more than 12 inches from the wall surface to which it is attached, nor extend beyond the top of a building elevation or parapet wall, whichever is higher.

Window sign. A sign affixed to or inside of a window in view of the general public. Merchandise on display is not considered window signage.

C. Prohibited Signs.

1. Any sign, signal, marking or device that purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.
2. Off-premise signs
3. Back-lit awnings
4. Flashing signs
5. Inflatable signs
6. Roof signs
7. Rotating signs
8. Shimmering signs
9. Signs printed on, or attached to in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, towers, benches or similar public structures, except for official signs
10. Signs containing content classified as "obscene" as defined by Minnesota Statutes, section 617.241.
11. Video display signs
12. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign

13. Signs which constitute public nuisance, as defined by Chapter 91, or signs erected without permission of the property owner
14. Signs located within the public right-of-way unless specifically permitted elsewhere in this section
15. Abandoned signs

D. Exempt Signs. The following signs do not require a permit as long as the following requirements are met:

1. Property identification numerals and occupant(s) name are permitted as long as the following are met:
 - a. The numerals and letters are clearly visible from the street for each principal structure that has been assigned an address
 - b. The numerals and letters shall be no larger than 10 square feet for nonresidential or two square feet for residential
2. Flags
 - a. All flagpoles shall be setback at least 20 feet from all property lines.
 - b. Flagpoles shall not exceed 35 feet in height, unless associated with a structure at least 30 feet in height, in which case flagpoles up to 50 feet in height may be permitted. On non-residential properties, the display of up to four flags is permissible. On residential properties, no more than two flags are permitted.
3. Traffic directional signs authorized by a government entity with proper jurisdiction
4. Traffic directional signs within a private development or center permitted the following are met:
 - a. All signs have a uniform design on a site
 - b. If located within a right-of-way, the sign shall comply with all applicable roadway authority rules for height, location and size.
 - c. The signs are as small and as low to the ground as practical to convey the intended information.
 - d. The minimum number of such signs necessary to convey the intended information.
5. Official notices authorized by a court, public body, or public safety official.
6. Warning or restrictive signs, not to exceed two square feet in area

E. Signs Allowed in the Residential Districts.

1. In addition to signage allowed per Subd. 11.10, D: Exempt Signs, signage allowed in the R-1 and R-2 Districts shall be as follows:
 - a. Maximum Number of Signs: two
 - b. Total Aggregate Signage: 24 square feet
 - c. Maximum sign height: 8 feet
2. In addition to signage allowed per Subd. 11.10, D: Exempt Signs, signage allowed in the R-3 District shall be as follows:
 - a. Wall Signs. A single wall sign, no larger than 10% of the area of the wall upon which the sign is located. The sign shall not be illuminated in any manner.
 - b. Freestanding Signs. Monument signs are the only type of ground sign permitted in the R-3 District. The sign area shall be no more than 48 square feet and the sign shall be no more than eight feet in height.
3. Nonresidential Uses. In addition to the signs permitted in Provision 1 and 2 above, the following signs are permitted for nonresidential uses located within residential districts. Such uses include public utility uses, parks, schools, and churches serving the residential population, but do not include day care, permitted residential group facilities or home occupations.
 - a. Wall Signs. A single wall sign, no larger than 10% of the area of the wall upon which the sign is located.
 - b. Freestanding Signs. Monument signs are the only type of ground sign allowed for nonresidential use in a residential district. The sign area shall be no more than 32 square feet and the sign shall not be more than eight (8) feet in height.
 - c. Electronic Changeable Copy Signs. Electronic changeable copy signs may be allowed with a conditional use permit, pursuant to Subdivision 9.6 Conditional Use Permit, and must comply with the requirements of Subdivision 11.10, I: Electronic Changeable Copy Signs.

F. Signs Allowed in the Commercial Districts. In addition to signage allowed per Subd. 11.10, D: Exempt Signs, signage allowed in the Commercial Districts shall be as follows:

1. Wall Signs. The sign area shall be calculated as a maximum percent of the building wall upon which the sign is located. One sign per building face shall be permitted.

<u>District</u>	<u>Percentage</u>	<u>Height</u>
B-1	15%	Height shall not exceed the height of the wall on which the sign is located in all districts
B-2*	10%	
B-3	20%	
B-4	20%	

2. Freestanding Signs. One freestanding sign per street frontage shall be permitted.

<u>District</u>	<u>Square Footage</u>	<u>Height</u>
B-1	32 square feet	10 feet
B-2	Freestanding signs are prohibited in the B-2 District	
B-3 & B-4	One square foot per lineal foot of street frontage, with a maximum 300 square feet	30 feet

*All signage in the B-2 District shall be subject to a Certificate of Appropriateness by the Historic Preservation Commission.

3. Electronic Changeable Copy Signs.
 - a. Electronic changeable copy signs shall be permitted in the B-3 and B-4 Districts by right, and may be permitted in the B-1 and B-2 Districts, subject to a Conditional Use Permit.
 - b. Electronic changeable copy signs shall be subject to all requirements in Subdivision 11.10, I: Electronic Changeable Copy Signs.

G. Signs Allowed in the Industrial Districts. In addition to signage allowed per Subd. 11.10, D: Exempt Signs, signage allowed in the Industrial Districts shall be as follows:

1. Wall Signs. The sign area shall be calculated as a maximum percent of the building wall upon which the sign is located. One sign per building face shall be permitted.

<u>District</u>	<u>Percentage</u>	<u>Height</u>
I-1	20%	Height shall not exceed the height of the wall on which the sign is located in all districts
I-2	20%	

2. Freestanding Signs. One freestanding sign per street frontage shall be permitted.

<u>District</u>	<u>Square Footage</u>	<u>Height</u>
I-1	One square foot per lineal foot of street frontage, with a maximum of 300 square feet.	30 feet
I-2	One square foot per lineal foot of street frontage, with a maximum of 300 square feet.	30 feet

3. Electronic Changeable Copy Signs.
 - a. Electronic changeable copy signs shall be permitted in the I-1 and I-2 Districts.
 - b. Electronic changeable copy signs shall be subject to all requirements in Subdivision 11.10, I: Electronic Changeable Copy Signs.

H. Temporary Signs

1. Temporary Signs in Residential Districts.
 - a. Permit. Temporary Signs in Residential zoning districts do not require a permit approval.
 - b. Location. Temporary signs must be placed solely on private property and must maintain a minimum three foot setback from public sidewalks and roadways.
 - c. Illumination. Temporary signs shall not be illuminated.
 - d. Size. Temporary signs shall not exceed eight square feet in area and six feet in height.
 - e. Number of Signs. One temporary sign shall be permitted at any given time on a residential property.
2. Temporary Signs in Commercial and Industrial Districts.
 - a. Permit. Temporary Signs in Commercial and Industrial zoning districts do not require a permit approval.
 - b. Types of temporary signs shall be limited to banners, pennants and portable signs.

District	Max. Number	Max. Size	Max. Height-Freestanding	Max. Height – Wall
B-1	1	12 square feet	6 feet	Not to exceed the height of the wall on which the sign is located
B-2	1	6 square feet	4 feet	
B-3	1	32 square feet	8 feet	
B-4	1	32 square feet	8 feet	
I-1	1	32 square feet	8 feet	
I-2	1	32 square feet	8 feet	

I. Electronic Changeable Copy Signs.

1. Regulations. All electronic changeable copy signs are subject to the following regulations:
 - a. Electronic changeable copy signs are subject to all size and height restrictions for signs in the zoning district where they are located.
 - b. Only one, two-sided, electronic changeable copy sign is permitted per parcel.
 - c. No part of the display shall change more than once every eight (8) seconds.

- d. Electronic changeable copy signs shall have messages that change instantaneously, and do not fade, dissolve, blink, or appear to simulate motion in any way.
 - e. The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.
 - f. Electronic changeable copy signs must be designed and equipped to freeze the display in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the electronic display when notified by the city that it is not complying with the standards of this ordinance.
 - g. The sign must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness;
 - h. Electronic changeable copy signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one half-hour before sunset and one half-hour after sunrise.
 - i. Audio speakers or any form of pyrotechnics as defined in this Subdivision are prohibited in association with an electronic changeable copy sign.
 - j. No portion of any electronic changeable copy sign may fluctuate in light intensity or use intermittent, strobe or moving light or light that changes in intensity in sudden transitory bursts, streams, zooms, twinkles, sparkles or in any manner that creates the illusion of movement.
 - k. No temporary electronic changeable copy signs will be allowed in any district.
2. Conversion of a Nonconforming Sign to an Electronic Changeable Copy Sign.
- a. An existing legal nonconforming sign may be updated to an electronic changeable copy sign, if permitted in the Zoning District in which the sign is located, with a conditional use permit, pursuant to Subdivision 9.6 Conditional Use Permit, and must comply with applicable regulations of this subdivision.

J. Design, Construction and Maintenance.

- 1. All permanent signs shall be constructed of permanent materials versus temporary materials. Examples of permanent materials are brick, concrete, steel, aluminum, treated lumber, etc. Temporary materials are considered to be plywood, untreated wood products, etc.
- 2. All signs shall be located at least 3 feet from any property line, and may not be constructed within the clear sight triangle.
- 3. All signs shall be properly maintained. Exposed surfaces shall be clean and painted if required. Defective parts shall be replaced. Any sign which is defective, damaged or substantially deteriorated shall be removed.

4. In districts where allowed, signs may be illuminated by the following methods: internally or externally lighted and shielded to prevent glare to adjoining roadway and residences.
5. Projecting signs, awnings and canopies that overhang a sidewalk or other pedestrian way shall provide a minimum clearance above the said pedestrian way of eight (8) feet.
6. Except for banners, flags, temporary and portable signs and window signs conforming in all respects with the requirements of these regulations, all signs shall be permanently attached to the ground, a building or other structure by direct attachment to a rigid wall, frame or structure.
7. If the City Building Official finds that any sign regulated herein is unsafe or loose, or has been constructed or erected in violation of the safety or structural provisions of this section, the official shall give written notice to the permittee. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within thirty (30) days after such notice, such sign may be removed or altered to comply by the building inspector at the expense of the permittee or owner of the property upon which it is located or the inspector may cite the owner or permittee for violations of this code. No permit shall be issued to any applicant for a sign which is an immediate peril to person or property. Such signs shall be subject to removal without notice.

12.0 ZONING DISTRICTS AND USES

12.1 ZONING DISTRICTS

A. Establishment of Districts. For the purpose of this Ordinance, the City of Litchfield is divided into the following districts:

1. R-1 Single-Family Residence District
2. R-2 Residence District
3. R-3 Multi-Family Residence District
4. B-1 Limited Business District
5. B-2 Downtown Business District
6. B-3 Roadside Business District
7. B-4 General Business District
8. I-1 Limited Industry Districts
9. I-2 General Industry District

B. Boundaries and Official Zoning Map.

1. **Location and Boundaries of Zoning Districts.** The location and boundaries of the zoning districts established by this Ordinance are set forth on the Zoning Map, which is hereby incorporated as part of this Ordinance, or are set forth in the pertinent Subdivisions of this Ordinance.
2. **Official Copy.** Regardless of the existence of purported copies, the Official Zoning Map, which shall be located in the office of the City Administrator, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City.
3. **Changes.** Changes to the official zoning map shall follow the procedure in *Subdivision 9.8 Zoning Map Amendment (Rezoning)*.
4. **Interpretation of District Boundaries:** Where uncertainty exists as to boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
 - a. Boundaries indicated as approximately following centerlines of highways, streets, alleys or other public rights-of-way shall be construed to follow such centerlines.
 - b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - c. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
 - d. Boundaries indicated as approximately following City limits shall be construed as following such City limits.

- e. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main set of tracks at the centerline of the single set of tracks.
- f. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shorelines. Boundaries indicated as approximately following the centerline of streams, rivers, lakes or other bodies of water shall be construed as following such centerlines.
- g. Boundaries indicated as parallel to or extensions of features indicated in subsections A-F above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections A-F above, The Zoning Administrator shall interpret the district boundaries, subject to appeal to the Planning Commission.
- h. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Planning Commission may permit as a special consideration, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

C. Zoning for Newly Annexed Land.

All land annexed to the City shall automatically be designated R-1 Residential District unless otherwise directed by the City Council as part of the annexation process. Such designation shall remain until definite boundaries and regulations for such land are adopted by the City Council.

12.2 R-1 SINGLE-FAMILY RESIDENCE DISTRICT

- A. **Intent.** The R-1 District includes areas reserved for single-family homes. Generally these are the undeveloped areas of the community or the areas that have developed with large residential lots. The intent of this district is to provide for future development of a similar nature and to protect the desired low intensity living environment from encroachment by potential conflicting uses.
- B. **Permitted Uses.** Permitted uses in the R-1 District can be found in *Table 12.12: Land Use Table* below.
- C. **Conditional Uses.** Conditional uses in the R-1 District can be found in *Table 12.12: Land Use Table* below.
- D. **Accessory Uses.**
1. Accessory buildings, pursuant to *Subdivision 10.1 (B): Accessory Buildings*.
 2. Fence, pursuant to *Subdivision 11.8: Fences, Hedges, Walls and Obstructions in All District*.
 3. Home occupation, pursuant to *Subdivision 10.4: Home Occupations*.
 4. Keeping of domestic animals pursuant to *Chapter 90* of the Litchfield City Code.
 5. Off-street parking, loading and access drives, pursuant to *Subdivision 11.5: Parking and Loading*.
 6. Patio, deck, terrace and similar uses, pursuant to *Subdivision 10.1 (D): Patio, Deck, Terrace and Similar Use*.
 7. Signs, pursuant to *Subdivision 11.10: Signs*.
 8. Residential solar equipment, pursuant to *Subdivision 10.1 (E): Solar Equipment and Solar Rights*.
 9. Sport court or play equipment for private recreational use.
 10. Swimming pool, pursuant to *Subdivision 10.1 (F): Swimming Pool*.
 11. Other accessory uses incidental and customary to permitted and conditional uses of the district as determined by the Zoning Administrator or other Authorized Agent.
- E. **Dimensional Requirements.**
1. **Lot Area.** 9,000 square feet for a single-family dwelling, 12,000 square feet for a two-family dwelling.
 2. **Lot Width.** 75 feet.
 3. **Minimum Floor Area Per Unit.** 960 square feet.
 4. **Front Yard Setback.** 30 feet.
 5. **Corner Side Yard Setback.** 20 feet.
 6. **Interior Side Yard Setback.** 10 feet.
 7. **Rear Yard Setback.** 35 feet.

8. **Principal Structure Height:** 30 feet.

12.3 R-2 RESIDENCE DISTRICT

- A. Intent.** The R-2 District includes primarily developed areas of the community which have smaller lots than are now generally considered desirable. This is primarily a single and two-family district.
- B. Permitted Uses.** Permitted uses in the R-2 District can be found in *Table 12.12: Land Use Table* below.
- C. Conditional Uses.** Conditional uses in the R-2 District can be found in *Table 12.12: Land Use table* below.
- D. Accessory Uses.**
1. Accessory buildings, pursuant to *Subdivision 10.1 (B): Accessory Buildings*.
 2. Fence, pursuant to *Subdivision 11.8: Fences, Hedges, Walls and Obstructions in All District*.
 3. Home occupation, pursuant to *Subdivision 10.4: Home Occupations*.
 4. Keeping of domestic animals pursuant to *Chapter 90* of the Litchfield City Code
 5. Off-street parking, loading and access drives, pursuant to *Subdivision 11.5: Parking and Loading*.
 6. Patio, deck, terrace and similar uses, pursuant to *Subdivision 10.1 (D): Patio, Deck, Terrace and Similar Use*.
 7. Signs, pursuant to *Subdivision 11.10: Signs*.
 8. Residential solar equipment, pursuant to *Subdivision 10.1 (E): Solar Equipment and Solar Rights*.
 9. Sport court or play equipment for private recreational use.
 10. Swimming pool, pursuant to *Subdivision 10.1 (F): Swimming Pool*.
 11. Other accessory uses incidental and customary to permitted and conditional uses of the district as determined by the Zoning Administrator or other Authorized Agent.
- E. Dimensional Requirements.**
1. **Lot Area.** 6,000 square feet for a single-family dwelling, 10,000 square feet for a two-family dwelling.
 2. **Lot Width.** 60 feet.
 3. **Minimum Floor Area Per Unit.** 720 square feet.
 4. **Front Yard Setback.** 20 feet.
 5. **Corner Side Yard Setback.** 20 feet.
 6. **Interior Side Yard Setback.** 8 feet.
 7. **Rear Yard Setback.** 25 feet.
 8. **Principal Structure Height:** 30 feet.

12.4 R-3 MULTIFAMILY RESIDENCE DISTRICT

- A. **Intent.** The R-3 Residence District is intended to provide areas offering a broad development range in housing units, yet retain the environment and character of less intensive areas through carefully established bulk and lot area requirements. Well designed townhouse projects and apartments would be examples of appropriate uses in the R-3 District.
- B. **Permitted Uses.** Permitted uses in the R-3 District can be found in *Table 12.12: Land Use Table* below.
- C. **Conditional Uses.** Conditional uses in the R-3 District can be found in *Table 12.12: Land Use Table* below.
- D. **Accessory Uses.**
1. Accessory buildings, pursuant to *Subdivision 10.1 (B): Accessory Buildings*.
 2. Fence, pursuant to *Subdivision 11.8: Fences, Hedges, Walls and Obstructions in All District*.
 3. Home occupation, pursuant to *Subdivision 10.4: Home Occupations*.
 4. Keeping of domestic animals pursuant to *Chapter 90* of the Litchfield City Code
 5. Off-street parking, loading and access drives, pursuant to *Subdivision 11.5: Parking and Loading*.
 6. Patio, deck, terrace and similar uses, pursuant to *Subdivision 10.1 (D): Patio, Deck, Terrace and Similar Use*.
 7. Signs, pursuant to *Subdivision 11.10: Signs*.
 8. Residential solar equipment, pursuant to *Subdivision 10.1 (E): Solar Equipment and Solar Rights*.
 9. Sport court or play equipment for private recreational use.
 10. Swimming pool, pursuant to *Subdivision 10.1 (F): Swimming Pool*.
 11. Other accessory uses incidental and customary to permitted and conditional uses of the district as determined by the Zoning Administrator or other Authorized Agent.
- E. **Dimensional Requirements.**
1. **Lot Area.** 3,600 square feet per dwelling unit.
 2. **Minimum Floor Area Per Unit.** 720 square feet.
 3. **Front Yard Setback.** 25 feet.
 4. **Corner Side Yard Setback.** 20 feet.
 5. **Interior Side Yard Setback.** 15 feet.
 6. **Rear Yard Setback.** 30 feet.
 7. **Principal Structure Height:** 35 feet.
- F. **Other Requirements.**

1. **Dwellings.** Single and two-family dwellings in the R-3 District shall be subject to the requirements of the R-2 District.
2. **Refuse Handling.** A fully screened enclosure shall be constructed for the storage of refuse for apartments with more than three units. The door to the enclosure shall remain closed outside of collection days.

12.5 B-1 LIMITED BUSINESS DISTRICT

- A. Intent.** The B-1 District includes commercial areas that are particularly exposed to existing and future residential neighborhoods. Thus, they are suitable only to those businesses relatively compatible with residential use.
- B. Permitted Uses.** Permitted uses in the B-1 District can be found in *Table 12.12: Land Use Table* below.
- C. Conditional Uses.** Conditional uses in the B-1 District can be found in *Table 12.12: Land Use Table* below.
- D. Accessory Uses.**
1. Accessory buildings, pursuant to *Subdivision 10.1 (B): Accessory Buildings*.
 2. Fence, pursuant to *Subdivision 11.8 Fences, Hedges, Walls and Obstructions in All District*.
 3. Off-street parking, loading and access drives, pursuant to *Subdivision 11.5: Parking and Loading*.
 4. Patio, deck, terrace and similar uses, pursuant to *Subdivision 10.1 (D): Patio, Deck, Terrace and Similar Use*.
 5. Signs, pursuant to *Subdivision 11.10: Signs*.
 6. Solar equipment, pursuant to *Subdivision 10.1 (E): Solar Equipment and Solar Rights*.
 7. Other accessory uses incidental and customary to permitted and conditional uses of the district as determined by the Zoning Administrator or other Authorized Agent.
- E. Dimensional Requirements.**
1. **Front Yard Setback.** 30 feet.
 2. **Corner Side Yard Setback:** 20 feet.
 3. **Interior Side Yard Setback:** 10 feet.
 4. **Rear Yard Setback:** 30 feet.
 5. **Building Height:** 40 feet.
- F. Other Requirements.**
1. **Dwellings.** Single and two-family dwellings in the B-1 District shall be subject to the requirements of the R-2 District.
 2. **Exterior Storage.** Exterior storage is prohibited in the B-1 District.

12.6 B-2 DOWNTOWN BUSINESS DISTRICT

- A. **Intent.** This is the area in and around the Litchfield Commercial Historic Downtown. The district is designed so a wide variety of lower-intensity commercial uses are permitted to serve the needs of Litchfield residents and visitors alike. The goal of this district is to encourage compact, pedestrian-oriented development and to respect existing land uses, development patterns and the historic character of the area.
- B. **Permitted Uses.** Permitted uses in the B-2 District can be found in *Table 12.12: Land Use Table* below.
- C. **Conditional Uses.** Conditional uses in the B-2 District can be found in *Table 12.12: Land Use Table* below.
- D. **Accessory Uses.**
1. Accessory buildings, pursuant to *Subdivision 10.1 (B): Accessory Buildings*.
 2. Fence, pursuant to *Subdivision 11.8 Fences, Hedges, Walls and Obstructions in All District*.
 3. Off-street parking, loading and access drives, pursuant to *Subdivision 11.5: Parking and Loading*.
 4. Patio, deck, terrace and similar uses, pursuant to *Subdivision 10.1 (D): Patio, Deck, Terrace and Similar Use*.
 5. Signs, pursuant to *Subdivision 11.10: Signs*.
 6. Solar equipment, pursuant to *Subdivision 10.1 (E): Solar Equipment and Solar Rights*.
 7. Other accessory uses incidental and customary to permitted and conditional uses of the district as determined by the Zoning Administrator or other Authorized Agent.
- E. **Dimensional Requirements.**
1. **Front Yard Setback.** 30 feet.
 2. **Corner Side Yard Setback.** 20 feet.
 3. **Interior Side Yard Setback.** 10 feet.
 4. **Rear Yard Setback.** 20 feet
 5. **Building Height.** 40 feet
- F. **Central Business District.**
1. Commercial and business structures in this district are exempt from setback and parking requirements. However, any proposed structure or addition must be approved by the City Council, following consideration by the Planning Commission, to determine whether the proposal is consistent with the City's Central Business District plans.
 2. The Central Business District shall consist of the area as follows: Bounded on the north by Fourth Street; on the east by a line one hundred fifty feet (150') east of and parallel to Marshall Avenue; on the south by Depot Street; and the west by a line one hundred fifty feet (150') west of and parallel to Ramsey Avenue.

G. Litchfield Commercial Historic District.

1. All buildings in the Litchfield Commercial Historic District must also apply for a Certificate of Appropriateness, to be reviewed by the Historic Preservation Commission, prior to commencing any exterior work or maintenance.
2. Please refer to City of Litchfield Map: Litchfield Historic Districts and the Commercial Historic District Design Guidelines.

B. Other Requirements.

1. **Exterior Storage.** Exterior storage is prohibited in the B-2 District.
2. **Dwellings.** Existing single and two-family dwellings in the B-2 District shall be subject to the requirements of the R-2 District.

12.7 B-3 ROADSIDE BUSINESS DISTRICT

- A. Intent.** These areas located along a major thoroughfare with convenient ingress and egress and limited in number to assure concentration, are suitable to those businesses that serve the long distance traveler, as opposed to the retail shopper.
- B. Permitted Uses.** Permitted uses in the B-3 District can be found in *Table 12.12: Land Use Table* below.
- C. Conditional Uses.** Conditional uses in the B-3 District can be found in *Table 12.12:: Land Use Table* below.
- D. Accessory Uses.**
1. Accessory buildings, pursuant to *Subdivision 10.1 (B): Accessory Buildings*.
 2. Fence, pursuant to *Subdivision 11.8 Fences, Hedges, Walls and Obstructions in All District*.
 3. Off-street parking, loading and access drives, pursuant to *Subdivision 11.5: Parking and Loading*.
 4. Patio, deck, terrace and similar uses, pursuant to *Subdivision 10.1 (D): Patio, Deck, Terrace and Similar Use*.
 5. Signs, pursuant to *Subdivision 11.10: Signs*.
 6. Solar equipment, pursuant to *Subdivision 10.1 (E): Solar Equipment and Solar Rights*.
 7. Exterior storage, pursuant to *Subdivision 10.2 (B): Exterior Storage in Commercial and Industrial Districts*.
 8. Other accessory uses incidental and customary to permitted and conditional uses of the district as determined by the Zoning Administrator or other Authorized Agent.
- E. Dimensional Requirements.**
1. **Front Yard Setback.** 30 feet.
 2. **Corner Side Yard Setback.** 20 feet.
 3. **Interior Side Yard Setback.** 10 feet.
 4. **Rear Yard Setback.** 20 feet.
 5. **Building Height.** 40 feet.
- F. Other Requirements.**
1. **Dwellings.** Single and two-family dwellings in the B-3 District shall be subject to the requirements of the R-2 District.

12.8 B-4 GENERAL BUSINESS DISTRICT

- A. Intent.** The B-4 District is designed for those businesses that tend to serve other businesses and industries in addition to the homeowner. They also tend to be less compatible with residential areas than other types of business. Because of the heavier commercial nature of the district, businesses in the zoning classification are concentrated and should be isolated from residential areas as much as possible.
- B. Permitted Uses.** Permitted uses in the B-4 District can be found in *Table 12.12: Land Use Table* below.
- C. Conditional Uses.** Conditional uses in the B-4 District can be found in *Table XXX: Land Use table* below.
- D. Accessory Uses.**
1. Accessory buildings, pursuant to *Subdivision 10.1 (B): Accessory Buildings*.
 2. Fence, pursuant to *Subdivision 11.8 Fences, Hedges, Walls and Obstructions in All District*.
 3. Off-street parking, loading and access drives, pursuant to *Subdivision 11.5: Parking and Loading*.
 4. Patio, deck, terrace and similar uses, pursuant to *Subdivision 10.1 (D): Patio, Deck, Terrace and Similar Use*.
 5. Signs, pursuant to *Subdivision 11.10: Signs*.
 6. Solar equipment, pursuant to *Subdivision 10.1 (E): Solar Equipment and Solar Rights*.
 7. Exterior storage, pursuant to *Subdivision 10.2 (B): Exterior Storage in Commercial and Industrial Districts*.
 8. Other accessory uses incidental and customary to permitted and conditional uses of the district as determined by the Zoning Administrator or other Authorized Agent.
- E. Dimensional Requirements.**
1. **Front Yard Setback.** 30 feet.
 2. **Corner Side Yard Setback.** 20 feet.
 3. **Interior Side Yard Setback.** 10 feet.
 4. **Rear Yard Setback.** 20 feet.
 5. **Building Height.** 40 feet.

12.9 I-1 LIMITED INDUSTRY DISTRICT

- A. **Intent.** These are areas which have the prerequisites for industrial development. However, because of proximity to residential areas or the desire to protect certain industries such as precision instrument manufacturing, there are higher development standards that do not apply to the other Industrial District. Lot area requirements are set high to prevent spotty, marginal industrial uses.
- B. **Permitted Uses.** Permitted uses in the I-1 District can be found in *Table 12.12: Land Use Table* below.
- C. **Conditional Uses.** Conditional uses in the I-1 District can be found in *Table 12.12: Land Use Table* below.
- D. **Accessory Uses.**
1. Accessory buildings, pursuant to *Subdivision 10.1 (B): Accessory Buildings*.
 2. Fence, pursuant to *Subdivision 11.8 Fences, Hedges, Walls and Obstructions in All District*.
 3. Off-street parking, loading and access drives, pursuant to *Subdivision 11.5: Parking and Loading*.
 4. Patio, deck, terrace and similar uses, pursuant to *Subdivision 10.1 (D): Patio, Deck, Terrace and Similar Use*.
 5. Signs, pursuant to *Subdivision 11.10: Signs*.
 6. Solar equipment, pursuant to *Subdivision 10.1 (E): Solar Equipment and Solar Rights*.
 7. Exterior storage, pursuant to *Subdivision 10.2 (B): Exterior Storage in Commercial and Industrial Districts*.
 8. Other accessory uses incidental and customary to permitted and conditional uses of the district as determined by the Zoning Administrator or other Authorized Agent.
- E. **Dimensional Requirements.**
1. **Lot Area.** 1 acre.
 2. **Lot Width.** 100 feet.
 3. **Minimum Floor Area.** 5000 square feet.
 4. **Front Yard Setback.** 40 feet.
 5. **Corner Side Yard Setback.** 30 feet.
 6. **Interior Side Yard Setback.** 20 feet.
 7. **Rear Yard Setback.** 20 feet.
 8. **Building Height.** 40 feet.
 9. **Additional Setback Requirement.** All structures shall have an additional setback (front, sides and rear), of one (1) foot for each one (1) foot of height over forty (40) feet.

F. **Performance Standards.** Levels of noise, odors, smoke, and particulate matter shall not exceed Minnesota Pollution Control Standards. All fabrication, manufacturing, processing, and production shall be undertaken within an enclosed building. Screening from residential districts shall be provided for outdoor storage of parts, materials, and products. Within the I-1 District, outdoor storage of raw materials, supplies, and finished and semi – finished products and equipment shall be permitted only if the storage area is totally screened from public view by a solid wall constructed of the same material as the principal structure unless otherwise authorized by the appropriate approval authority.

12.10 I-2 GENERAL INDUSTRY DISTRICT

- A. Intent.** The I-2 District includes areas suitable to “quasi-industrial” uses: machine shops, sheet metal firms, mill-working establishments and other small shops that do not create major nuisances, but which are nevertheless incompatible with residential and industrial development having a high standard of development.
- B. Permitted Uses.** Permitted uses in the I-2 District can be found in *Table 12.12: Land Use Table* below.
- C. Conditional Uses.** Conditional uses in the I-2 District can be found in *Table 12.12: Land Use Table* below.
- D. Accessory Uses.**
1. Accessory buildings, pursuant to *Subdivision 10.1 (B): Accessory Buildings*.
 2. Fence, pursuant to *Subdivision 11.8 Fences, Hedges, Walls and Obstructions in All District*.
 3. Off-street parking, loading and access drives, pursuant to *Subdivision 11.5: Parking and Loading*.
 4. Patio, deck, terrace and similar uses, pursuant to *Subdivision 10.1 (D): Patio, Deck, Terrace and Similar Use*.
 5. Signs, pursuant to *Subdivision 11.10: Signs*.
 6. Solar equipment, pursuant to *Subdivision 10.1 (E): Solar Equipment and Solar Rights*.
 7. Exterior storage, pursuant to *Subdivision 10.2 (B): Exterior Storage in Commercial and Industrial Districts*.
 8. Other accessory uses incidental and customary to permitted and conditional uses of the district as determined by the Zoning Administrator or other Authorized Agent.
- E. Dimensional Requirements.**
1. **Lot Width.** 100 feet.
 2. **Front Yard Setback.** 25 feet.
 3. **Corner Side Yard Setback.** 20 feet.
 4. **Interior Side Yard Setback.** 10 feet.
 5. **Rear Yard Setback.** 20 feet.
 6. **Building Height.** 40 feet.
 7. **Additional Setback Requirement.** All structures shall have an additional setback (front, sides and rear), of one (1) foot for each one (1) foot of height over forty (40) feet.
- F. Performance Standards.** Levels of noise, odors, smoke, and particulate matter shall not exceed Minnesota Pollution Control Standards. All fabrication, manufacturing, processing, and production shall be undertaken within an enclosed building. Screening from residential districts shall be provided for outdoor storage of parts, materials, and

products. Within the I-2 District, outdoor storage of raw materials, supplies, and finished and semi – finished products and equipment shall be permitted only if the storage area is totally screened from public view by a solid wall constructed of the same material as the principal structure unless otherwise authorized by the appropriate approval authority.

12.11 MINIMUM REQUIREMENTS BY ZONING DISTRICT

Table 12.11: Minimum Requirements by Zoning District													
Lot Requirements				Height	Principal Structure Setbacks				Accessory Structure Setbacks			Access drives	
	Floor Area	Lot Width	Lot Area	Principal Structure Height	Front	Corner Side	Interior Side	Rear	Corner Side	Interior Side	Rear		Setback from alley
R-1	960	75	9000	35	30	20	10	35	20	3	3	7	5
R-2	720	60	6000	30	20	20	8	25					
R-3	720 per unit	N/A	3600 per D/U	35	25	20	15	30					
B-1				40	30	20	10	30					
B-2				40	30	20	10	20					
B-3				40	30	20	10	30					
B-4				40	30	20	10	20					
I-1	5000	100	1 acre	40	40	30	20	20					
I-2		100		40	25	20	10	20					

A. Additional Setback Requirements

- Residential Dwellings.** Single and two-family dwelling units located in the B-1 and R-3 Districts shall conform to the standards of the R-2 District.
- Setbacks Adjacent to Residential Areas.** Where a business district is adjacent to or across the street from a residential district or use, the minimum building setback from the lot line shall be thirty (30) feet. In the case of industrial district, such minimum setback shall be fifty (50) feet.
- Zero Lot Line Setbacks.** Subject to the regulations contained in the Building Code and other applicable regulations, buildings shall be excluded from side and/or rear setback requirements provided party walls are used and the units are constructed as a common building at the same time.
- Shoreland Overlay District.** Additional setback requirements for properties within the Shoreland Overlay District can be found in Chapter 151 Shoreland Management.
- Railroad Exemption.** No side or rear setback shall be required for business and industrial uses when adjacent to the railroad right of way.

12.12 LAND USES

A. Use Regulations.

Except as provided for under *Subdivision 8.0 Nonconformities*, no building or premises may be devoted to uses other than as provided for as follows:

Table 12.12: Land Use Table									
	R-1	R-2	R-3	B-1	B-2	B-3	B-4	I-1	I-2
RESIDENTIAL									
Single family detached	P	P	P	P	C	C	C		
Duplex	C	P	P	P	C	C	C		
Townhomes/SF attached		P	P						
Apartment (second floor only)					P				
Apartments & condominiums			P						
State licensed residential facility serving six (6) or fewer persons licensed under Minnesota Rules, parts 9502.0315 to 9502.0445	P	P							
State licensed residential facility serving seven (7) or more persons licensed under Minnesota Rules, parts 9502.0315 to 9502.0445			P						
Mobile home park	C	C				C	C	C	C
Nursing home, retirement home or other similar congregate care facility serving the elderly or inform		C	C						
CIVIC & INSTITUTIONAL									
Cemetery	C		C						

	R-1	R-2	R-3	B-1	B-2	B-3	B-4	I-1	I-2
Government or community service use	C			P	P	P	P	P	P
Libraries/museums				P	P				
Higher education						P	P		P
Public park	P	P		P					
Religious institution	C	C	C	P		C	C		
School: primary or secondary	C	C		C					
COMMERCIAL									
Adult oriented use					P				
Animal grooming/veterinary							P		
Assembly hall				P	P				
Auto repair and service					C	P	P	P	P
Bank or financial institution				P	P	P	P		
Bed and Breakfast Inn	C	C							
<u>Cannabis retailer</u>							<u>P</u>		
<u>Cannabis medical retailer</u>							<u>P</u>		
Clubs and lodges			C	C	C				
Commercial day care facility			C	P	P	P	P		
Commercial recreation					C	P	P	P	P
Funeral home			C	P					
Gas station						P	P		P
Commercial Greenhouses	C					P	P	P	P
Hospital	C	C	C	P	P	P			
Hotel						P	P	C	C
Kennel	C	C		C		C	C	C	C
Offices				P	P	P	P	P	P
Off-street parking for adjacent commercial or industrial uses	C	C	C						

	R-1	R-2	R-3	B-1	B-2	B-3	B-4	I-1	I-2
Government or community service use	C			P	P	P	P	P	P
Libraries/museums				P	P				
Higher education						P	P		P
Public park	P	P		P					
Religious institution	C	C	C	P		C	C		
School: primary or secondary	C	C		C					
COMMERCIAL									
Adult oriented use					P				
Animal grooming/veterinary							P		
Assembly hall				P	P				
Auto repair and service					C	P	P	P	P
Bank or financial institution				P	P	P	P		
Bed and Breakfast Inn	C	C							
Cannabis retailer							P		
Cannabis medical retailer							P		
Clubs and lodges			C	C	C				
Commercial day care facility			C	P	P	P	P		
Commercial recreation					C	P	P	P	P
Funeral home			C	P					
Gas station						P	P		P
Commercial Greenhouses	C					P	P	P	P
Hospital	C	C	C	P	P	P			
Hotel						P	P	C	C
Kennel	C	C		C		C	C	C	C
Offices				P	P	P	P	P	P
Off-street parking for adjacent commercial or industrial uses	C	C	C						

Adult Oriented Businesses

§ 154.140 PURPOSE AND INTENT.

(A) Findings of the City Council. Research conducted by the Minnesota Attorney General, the American Planning Association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that Adult Oriented Businesses have in those communities. These studies have concluded that Adult Oriented Businesses have adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. Based on these studies and findings, the city council concludes;

(1) Adult Oriented Businesses have adverse secondary impacts of the types set forth above.

(2) The adverse impacts caused by Adult Oriented Businesses tend to diminish if Adult Oriented Businesses are governed by locational requirements, licensing requirements and health requirements.

(3) It is not the intent of the city council to prohibit Adult Oriented Businesses from having a reasonable opportunity to locate in the city.

(4) Minnesota Statutes, Section 462.357, allows the city to adopt regulations to promote the public health, safety and general welfare.

(5) The public health, safety and general welfare will be promoted by the city adopting regulations governing adult establishments.

The City Council of the City of Litchfield makes the following findings regarding the need to license Adult Oriented Businesses. The findings are based upon the experiences of other cities where such businesses have located, as studied by City staff.

1. Adult Oriented Businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services.
2. Adult Oriented Businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owner and operators of such facilities are regulated by licensing or other procedures.
3. Adult Oriented Businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure.

Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

4. Adult Oriented Businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
5. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

(B) Findings. It is the purpose of this Ordinance to regulate Adult Oriented Businesses to promote the health, safety and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- (1) Prevent additional criminal activity within the City.
- (2) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood.
- (3) To locate Adult Oriented Businesses away from residential areas, schools, churches, parks and playgrounds.
- (4) Prevent concentration of Adult Oriented Businesses within certain areas of the City.

(C) The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including Adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to Adult oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of Adult oriented entertainment to their intended market.
(Ord. 656, passed 1-3-2002)

§ 154.141 DEFINITIONS.

For purposes of this section the terms defined in this section have the meanings given them.

ADULT USE. Any of the activities and businesses described below constitutes “Adult Oriented Businesses” which are subject to the regulation of this Ordinance.

ADULT BOOK AND/OR MEDIA STORE. An establishment which excludes minors and which has a substantial portion of its stock in trade or stock on display books, magazines, films, videotape, or other media, which are characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

ADULT CABARET. An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

ADULT ESTABLISHMENT. Any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses and other adult establishments.

ADULT HOTEL OR MOTEL. Adult Hotel or Motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

ADULT MINI-MOTION PICTURE THEATER.

(1) A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity for less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

(2) Any business which presents motion pictures, from which minors are excluded from all or part of the establishment, including material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices and the viewing of excerpt of motion pictures offered for sale or rent.

ADULT MODELING STUDIO. An establishment, which excludes minors from all or part of the establishment, whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

ADULT MOTION PICTURE ARCADE. Any place which excludes minors from all or part of the establishment wherein coin or token operated or electronically or mechanically controlled or operated still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

ADULT MOTION PICTURE THEATER. A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities of Specified Anatomical Areas for observation by patrons herein.

ADULT NOVELTY BUSINESS. A business, from which minors are excluded from all or part of the establishment, which sells, offers to sell, or displays devices which stimulate human genitals or devices which are designed for sexual stimulation.

SPECIFIED ANATOMICAL AREAS. Includes any of the following conditions:

- (1) Less than completely and opaquely covered.
- (2) Human genitals, pubic region or pubic hair.
- (3) Buttock.
- (4) Female breast below a point immediately above the top of the areola.
- (5) Human male genitals in a discernible turgid state, even if opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following conditions:

- (1) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.
- (2) Sadomasochistic abuse, meaning flagellation or torture by or upon a person, who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound or otherwise physically restricted on the part of one so clothed.
- (3) Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed.
- (4) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or

between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
(Ord. 656, passed 1-3-2002)

§ 154.142 APPLICATION OF THIS ORDINANCE.

Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.

No Adult Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by ordinance of the City of Litchfield, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.
(Ord. 656, passed 1-3-2002)

§ 154.143 LOCATION.

During the term of this Ordinance, Adult Oriented Businesses shall be located only in the B-2 zoning district, subject to the following limitations. Within any B-2 zoning district, no Adult Oriented Business shall be located less than:

1. 200 feet from any residential zoning district;
2. 200 feet from any public park;
3. 500 feet from any church or religious site;
4. 500 feet from another Adult Oriented Business.

For purposes of this Ordinance, the distance shall be a horizontal measurement on a map from the Adult Oriented Business to the limiting element or elements as listed.
(Ord. 656, passed 1-3-2002)

§ 154.144 HOURS OF OPERATION.

No Adult Oriented Business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.
(Ord. 656, passed 1-3-2002)

§ 154.145 OPERATION:

(A) Off-Site Viewing. An establishment operating as an Adult Oriented Business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinance.

(B) Entrances. All entrances to the business, with the exception of emergency fire exits, which are not useable by patrons to enter the business, shall be visible from a public right-of-way, excluding alleyways.

(C) Layout. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, videotapes or any other material.

(D) Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of any person on the exterior of the premises.

(E) Signs. Signs for Adult Oriented Businesses shall comply with the City's ordinance for signs addressed in Section 25, and in addition, signs for Adult Oriented Businesses shall not City of Litchfield 51 Zoning Ordinance contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.
(Ord. 656, passed 1-3-2002)

§ 154.146 LICENSE REQUIRED.

No person shall own or operate an Adult Oriented Businesses within the City unless such person is currently licensed under this Ordinance.
(Ord. 656, passed 1-3-2002)

§ 154.147 LICENSE APPLICATION.

This application for a license under this Ordinance shall be made on a form supplied by the City Council (hereinafter referred to as the "Issuing Authority") and shall require the following information:

(A) All Applicants. For all applicants:

(1) Where the applicant is a natural person, corporation, partnership or other form of organization.

(2) The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimension of the interior of the premises to an accuracy of plus or minus six (6) inches.

(3) The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statutes, Section 233.01 shall be submitted.

(B) Applicants Who Are Natural Persons. If the applicant is a natural person:

(1) The name, place, and date of birth, street and city address and phone number of the applicant.

(2) Where the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.

(3) The street and city addresses at which the Applicant has lived during the preceding two (2) years.

(4) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two (2) years and name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.

(5) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.

(C) Applicants That Are Partnerships. If the applicant is a partnership:

(1) The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in subpart B of this Subsection.

(2) The name(s) of the managing partner(s) and the interest of each partner in the business.

(3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, Section 233.01, a certified copy of such certificate shall be attached to the application.

(D) Corporate or Other Applicants. If the applicant is a corporation or other organization:

(1) The name of the corporation or business form, and if incorporated, the state of incorporation.

(2) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 203.06, shall be attached.

(3) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of the applicants in subpart B of this Subsection.

(Ord. 656, passed 1-3-2002)

§ 154.148 LICENSE APPLICATION EXECUTION.

If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

(Ord. 656, passed 1-3-2002)

§ 154.149 LICENSE APPLICATION VERIFICATION.

Applications of licenses under this Ordinance shall be submitted to the Issuing Authority. Within twenty (20) calendar days of receipt of a complete application and payment of all license application fees, agents and/or employees of the Issuing Authority shall verify any and all of the information requested of the applicant in the application, including the ordering of criminal background checks and conduct any necessary investigation to assure compliance with this Ordinance.

(Ord. 656, passed 1-3-2002)

§ 154.150 LICENSE APPLICATION CONSIDERATION.

No later than ten (10) calendar days after the completion of the license application verification and investigation by the Issuing Authority or its agents and employees, as prescribed in Section 154.149, the Issuing Authority shall accept or deny the license application in accordance with this Ordinance. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided on the application form and it shall inform the applicant of the applicant's right within twenty (20) calendar days of receipt of the notice by the applicant, to request an appeal of the determination for reconsideration by the City Council or to immediately challenge the determination in a court of law. If an appeal to the City Council is timely received, the hearing before the City Council shall take place within twenty (20) calendar days of the receipt of the appeal. If an application is granted for a location where a building is under construction or

not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises by the City Planning Department. During the application consideration process prescribed herein, an applicant operating a business not previously subject to the license provisions of this Ordinance may remain operating pending the outcome of the application consideration by the Issuing Authority.
(Ord. 656, passed 1-3-2002)

§ 154.151 LICENSE FEES.

(A) Application Fee.

(1) The license application fee shall be One Thousand Dollars (\$1,000.00)

(2) The application license fee shall be paid in full before the application for a license is considered. All fees shall be paid to the Issuing Authority for deposit into the general fund of the City. Upon rejection of any application for a license or upon withdrawal of application before approval of the Issuing Authority the license fee shall be refunded to the applicant.

(3) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee of the initial license period shall be ninety (90) days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building.

(B) Investigation Fee.

(1) An applicant for any license under this Section shall deposit with the Issuing Authority, at the time an original application is submitted, \$1,000.00 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Section. The investigation fee shall be nonrefundable.
(Ord. 656, passed 1-3-2002)

§ 154.152 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

The Issuing Authority shall issue a license under this division to an applicant unless one (1) or more of the following conditions exists:

(A) The applicant is not eighteen (18) years of age or older on the date the application is submitted to the Issuing Authority;

(B) The applicant failed to supply all of the information requested on the license application;

(C) The applicant gave false, fraudulent, or untruthful information on the license application;

(D) The applicant has had an Adult Oriented Businesses license revoked from the City or any other jurisdiction within a one (1) year period immediately preceding the date the application was submitted;

(E) The applicant has had a conviction of a felony or gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses or adult uses in the past five (5) years;

(F) The Adult Oriented Businesses does not meet the zoning requirements prescribed in this Ordinance;

(G) The premises to be licensed as a Adult Oriented Businesses is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise or an establishment licensed to sell alcoholic beverages;

(H) The applicant has not paid the license and investigation fees required in Subsection 21.12.
(Ord. 656, passed 1-3-2002)

§ 154.153 LICENSE RESTRICTIONS.

(A) Posting of License. A license issued under this Ordinance must be posted in a conspicuous place in the premises for which it is used.

(B) Effect of License. A license issued under this Ordinance is only effective for the compact and contiguous space specified in the approved license application.

(C) Maintenance of Order. A licensee under this Ordinance shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this Ordinance shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge or approval of the licensee or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

(D) Distance Requirement for Live Adult Entertainment. All performers, dancers and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where such entertainment can be seen by patrons of the licensed facility shall remain at all times a minimum distance of ten (10) feet from all patrons, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two (2) feet from the level of the floor on which patrons or spectators are located.

(E) Interaction with Patrons. No dancer, performer or person providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where the entertainment can be seen by patrons of the licensed facility shall fondle or caress any spectator or patron.

(F) Gratuity Prohibition. No customers, spectator or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.

(G) Adult Car Wash Requirements. Adult Oriented Businesses that are adult car washes shall meet all of the requirements of this Ordinance.
(Ord. 656, passed 1-3-2002)

§ 154.154 RESTRICTIONS REGARDING LICENSE TRANSFER.

(A) The license granted under this Ordinance is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

(B) When a Adult Oriented Businesses licensed under this Ordinance is sold or transferred, the existing licensee shall immediately notify the Issuing Authority of the sale or transfer. If the new owner or operator is to continue operating the Adult Oriented Businesses the new owner or operator must immediately apply for a license under this Ordinance.
(Ord. 656, passed 1-3-2002)

§ 154.155 INSPECTIONS.

(A) Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division, to inspect the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law; at any time it is occupied or open for business.

(B) Refusal to Permit Inspections. A person who operates an Adult Oriented Business or his agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in Section 154.147.

(C) Exceptions. The provisions of this section do not apply to areas of an adult motel, which are currently being rented by a customer for use as a permanent or temporary habitation.
(Ord. 656, passed 1-3-2002)

§ 154.156 EXPIRATION AND RENEWAL.

(A) Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 154.147. Application for renewal must be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will not be affected.

(B) Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Ord. 656, passed 1-3-2002)

§ 154.157 SUSPENSION.

(A) Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with any provision of this Section.

(2) Engaged in the use of alcoholic beverages while on the Adult Oriented Business premises other than at an Adult Hotel or Motel.

(3) Refused to allow an inspection of the Adult Oriented Business premises as authorized by this Section.

(4) Knowingly permitted gambling by any person on the Adult Oriented Business premises.

(5) Demonstrated inability to operate or manage an Adult Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(B) Notice. A suspension by the City shall be procured by written notice to the licensee and a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally or by leaving the same at the licensed business premises with the person in charge thereof.

(Ord. 656, passed 1-3-2002)

§ 154.158 REVOCATION.

(A) Suspended Licenses. The City may revoke a license if a cause of suspension in Section 154.157 occurs and the license has been suspended within the preceding 12 months.

(B) Causes of Revocation. The City shall revoke a license if it determines that:

(1) A licensee gave false or misleading information in the material submitted to the City during the application process;

(2) A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;

(3) A licensee or an employee has knowingly allowed prostitution on the premises;

(4) A licensee or an employee knowingly operated the Adult Oriented Business during a period of time when the licensee's license was suspended;

(5) A licensee has been convicted of an offense listed in Section 154.152 E, for which the time period required in Section 154.152 E has not elapsed;

(6) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 154.152 E, for which a conviction has been obtained, and the person or persons were employees of the Adult Oriented Business at the time the offenses were committed.

(7) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

(C) Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(D) Exceptions. Section 154.158, B(7), does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act or sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view.

(E) Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business license for one year from the date the revocation becomes effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under Section 154.158, B (5), an applicant may not be granted another license until the appropriate number of years required under Section 154.152 E, has elapsed.

(F) Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served

upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

(Ord. 656, passed 1-3-2002)

§ 154.159 TRANSFER OF LICENSE.

A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Oriented Business under the authority of a license at any place other than the address designated in the application.

(Ord. 656, passed 1-3-2002)

§ 154.160 SEVERABILITY.

Every Section, Subsection, or part of this Ordinance or any permit issued to this ordinance is declared severable from every other Section, Subsection, or part thereof to the extent that if any Section, Subsection, or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction it shall not invalidate any other Section, Subsection, or part thereof.

(Ord. 656, passed 1-3-2002)

CHAPTER 155: URBAN STORM WATER POLLUTION CONTROL FOR NEW DEVELOPMENTS AND SIGNIFICANT REDEVELOPMENTS

- 155.01 Purpose
- 155.02 Scope
- 155.03 Definitions
- 155.04 Storm Water Pollution Control Plan
- 155.05 Review
- 155.06 Modification of Plan
- 155.07 Financial Securities
- 155.08 Notification of Failure of the Storm Water Pollution Control Plan
- 155.09 Variance
- 155.10 Enforcement.
- 155.11 Right of Entry and Inspection
- 155.12 Abrogation and Greater Restrictions
- 155.13 Severability
- 155.14 Effective Date

§ 155.01 PURPOSE.

The purpose of this ordinance is to control or eliminate storm water pollution along with soil erosion and sedimentation within the city and ensure where possible the annual runoff rates and volumes from post development site conditions mimic the annual runoff rates and volumes from predevelopment site.11 conditions. It establishes standards and specifications for conservation practices and planning activities, which minimize storm water pollution, soil erosion and sedimentation.

§ 155.02 SCOPE.

Except where a variance is granted, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity within the city shall apply to the city for the approval of the storm water pollution control plan. No land shall be disturbed until the plan is approved by the city and conforms to the standards set forth herein.

§ 155.03 DEFINITIONS.

These definitions apply to this ordinance. Unless specifically defined below, the words or phrases used in this ordinance shall have the same meaning as they have in common usage. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” and “must” are always mandatory and not merely directive.

APPLICANT. Any person or group that applies for a building permit, subdivision approval, or a permit to allow land disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's or group's direction. The term “applicant” also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

BEST MANAGEMENT PRACTICES (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

BUFFER. A protective vegetated zone located adjacent to a natural resource, such as a water of the state, that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat.

The buffer strip begins at the “ordinary high water mark” for wetlands and the top of the bank of the channel for rivers and streams. This start point corresponds to the Minnesota Department of Natural Resources’ definition of a “shoreline” in Minnesota Rules 6115.0030. Therefore a stream with a width of 30 feet between banks and 100 foot buffer strips has a total protected width of 230 feet.

Acceptable buffer vegetation includes preserving existing predevelopment vegetation and/or planting locally distributed native Minnesota trees, shrubs and grassy vegetation. Alteration of buffers is strictly limited. Buffer areas are designated with permanent markers.

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

DETENTION BASIN or DETENTION FACILITY. A temporary manmade storage facility containing runoff from rainfall and snowmelt events to control peak discharge rates and provide an opportunity for physical, chemical, and biological treatment of runoff to occur.

DEVELOPER. Any person, group, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.

DEVELOPMENT. Any land disturbance activity that changes the site’s runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration.

DISCHARGE. The release, conveyance, channeling, runoff, or drainage, of storm water, including snowmelt, from a construction site.

ENERGY DISSIPATION. This refers to methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to; aprons, riprap, splash pads, and gabions that are designed to prevent erosion.

EROSION CONTROL. Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

EROSION AND SEDIMENT PRACTICE SPECIFICATIONS OR PRACTICE. The

management procedures, techniques, and methods to control soil erosion and sedimentation as officially adopted by either the state, county, city or local watershed group, whichever is more stringent.

EXPOSED SOIL AREAS. All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered “exposed soil,” until it meets the definition of “final stabilization.”

FILTER STRIPS. A vegetated section of land designed to treat runoff as overland sheet flow. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.

FINAL STABILIZATION. Means that all soil disturbing activities at the site have been completed, and that a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of seventy-five (75) percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or range land, final stabilization constitutes returning the land to its preconstruction agricultural use.

HYDRIC SOILS. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

HYDROPHYTIC VEGETATION. Macrophytic (large enough to be observed by the naked eye) plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

IMPERVIOUS SURFACE. A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

LAND DISTURBANCE ACTIVITY. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government’s jurisdiction, including construction, clearing & grubbing, grading, excavating,

- (A) Minor land disturbance activities such as home gardens and an individual’s home landscaping, repairs, and maintenance work.
- (B) Additions or modifications to existing single family structures that which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and/or is part of a larger common development plan.
- (C) Construction, installation, and maintenance of fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface.

- (D) Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.
- (E) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible.

MPCA. The Minnesota Pollution Control Agency

NATIVE VEGETATION. The presettlement (Already existing in Minnesota at the time of statehood in 1858) group of plant species native to the local region that were not introduced as a result of European settlement or subsequent human introduction.

NEW DEVELOPMENT. All construction activity that is not defined as redevelopment.

ORDINARY HIGH WATER MARK. This is generally the boundary elevation where the vegetation changes from predominately aquatic (Where “aquatic” broadly means that the vegetation can survive moist conditions.) to terrestrial. This elevation delineates 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. Water often reaches this elevation in spring. For rivers and streams the ordinary high water mark is usually the top of the bank. It is less well defined for lakes and wetlands. The definition in Minnesota Statute 103G.005, subdivision 14 says that the “. . . “Ordinary high water level . . .” means the boundary of waterbasins, watercourses, public waters, and public waters wetlands, and:

- (1) the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- (3) for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
 - a. The term “ordinary high water mark” is further defined in Minnesota Rule 6120.2500, subpart 11. Ordinary high water marks are determined by the Minnesota Department of Natural Resources’ area hydrologist.

OUTSTANDING RESOURCE VALUE WATERS (ORVW). Minnesota Rule 7050.0180, subpart defines ORVW’s as, “...waters within the Boundary Waters Canoe Area Wilderness, Voyageur's National Park, and Department of Natural Resources designated scientific and natural areas, wild, scenic, and recreational river segments, Lake Superior, those portions of the Mississippi River from Lake Itasca to the southerly boundary of Morrison County that are included in the Mississippi Headwaters Board comprehensive plan dated February 12, 1981, and other waters of the state with high water quality, wilderness characteristics, unique scientific or ecological significance, exceptional recreational value, or other special qualities which warrant stringent protection from pollution.”

PAVED SURFACE. A constructed hard, smooth surface made of asphalt, concrete or other pavement material. Examples include, but are not limited to, roads, sidewalks, driveways and parking lots.

PERMANENT COVER. Means “final stabilization.” Examples include grass, gravel, asphalt, and concrete. See also the definition of “final stabilization.”

PERMIT. Within the context of this rule a “permit” is a written warrant or license granted for construction, subdivision approval, or to allow land disturbing activities.

PHASED PROJECT OR DEVELOPMENT. Clearing a parcel of land in distinct phases, with at least fifty percent (50%) of the project’s preceding phase meeting the definition of “final stabilization” and the remainder proceeding toward completion, before beginning the next phase of clearing.

PUBLIC WATERS. Waters of the State.

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

RUNOFF COEFFICIENT. The fraction of total precipitation that is not infiltrated into or otherwise retained by the soil, concrete, asphalt or other surface upon which it falls, that will appear at the conveyance as runoff. This coefficient is usually estimated for an event or on an average annual basis.

SEDIMENT. The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, wind, or ice, and has come to rest on the earth’s surface either above or below water level.

SEDIMENTATION. The process or action of depositing sediment.

SEDIMENT CONTROL. The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices are silt fences, sediment traps, earth

SIGNIFICANT REDEVELOPMENT. Alterations of a property that changes the “footprint” of a site or building in such a way that results in the disturbance of over one (1) acre of land. This term is not intended to include activities, which would not be expected to cause adverse storm water quality impacts and offer no new opportunity for storm water controls, such as exterior remodeling.

SOIL. The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes of this document temporary stockpiles of clean sand, gravel, aggregate, concrete or bituminous materials (which have less stringent protection) are not considered “soil” stockpiles.

STABILIZED. The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization.

STEEP SLOPE. Any slope steeper than One (1) foot of vertical rise for every three (3) feet of horizontal run.

STORM WATER. Under Minnesota Rule 7077.0105, subpart 41b storm water, “means precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.” (According to the Code of Federal Regulations (CFR) under 40 CFR 122.26 [b][13], “Storm water means storm water runoff, snow melt runoff and surface and drainage.”). Storm water does not include construction site dewatering.

STORM WATER POLLUTION CONTROL PLAN. A joint storm water and erosion and sediment control plan that is a document containing the requirements of Section 4, that when implemented will decrease soil erosion on a parcel of land and off-site nonpoint pollution. It involves both temporary and permanent controls.

STRUCTURE. Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

SUBDIVISION. Any tract of land divided into building lots for private, public, commercial, industrial, etc. development. Minnesota Rule 6120.2500, subpart 17 defines subdivision as, “. . . land that is divided for the purpose of sale, rent, or lease, including planned unit development.”

TEMPORARY PROTECTION. Short-term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.

TOTAL SUSPENDED SOLIDS (TSS). Total suspended solids (TSS) include all particles suspended in water which will not pass through a filter.

TOTAL PHOSPHORUS (TP). The total concentration of phosphorus found in the water.

URBAN Of, relating to, characteristic of, constituting a city.

VEGETATED OR GRASSY SWALE. A vegetated earthen channel that conveys storm water, while treating the storm water by biofiltration. Such swales remove pollutants by both filtration and infiltration.

WASTE AND MATERIAL DISPOSAL. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials), shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

WATERS OF THE STATE. As defined in Minnesota Statutes section 115.01, subdivision 22 the term “waters of the state” means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.”

WETLANDS. As defined in Minnesota Rules 7050.0130, subpart F, “. . . ‘wetlands’ are those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:

- (A) A predominance of hydric soils;
- (B) Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
- (C) Under normal circumstances support a prevalence of such vegetation.”

§ 155.04 STORM WATER POLLUTION CONTROL PLAN.

Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must submit a storm water pollution control plan to the city engineer. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until the city approves this plan. At a minimum these pollution abatement control practices must conform to those in the current version of the Minnesota Pollution Control Agency’s publication, “Protecting Water Quality in Urban Areas.”

(1) *General Policy on Storm Water Runoff.*

(A) Rate and Water Quality.

- i. For new development release rates, volume, TSS, and TP from the site on an annual average basis shall not increase over the predevelopment twenty-four (24) hour two (2) year, ten (10) year and one hundred (100) year peak storm discharge rates, based on the last ten (10) years of how that land was used. Also accelerated channel erosion must not occur as a result of the proposed activity.
- ii. For redevelopment there shall be a net reduction on an annual average basis for release rates, volume, TSS, and TP from the pre-project conditions twenty-four (24) hour two (2) year, ten (10) year and one hundred (100) year peak storm discharge rates, based on the last ten (10) years of how that land was used. Also accelerated channel erosion must not occur as a result of the proposed activity.

(B) Oil and grease control. Where the potential for pollution by oil, grease, or both, exists, the City may require installation of an oil and grease removal device designed to handle the volume and type of material anticipated.

(C) For projects where site constraints limit the ability to provide the required control practices within the project boundary; the project shall provide for downstream improvements for that portion that cannot be treated within project boundaries. Such projects may include:

- i. Linear projects where reasonable effort has been made to obtain sufficient right-of-way to install required control practices and said efforts have been

- unsuccessful;
 - ii. Sites where infiltration is prohibited;
 - iii. Other locations as determined by the City Engineer or designee.
- (D) Projects that have made reasonable effort but been unable to fully meet TSS and TP requirements within the project limits may upon authorization by the City Engineer or designee utilize the following methods to meet that portion not met onsite:
- i. Provide treatment that yields the same benefits in an offsite location to the same receiving water that receives runoff from the project site. If this is not feasible then;
 - ii. Provide treatment that yields the same benefits in an offsite location within the same Minnesota Department of Natural Resources catchment area as the project site. If this is not feasible then;
 - iii. Provide treatment that yields the same benefits in an offsite location within an adjacent Minnesota Department of Natural Resources catchment area upstream of the project site. If this is not feasible then;
 - iv. Provide treatment that yields the same benefits at a site approved by the City.
- (E) Offsite mitigation authorized in Paragraph (D) above shall be completed within 24-months of the begin of construction on the permitted site.
- (F) Applicants shall provide documentation showing compliance with (A) and (B) above. Acceptable options shall be:
- i. For Rate and Volume:
 - 1. Calculations shall be by a methodology listed in the MPCA Stormwater Manual or other method approved by the City Engineer or designee.
 - 2. For agricultural land subject to this section, the maximum runoff curve number (RCN) used in such calculations shall be 51 for Hydrologic Soil Group (HSG) A, 68 for hydrologic soil group B, 79 for HSG C, and 84 for HSG D.
 - 3. Heavily disturbed sites will be lowered one permeability class for hydrologic calculations. Lightly disturbed areas require no modification. Where practices have been implemented to restore soil structure to pre-developed conditions, no permeability class modification is required.
 - ii. For TSS and TP:
 - 1. Calculations shall be done using the Minimal Impact Design Standards (MIDS) Calculator available on the MPCA website, or
 - 2. Other method approved by the City Engineer or designee.
- (2) *The Storm Water Pollution Control Plan and the Grading Plan.* The storm water pollution control plan's measures, the limit of disturbed surface and the location of buffer areas shall

be marked on the approved grading plan, and identified with flags, stakes, signs etc. on the development site before work begins. Buffer areas shall meet the following criteria:

- (A) A protective buffer strip of natural vegetation including grass, rye and native prairie grasses, at least 50 feet in width from the high-water level shall surround all wetlands, retention, and detention basins and 100-foot from a special or impaired water.
 - (B) This buffer strip width may be modified with approval of the City Engineer or designee based on the topography of the area where such change shall provide equal or improved protection to the resource and provided that the resources total buffer area remains the same.
 - (C) Any existing drain tile shall be modified as part of the project to eliminate short circuiting of the buffer strip.
 - (D) New or enhanced buffer strips shall be maintained by the applicant for the later of 1-year after completion of the project or acceptance by the City.
- (3) *Inspections of the Storm Water Pollution Control Plan's Measures.*
- (A) Inspections shall be done every 7 calendar days by either the developer or the developer's designated representative, and within twenty-four (24) hours after an ½ inch storm.
 - (B) The developer or the developer's designated representative shall maintain inspection records which include the minimum following information:
 - i. Date and Time of Inspection
 - ii. Name of Person Performing Inspection
 - iii. Rainfall Amounts
 - iv. Deficiencies and Maintenance Needs Identified During the Inspection
 - v. Proposed Corrective Actions
 - vi. Date of Completion of Corrective Actions
 - (C) Where construction sites have permanent cover on all exposed soil areas and no construction activity is occurring during non-frozen ground conditions the inspection interval may be dropped to once per month.
 - (D) Where work has been suspended due to frozen ground, inspections may be suspended. Inspections must begin within 24 hours after runoff occurs at the site or 24 hours prior to resuming construction, whichever comes first.
- (4) *Minimum Requirements of the Storm Water Pollution Control Plan.* The Stormwater Management Plan shall be consistent with the version of the Minnesota Pollution Control Agency's NPDES Construction Permit Requirements and Minnesota Stormwater Manual in place at the time of application and shall contain or consider:
- (A) The name and address of the applicant and the location of the activity.
 - (B) Project description: the nature and purpose of the land disturbing activity and the amount of grading, utilities, and building construction involved.
 - (C) Phasing of construction: time frames and schedules for the project's various aspects.

- (D) A map of the existing site conditions: existing topography, property information, steep slopes, existing drainage systems/patterns, type of soils, public waters, waterways, wetlands, vegetative cover, one hundred (100) year flood plain boundaries, locations of existing and future buffer strips and labeling the portions of the site that are within state outstanding resource value water watersheds.
- (E) A site construction plan that includes
- i. location of the proposed land disturbing activities
 - ii. location of all existing and proposed impervious areas
 - iii. existing and proposed 1-foot increment contours
 - iv. proposed impervious surfaces
 - v. stockpile locations
 - vi. erosion and sediment control plan
 - vii. temporary and permanent stormwater BMPs including all stormwater drainage systems, drain tile, natural drainage ways, detention facilities, ect.
 - viii. site soils
 - ix. construction schedule
 - x. plan for the maintenance and inspections of the storm water pollution control measures
 - xi. copies of all permits or a list of all known needed permits required by any other governmental entity or agencies including but not limited to mitigation measures required as a result of any environmental review for the project.
- (F) Adjacent areas within ½ mile of the site: neighboring streams, lakes, residential areas, roads, etc., which might be affected by the land disturbing activity.
- (G) Designate the site's areas that have the potential for serious erosion problems.
- (H) Erosion and sediment control measures: the methods that will be used to control erosion and sedimentation on the site, both during and after the construction process.
- (I) Permanent stabilization: how the site will be stabilized after construction is completed, including specifications, time frames or schedules.
- (J) Calculations: any that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones and other applicable practices.
- (K) Site dewatering: Water may not be discharged in a manner that causes erosion or flooding of the site or of receiving channels or a wetland. Water pumped from the site shall be treated by one of the following processes: temporary sedimentation basins, grit chambers, sand filters, up flow chambers, hydrocyclones, swirl concentrators, or other controls as approved by the City Engineer or designee.
- (5) *General Storm Water Pollution Control Plan Criteria.* The plan shall address the following:
- (A) Stabilizing all exposed soils and soil stockpiles and the related time frame or schedule.

- (B) Establishing permanent vegetation and the related time frame or schedule.
 - (C) Preventing sediment damage to adjacent properties and other designated areas such as streams, wetlands, lakes and unique vegetation (Oak groves, rare and endangered species habitats, etc.)
 - (D) Scheduling for erosion and sediment control practices.
 - (E) Where permanent and temporary sedimentation basins will be located.
 - (F) Engineering the construction and stabilization of steep slopes.
 - (G) Measures for controlling the quality and quantity of storm water leaving a site.
 - (H) Stabilizing all waterways and outlets.
 - (I) Protecting storm sewers from the entrance of sediment.
 - (J) What precautions will be taken to contain sediment, when working in or crossing water bodies.
 - (K) Restabilizing utility construction areas as soon as possible.
 - (L) Protecting paved roads from sediment and mud brought in from access routes.
 - (M) The eventual disposing of temporary erosion and sediment control measures.
 - (N) How the temporary and permanent erosion and sediment controls will be maintained.
 - (O) The disposal of collected sediment and floating debris.
- (6) *Minimum Storm Water Pollution Control Measures and Related Inspections.* These minimum control measures are required where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the city engineer. The city will determine what action is necessary.
- (A) All grading plans and building site surveys must be reviewed by the city for the effectiveness of erosion control measures in the context of site topography and drainage.
 - (B) Sediment control measures must be properly installed by the builder before construction activity begins. Such structures may be adjusted during dry weather to accommodate short term activities, such as those allowing the passage of very large vehicles. As soon as this activity is finished or the end of the work day but no later than before the next runoff event, the erosion and sediment control structures must be properly reinstalled.
 - (1) A sediment control inspection must be scheduled, and passed before a footing inspection will be done.
 - (2) Stabilization must be initiated immediately to limit soil erosion whenever any construction activity has permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed no later than 14 calendar days after the construction activity in that portion of the site has temporarily or permanently ceased except that:

1. The normal wetted perimeter of any temporary or permanent drainage ditch or swale that drains water from the site or diverts water around the site, within 200 lineal feet from the property edge, or from the point of discharge into any surface water must be stabilized within 24 hours after connecting to the surface water or discharging from the site, and
 2. For sites that discharge to special and/or impaired waters stabilization shall be initiated immediately and in no case completed later than 7 days after construction activity has temporarily or permanently ceased.
- (3) The use of BMPs must include a maintenance and inspection schedule.
- (C) Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.
- (D) Easements. If a storm water management plan involves directing some or all of the site's runoff, the applicant or his designated representative shall obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of such water.
- (E) The scheduling of the site's activities to lessen their impact on erosion and sediment creation, so as to minimize the amount of exposed soil.
- (F) Control runoff as follows (Either 1 and 2 or 1 and 3):
- (1) Unless precluded by moderate or heavy snow cover (Mulching can still occur if a light snow cover is present.), stabilize all exposed inactive disturbed soil areas within two hundred (200) feet of any water of the state, or within two hundred (200) feet of any conveyance (curb, gutter, storm sewer inlet, drainage ditch, etc.) with sod, seed or weedfree mulch. This must be done, if the applicant will not work the area for seven (7) days on slopes greater than three (3) feet horizontal to one (1) foot vertical (3:1), fourteen (14) days on slopes ranging from 3:1 to 10:1 and twenty-one (21) days for slopes flatter than 10:1.
 - (2) For disturbed areas greater than five (5) acres construct temporary or permanent sedimentation basins. Each temporary sedimentation basin shall meet the following minimum criteria:
 - a. The basins must provide live storage for a calculated volume of runoff from a two (2)-year, 24-hour storm from each acre drained to the basin, except that in no case shall the basin provide less than 1,800 cubic feet of live storage from each acre drained to the basin; or where the calculation has not been done, providing 3,600 cubic feet of live storage per acre drained to the basin shall be provided for the entire drainage area of the temporary basin.
 - b. Temporary basin outlets must be designed to prevent short-circuiting and the discharge of floating debris.
 - c. The basin must be designed with the ability to allow complete basin drawdown for maintenance activities, and must include a stabilized

emergency overflow to prevent failure of pond integrity.

- d. The outlet structure must be designed to withdraw water from the surface in order to minimize the discharge of pollutants, except that the use of a surface withdrawal mechanism for discharge of the basin may be temporarily suspended during frozen conditions.
- e. Energy dissipation must be provided for the basin outlet.
- f. Sediment Basins must be situated outside of surface waters and any buffer zones, and must be designed to avoid draining water from wetlands unless a current and valid permit for wetland impact has been obtained in advance.
- g. The temporary basins must be constructed and made operational prior to disturbance of 5-acres.
- h. When site restrictions do not allow for a temporary sediment basin, equivalent measures such as smaller basins, check dams, and vegetated buffer strips can be included.
- i. For disturbed areas less than five (5) acres sedimentation basins are encouraged, but not required, unless required by the city engineer. The applicant shall install erosion and sediment controls at locations directed by the city. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences are required along channel edges to reduce the amount of sediment reaching the channel. Silt fences, rock check dams, etc. must be regularly inspected and maintained.
- j. For sites not required to install temporary sediment basins appropriate BMPs shall be placed along all side slopes and down-slope sides of the site. If a channel or area of concentrated runoff passes through the site, BMPs shall be utilized to reduce sediment reaching the channel.

(G) Sediment basins related to impervious surface area. Where a project's ultimate development replaces surface vegetation with one (1) or more acres of cumulative impervious surface, and all runoff has not been accounted for in a local unit of government's existing storm water management plan or practice, the runoff must be discharged to a detention facility prior to entering waters of the state.

- (1) At a minimum the work shall conform with the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas," and the current requirements found in the same agency's NPDES/SDS permits for storm water associated with construction activities.

(H) Generally, sufficient sediment control BMPs shall be required to hold all sheet flow runoff generated at an individual site, until it can either infiltrate or seep through silt fence's pores.

(I) Temporary stockpiling of fifty (50) or more cubic yards of excess soil on any lot or other vacant area shall not be allowed without issuance of a grading permit for the earth moving activity in question.

- (J) For soil stockpiles greater than ten (10) cubic yards the toe of the pile must be more than twenty-five (25) feet from a road, drainage channel or storm water inlet. If such stockpiles will be left for more than seven (7) days, they must be stabilized with mulch, vegetation, tarps or other means. If left for less than seven (7) days, erosion from stockpiles must be controlled with properly designed and installed sediment control BMPs.
- (K) If for any reason a soil or non-soil stockpile of any size is located closer than twenty five (25) feet from a road, drainage channel or storm water inlet, and will be left for more than seven (7) days, it must be covered with tarps or controlled in some other manner.
- (L) All non-soil (clean sand, gravel, concrete or bituminous) must at a minimum have a silt fencing or other effective sediment control measures installed.
- (M) All sand, gravel or other mining operations taking place on the development site shall apply for a Minnesota Pollution Control Agency National Pollutant Discharge Elimination System General Storm Water permit for industrial activities and all required Minnesota Department of Natural Resources permits.
- (N) Temporary rock construction entrances, or equally effective means of preventing vehicles from tracking sediment from the site, may be required wherever vehicles enter and exit a site.
- (O) Vehicle tracking of sediment from the site must be minimized by BMPs such as stone pads, concrete or steel wash racks, or equivalent systems. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.
- (P) Parking is prohibited on all bare lots and all temporary construction entrances, except where street parking is not available. Gravel entrances are to be used for deliveries only as per the development contract.
- (Q) Streets must be cleaned and swept whenever tracking of sediments occurs and before the site is left idle for weekends and holidays. A regular sweeping schedule should be established.
- (R) Water (impacted by the construction activity) removed from the site by pumping must be treated by temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. Such water shall not be discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property or a wetland.
- (S) All storm drain inlets must be protected with appropriate BMPs during construction until upstream BMPs or final site stabilization is in place eliminating potential sediment entry to the inlet are in place. BMPs used shall meet design criteria, standards and specifications as contained in the latest version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas."
- (T) Catch basins. All newly installed and rehabilitated catch basins must be provided with a sump area for collecting coarse-grained material. Such basins must be cleaned when they are half filled with material.

- (U) Roof drain leaders. All newly constructed and reconstructed buildings must route roof drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.
- (V) Removal from the project's site of more than one (1) acre of topsoil shall not be done, unless written permission is given by the city engineer. Excessive removal of topsoil from the project's site can cause significant current and future soil erosion problems.
- (W) Inspection and maintenance. All storm water pollution control management facilities must be designed to minimize the need of maintenance, to provide easy vehicle (a minimum 10-foot in width and designed to support 1-ton) and personnel access for maintenance purposes and be structurally sound. These facilities must have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in storm water runoff. The city or its designated representative shall inspect all storm water management facilities during construction, during the first year of operation and at least once every year thereafter.
 - (1) Inspection and maintenance access. It shall be the responsibility of the applicant to obtain and dedicate to the City any necessary property interests to allow access to the storm water management facilities for inspection and maintenance purpose.
- (X) The applicant shall be responsible for inspection and maintenance of all public stormwater management facilities constructed with the project until final acceptance by the City.
 - (1) If the city engineer or designee finds that stormwater facility maintenance is required during this period, a written notice shall be delivered to the developer. If the developer fails to take corrective action within the time period specified in the written notice, the Director or designee shall take corrective action to maintain the stormwater facility.
 - (2) The city engineer or designee shall keep a record of the total cost of the maintenance activity attributable to each lot or parcel of property and notify the property owner of the expense to be paid by the property owner. The Director or designee shall also notify the property owner that if the expense is not paid, the expense will be made a special assessment against the property concerned and report such information to the City Clerk-Administrator.
 - (3) On or before September 1 of each year, the City Clerk-Administrator shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this section. After notice and hearing as provided in M.S. § 429.061, the City Council may then spread the charges against the property benefited as a special assessment under M.S. § 429.101 and other pertinent statutes for certification to the County Auditor and collection along with the current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

- (Y) Where the City Council authorizes the construction of private stormwater management facilities, the applicant shall designate the responsible party for inspection and maintenance of all private stormwater management facilities in an agreement to be recorded against the properties being developed. In addition, the agreement shall provide for:
- (1) Description of anticipated maintenance activities and frequency.
 - (2) Access in perpetuity for inspection of the facilities by the City Engineer or designee.
 - (3) Access in perpetuity for maintenance of the facilities should the City Engineer or designee find that stormwater facility maintenance is required and upon written notice the property owners fail to take corrective action with the cost of such maintenance to be paid by the property owner.
 - (4) If the expense is not paid, the expense will be made a special assessment against the property concerned.
 - (5) On or before September 1 of each year, the City Clerk-Administrator shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable. After notice and hearing as provided in M.S. § 429.061, the City Council may then spread the charges against the property benefited as a special assessment under M.S. § 429.101 and other pertinent statutes for certification to the County Auditor and collection along with the current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.
- (Z) Follow-up inspections must be performed by the city on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant and/or builder to maintain proper erosion and sediment control at all sites.
- (1) In cases where cooperation is withheld, construction stop orders may be issued by the city, until all erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.
- (AA) All infiltration areas must be inspected to ensure that sediment from ongoing construction activities is not reaching infiltration areas, and that these areas are also being protected from soil compaction from the movement of construction equipment.

(7) Permanent Storm Water Pollution Controls.

- (A) The applicant shall install, construct, or pay the city fees for all permanent storm water management facilities necessary to manage increased runoff, so that the discharge rates from storm water treatment basins, such that the predevelopment twenty-four (24) hour two (2) year, ten (10) year, and one hundred (100) year peak storm discharge rates are not increased. These predevelopment rates shall be based on the last ten (10) years of how that land was used. Accelerated channel erosion must not occur as a result of the proposed land disturbing or development activity.

An applicant may also make an in-kind or a monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

- (1) All calculations and information used in determining these peak storm discharge rates shall be submitted along with the storm water pollution control plan.
- (B) The applicant shall consider reducing the need for permanent storm water management facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of treated (e.g., settled) water without compromising the integrity or quality of the wetland or pond.
- (C) The following permanent storm water management practices must be investigated in developing the storm water management part of the storm water pollution control plan in the following descending order of preference:
 - (1) Protect and preserve as much natural or vegetated area on the site as possible, minimizing impervious surfaces. Direct runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches.
 - (2) Flow attenuation of treated storm water by the use of open vegetated swales and natural depressions.
 - (3) Infiltration of runoff on site. The water quality volume that must be infiltrated on sites which create 1.0 or more acres of new impervious shall be one (1) inch of runoff from the new impervious surfaces created by the project.
 - i. Calculations shall use the appropriate Hydrologic Soil Group Classification and saturated infiltration rates unless specific rates are measured by a registered soil scientist.
 - ii. Infiltration shall be prohibited where:
 1. Industrial facilities not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the MPCA,
 2. Vehicle fueling and maintenance occur,
 3. Less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock can be achieved,
 4. High levels of contaminants in soil or groundwater will be mobilized by the infiltrating stormwater,
 - iii. Infiltration shall be restricted without higher engineering review, sufficient to provide a functioning treatment system without adverse impacts to groundwater, when:
 1. Soil infiltration rates are more than 8.3 inches per hour.
 2. Soils are predominately Hydrologic Soil Group D (clay), except where soil amendment will allow for appropriate infiltration.

3. Within the City's Drinking Water Supply Management Area (DWSMA)
 - (4) Flow attenuation by use of open vegetated swales and natural depressions; and
 - (5) Storm water detention facilities; and
 - (6) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection (D) above. The applicant shall provide justification for the method selected.
- (D) Projects must include creation of new or retrofit existing structural stormwater best management practices or utilize properly designed regional structural stormwater best management practices. Routine maintenance of existing structural stormwater best management practices does not meet the requirement to provide stormwater management under this division.
- (E) Structural Stormwater Best Management Practices installed to fulfill the requirements of this Ordinance shall be maintained in compliance with the approved maintenance plan. Where no plan is in place they shall be maintained in compliance with accepted Industry Standard and Minnesota Pollution Control Agency recommendations. No Structural Stormwater Best Management Practices shall be removed or altered in such a way to decrease structural Stormwater Best Management Practices effectiveness without:
 - (1) Authorization of the city engineer or designee; and
 - (2) Providing new or improved Structural Stormwater Best Management Practices providing or exceeding that amount lost due to the alteration or removal.
- (8) *Minimum Design Standards for Storm Water Detention Facilities.*
 - (A) At a minimum these facilities must conform to the most current technology as reflected in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas", the current requirements found in the same agency's NPDES permits for storm water associated with construction activities, and the following:
 - (1) A minimum protective shelf at the normal water level extending ten feet into the permanent pool with a slope of ten-to-one (10:1), beyond which slopes should not exceed four-to-one (4:1);
 - (2) A device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations; such devices may include but are not limited to skimmers, grease traps, trash traps, filters, and other similar devices;
 - (3) A forebay to remove coarse-grained particles prior to discharge into a watercourse or storage basin. A grit separation structure may be installed in lieu of a forebay when approved by the City Engineer.
 - (4) To provide proper protection for adjacent property within the first tier from the pond, the design storm interval for the ponding area is a 100-year, 24-hour storm. A reinforced emergency overland overflow system must be established for the health and safety of the area. Where an overland overflow system cannot

be established a correctly sized conveyances for 100-yr, 24-hour storm flows shall be constructed in place of the overland overflow system. The conveyance shall be in addition to any pond outlets and shall not take the place of them.

(9) *Minimum Protection for Natural Wetlands.*

- (A) Runoff must not be discharged directly into wetlands without appropriate quality (e.i., treated) and quantity runoff control, depending on the individual wetland's vegetation sensitivity. See the current version of the Minnesota Pollution Control Agency's publication, "Storm-Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands" for guidance.
- (B) Wetlands must not be drained or filled, wholly or partially, unless replaced by either restoring or creating wetland areas of at least equal public value. Compensation, including the replacement ratio and quality of replacement should be consistent with the requirements outlined in the Board of Water and Soil Resources rules that implement the Minnesota Wetland Conservation Act of 1991 including any and all amendments to it.
- (C) Work in and around wetlands must be guided by the following principles in descending order of priority:
 - (1) Avoid both the direct and indirect impact of the activity that may destroy or diminish the wetland.
 - (2) Minimize the impact by limiting the degree or magnitude of the wetland related activity.
 - (3) Rectify the impact by repairing, rehabilitating, or restoring the affected wetland environment with one of at least equal public value.
 - (4) Reduce or eliminate the adverse impact over time by preservation and maintenance operations during the life of the activity.

(10) *Vegetated Buffer Protection for Rivers, Streams and Wetlands.*

- (A) At the minimum a vegetated buffer strip on each bank the width of one hundred (100) feet (forty (40) feet for most wetlands) or rivers, streams and outstanding resource value wetlands, shall be provided. If possible, such a buffer strip shall consist of predevelopment native vegetation. Ideally for rivers or streams, a shade tree canopy in the part of the buffer zone closest to the stream channel should be established. Buffer width shall be increased at least two (2) feet (four (4) feet for all wetlands) for every one (1) percent of slope of the surrounding land. Natural wetlands adjacent to rivers and streams are not counted as buffer strips. They are considered a natural resource worthy of protection in their own right. Therefore the widths of natural wetlands are not counted as part of the river or stream's buffer strip. Such wetlands rate their own forty-foot (40) plus vegetated buffer strip.
 - (1) Detailed buffer design is usually site specific. Therefore the city engineer can require a larger buffer than the minimum.
 - (2) For newly constructed buffer sites the design criteria should follow common principles and the example of nearby natural areas. The site should be examined

for existing buffer zones and mimic that slope structure and vegetation as much as possible. Buffer design and protection during construction should do any or all of the following: slow water runoff, trap sediment, enhance water infiltration, trap fertilizers, pesticides, pathogens, heavy metals, trap blowing snow and soil, and act as corridors for wildlife. How much stress is put on these functions will determine the buffer zone's final configuration.

- (3) The applicant or a designated representative shall maintain the buffer strip for the first year. After that the city, or a party designated by the city, shall maintain the buffer strip.
 - (4) If a drain tiles will short-circuit the benefits of vegetated buffer strips the drain tile should be rendered inoperable.
 - (5) Buffer strips can be made into perpetual conservation easements.
 - (6) Buffer strips shall be marked as such with permanent markers.
 - (7) The city engineer may allow buffer area averaging in cases where averaging will provide additional protection to either the resource or environmentally valuable adjacent upland habitat, provided that the resource's total buffer area remains the same.
- (B) Water courses used solely for drainage, such as road side ditches, are exempt from this provision. Minnesota Pollution Control Agency Class 7 limited resource (Waters not protected for aquatic habitat or recreational use) value waters are also exempt from this provision, unless the Class 7 water is directly tributary to a state designated Outstanding Resource Value Water.
- (C) Minimal width public recreational and educational trails in vegetated buffer strips are exempt from this provision provided that the buffer strip's width is increased by the width of the trail (i.e. A 10 foot wide trail in a 100 foot buffer strip increases the true width of the strip plus the trail to 110 feet.)

(11) *Models/Methodologies/Computations.*

Hydrologic models and design methodologies used for the determining runoff characteristics and analyzing storm water management structures must be approved by the city engineer. Plans, specifications and computations for storm water management facilities submitted for review must be sealed and signed by a registered professional engineer. All computations must appear in the plans submitted for review, unless otherwise approved by the city engineer.

(1) *Additional State Outstanding Resource Value Water Requirements.*

- (A) Storm water discharges from new development that are either directly to or directly upstream of a state outstanding resource value water there shall be no increase in either the volume or rate of discharge from any design storm with a statistical recurrence interval of less than the twenty-four (24) hour ten (10) year event (i.e., for the two (2) year, five (5) year and ten (10) storm events), unless diversion is impractical and/or the soil is not suitable for storm water infiltration, even if aided by a groundwater interceptor drainage system and/or evaporation/transpiration techniques. For redevelopment sites, there shall be a net decrease in both volume and rate of discharge unless otherwise directed by the city engineer. These rules

includes tributaries directly to such waters.

- (1) The phrase, “tributaries directly to,” refers to tributaries within at least one Minnesota Department of Natural Resources Division of Waters minor watershed of the designated water. At its discretion the city may extend this area of protection.
 - (2) The phrase, “soil not suitable for storm water infiltration techniques,” means soils with permeability values worst that Group B soils (less than two and a half (2.5) inches per hour) as defined by the U.S. Department of Agriculture’s Natural Resources Conservation Service (NRCS) or a high water table is present. If permeability is worse than Group B soils and a high water table is not present, the
 - a) Where soil permeability is “not suitable for storm water infiltration techniques,” additional design considerations to enhance the infiltration rate and/or other measures shall be employed as required by the city engineer. Such measures should include grassy swales or similar techniques, which use evaporation/transpiration or other approaches to achieve the same goal. Vigorous efforts shall be made reduce storm water runoff volumes as much as site conditions allow.
 - (3) Storm water controls using infiltration shall have protection against silt plugging, such as settling basins, grit chambers, forebays, or manhole silt sumps.
 - (4) Since calcareous fens are fed by ground water a hydro-geologist shall evaluate the impact of storm water runoff volumes, rates, and infiltration. The findings of the hydro-geologist shall be the basis of the storm water management plan for the site.
- (B) During construction temporary sedimentation basins are required for disturbed areas over one (1) acre.
- (C) Storm water treatment devices that remove oil and floatable material (e.g., basin outlets with submerged entrances) must be part of BMP systems.
- (D) Where feasible lightly used vehicle traffic areas such as overflow parking lots should use pervious surfaces.
- (E) If the proposed project site includes a tributary that currently experiences erosion and/or sedimentation problems, the applicant shall work with the city to include channel modifications in the project that will also address the existing erosion and/or sedimentation problem.
- (F) Permanent buildings erected on sites that border directly on and all tributaries to a Minnesota Pollution Control Agency designated Outstanding Resource Value Water must not be occupied until the permanent vegetative cover has been established. Such cover must meet this definition of “final stabilization.”
- (G) The applicant shall consider methods for reducing the amount of impervious surface on the site.
- (1) Disking in compost or in some other manner that increases the porosity of the soil that will become covered by lawns.

- (2) Reduced road widths.
 - (3) Eliminating paving in the center of cul de sacs.
 - (4) Reducing sidewalk widths.
 - (5) Allowing and providing for shared parking.
 - (6) Installing semi permeable/permeable or porous paving.
 - (7) Vegetated swales with reinforced pavement edges instead of curb and gutter.
 - (8) Filter strips
 - (9) “Green” (vegetated) roofs.
 - (10) Storm water gardens designed to minimum silt plugging, where road salt is not a limiting factor.
- (B) Water courses used solely for drainage, such as road side ditches, are exempt from this provision.

§ 155.05 REVIEW.

The city engineer shall review the storm water pollution control plan. This review must be completed with ten (10) days of receiving the plan from the applicant.

- (1) *Permit Required.* If the city determines that the storm water pollution control plan meets the requirements of this ordinance, the city shall issue a permit valid for a specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of the storm water pollution control plan.
- (2) *Permit Denial.* If the city determines that the storm water pollution control plan does not meet the requirements of this ordinance, the city shall not issue a permit for the land disturbance activity.
 - (A) All land use and building permits for the site in question must be suspended until the applicant has an approved storm water pollution control plan.
- (3) *Permit Suspension and Revocation.* If the storm water pollution control plan is not being implemented the city can suspend or revoke the permit authorizing the land disturbance activity.
- (4) *Duration.* Approval of plans shall expire one year after the date of approval unless construction has commenced in accordance with the plan, or the applicant makes a written request to the city engineer for extension. The city engineer or designee may grant one extension of not greater than one year.

§ 155.06 MODIFICATION OF PLAN.

An approved storm water pollution control plan may be modified on submission of a written application for modification to the city, and after written approval by the city engineer. In reviewing such an application, the city engineer may require additional reports and data.

- (1) *Records Retention.* The city shall retain the written records of such modifications in compliance with the City’s records retention policy.

§ 155.07 FINANCIAL SECURITIES.

The total security amount in the project's development contract with the city (sanitary sewer, water main, storm sewer, street construction, monuments, street lighting, street signs, monuments, etc.) shall also provide security for the performance of work approved by the city in the storm water pollution control plan and any storm water and pollution control plan related remedial work, if the development contract's security totals at least three thousand dollars (\$3,000) per acre for the maximum acreage of soil that will be simultaneously exposed during the project's construction. (See the definitions of "exposed soil area" and "final stabilization" for clarification.). If this security is less than the three thousand dollars (\$3,000) per acre value, then it shall be increased to three thousand dollars (\$3,000).

The city may request a greater financial security, if the city considers that the development site is especially prone to erosion, or the resource to be protected is especially valuable.

The fact that the total security in the project's development contract can be drawn from to pay for the performance of the work approved by the city in the storm water pollution control plan and any storm water pollution control plan related remedial work shall be clearly stated in the developer's contract with the city.

If more soil is simultaneously exposed to erosion than originally planned, the amount of the security shall increase in relation to this additional exposure.

- (2) *Maintaining the Financial Security.* If at anytime during the course of the work this amount falls below 50% of the required deposit, the applicant shall make another deposit in the amount necessary to restore the deposit to the required amount within five (5) days. Otherwise the city may:
 - (A) Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 - (B) Revoke any permit issued by the city to the applicant for the site in question and any other of the applicant's sites within the city's jurisdiction.
- (3) *Proportional Reduction of the Financial Security.* When more than one-third of the applicant's maximum exposed soil area achieves final stabilization, the city can reduce the total required amount of the financial security by one-third, if recommended in writing by the city engineer. When more than two-thirds of the applicant's maximum exposed soil area achieves final stabilization, the city can reduce the total required amount of the financial security to two thirds of the initial amount, if recommended in writing by the city engineer.
- (4) *Action Against the Financial Security.* The city may act against the financial security, if any of the conditions listed below exist. The city shall use funds from this security to finance any corrective or remedial work undertaken by the city or a contractor under contract to the city and to reimburse the city for all direct cost incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.
 - (A) The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the city approved grading plan.
 - (B) The applicant fails to conform to any city approved grading plan and/or the storm water pollution control plan as approved by the city, or related supplementary instructions.

- (C) The techniques utilized under the storm water pollution control plan fail within one (1) year of installation.
 - (D) The applicant fails to reimburse the city for corrective action taken under Section 8.
 - (E) Emergency action under either part 7.4 or any part of Section 8.
- (5) *Emergency Action.* If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the city engineer, the city may take emergency preventative action. The city shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the city may be recovered from the applicant's financial security.
- (6) *Returning the Financial Security.* Any unspent amount of the financial security deposited with the city for faithful performance of the storm water pollution control plan and any storm water and pollution control plan related remedial work must be released not more than one (1) full year after the completion of the installation of all such measures and the establishment of final stabilization.

§ 155.08 NOTIFICATION OF FAILURE OF THE STORM WATER POLLUTION CONTROL PLAN.

The city shall notify the applicant, when the city is going to act on the financial securities part of this ordinance.

- (1) *Notification by the City.* The initial contact will be to the party or parties listed on the application and/or the storm water pollution control plan as contacts. Except during an emergency action under Section 7.4, forty-eight (48) hours after notification by the city or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the city at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the city has been unable to establish contact, the city may proceed with the corrective work.
- (A) There are conditions when time is of the essence in controlling erosion. During such a condition the city may take immediate action, and then notify the applicant as soon as possible.
- (2) *Erosion Off-Site.* If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the city, shall more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the city, the applicant does not repair the damage caused by the erosion, the city may do the remedial work required and charge the cost to the applicant.
- (3) *Erosion into Streets, Wetlands or Water Bodies.* If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, prevention strategies, cleanup and repair must be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

- (4) *Failure to Do Corrective Work.* When an applicant fails to conform to any provision of this Sections 7 or 8 within the time stipulated, the city may take the following actions:
- (A) Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 - (B) Suspend or revoke any permit issued by the city to the applicant for the site in question or any other of the applicant's sites within the city's jurisdiction.
 - (C) Direct the correction of the deficiency by city forces or by a separate contract. The issuance of a permit for land disturbance activity constitutes a right-of-entry for the city or its contractor to enter upon the construction site for the purpose of correcting erosion control deficiencies.
 - (D) All costs incurred by the city in correcting storm water pollution control deficiencies must be reimbursed by the applicant. If payment is not made within thirty (30) days after costs are incurred by the city, payment will be made from the applicant's financial securities as described in Section 7.
 - (E) If there is an insufficient financial amount in the applicant's financial securities as described in Section 7, to cover the costs incurred by the city, then the city may assess the remaining amount against the property. As a condition of the permit for land disturbance activities, the owner shall waive notice of any assessment hearing to be conducted by the city, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of the assessment.

§ 155.09 VARIANCE.

In any case where, upon application of the responsible person or persons, the city finds that by reason of exceptional circumstances, strict conformity with this ordinance would be unreasonable, impractical, or not feasible under the circumstances; the city in its discretion may grant a variance therefrom upon such conditions as it may prescribe for prevention, control, or abatement of pollution in harmony with the general purposes of this ordinance. The public shall be given the opportunity for comment.

- (1) *Variance Request.* The variance request must be in writing in a form acceptable to the city.
- (2) *Variance Public Notice.* The variance request shall be public noticed in the normal manner used for city council meeting items, to allow the public an opportunity for comment.
- (3) *Variance Determination.* After the public has been given the right to comment, the variance shall either be approved or disapproved by a vote of the city council.
- (4) *Variance Response.* The variance response must be in writing, and include the justification for either granting or denying the requested variance. A favorable response shall also include any special conditions imposed by the city.
- (5) *Variance Expiration Date.* The variance shall become void not more than one (1) year after being granted, unless used.
- (6) *Variance Revocation.* If any of the variance's conditions are violated, the city may revoke the variance.

§ 155.10 ENFORCEMENT.

The City has adopted an Enforcement Response Procedure Document that includes penalties for violation of this Ordinance which is hereby referenced as part of this Ordinance.

§ 155.11 RIGHT OF ENTRY AND INSPECTION.

(1) Powers. The applicant shall promptly allow the city and their authorized representatives, upon presentation of credentials to:

- (A) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.
- (B) Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.
- (C) Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
- (D) Inspect the storm water pollution control measures.
- (E) Sample and monitor any items or activities pertaining to storm water pollution control measures.
- (F) Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be born by the applicant.

§ 155.12 ABROGATION AND GREATER RESTRICTIONS.

It is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. In the event of any conflict between the provisions of this division and, the provisions of any erosion control or shoreland protection regulation adopted by the City Council, or the provisions of any erosion control or public water regulations by any regulatory agency with jurisdiction the more restrictive standard shall prevail. Where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

§ 155.13 SEVERABILITY.

The provisions of this ordinance are severable, and if any provisions of this ordinance, or application of any provision of this ordinance to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this ordinance must not be affected thereby.

§ 155.14 EFFECTIVE DATE.

This ordinance will take effect and be in force after its passage and official publication.

(Ord.773, passed 12-22-2015)

CHAPTER 156: FLOODPLAIN MANAGEMENT ORDINANCE

Section

156.10 *Statutory Authorization, Findings of Fact and Purpose*

- 156.11 Statutory Authorization
- 156.12 Findings of Fact
- 156.13 Statement of Purpose

156.20 *General Provisions*

- 156.21 Lands to Which Ordinance Applies
- 156.22 Establishment of Official Zoning Map
- 156.23 Regulatory Flood Protection Elevation
- 156.24 Interpretation
- 156.25 Abrogation and Greater Restrictions
- 156.26 Warning and Disclaimer of Liability
- 156.27 Severability
- 156.28 Definitions
- 156.29 Annexations

156.30 *Establishment of Zoning Districts*

- 156.31 Districts
- 156.32 Compliance

156.40 *Loadway District (FW)*

- 156.41 Permitted Uses
- 156.42 Standards for Floodway Permitted Uses
- 156.43 Conditional Uses
- 156.44 Standards for Floodway Conditional Uses

156.50 *Flood Fringe District (FF)*

- 156.51 Permitted Uses
- 156.52 Standards for Flood Fringe Permitted Uses
- 156.53 Conditional Uses
- 156.54 Standards for Flood Fringe Conditional Uses
- 156.55 Standards for All Flood Fringe Uses

156.60 *General Flood Plain District and Zone a Lakes*

- 156.61 General Floodplain District
- 156.62 Zone A Lakes

156.70 Subdivisions

- 156.71 Land Suitability Review Criteria
- 156.72 Requirements for Floodway/Flood Fringe Determinations
- 156.73 Removal of Special Flood Hazard Area Designation

156.80 Utilities, Railroads, and Bridges

- 156.81 Public Utilities
- 156.82 Public Transportation Facilities
- 156.83 On-site Sewage Treatment and Water Supply Systems

156.90 Manufactured Homes/Travel Trailers and Travel Vehicles

- 156.91 New Manufactured Home Parks
- 156.92 Replacement Manufactured Homes- Existing Parks
- 156.93 Recreational Vehicles

156.100 Administration

- 156.101 Zoning Administrator
- 156.102 Permits, Certification Requirements and Record Keeping
- 156.103 Appeals and Variances/Duties of the Board of Adjustment
- 156.104 Conditional Uses-Standards and Evaluation Procedures

156.110 Nonconforming Uses

- 156.111 Nonconforming Uses

156.120 Penalties For Violation

- 156.121 Penalties for Violation

156.130 Amendments

- 156.131 Amendments

**LITCHFIELD PLAIN MANAGEMENT ORDINANCE
THREE DISTRICT - ONE-MAP FORMAT¹**

¹A Flood Insurance Rate Map has been published for the community and the Regulatory Floodway boundary is shown on this map. A separate Flood Boundary and Floodway Map has not been published.

§ 156.10 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

§ 156.11 STATUTORY AUTHORIZATION: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Litchfield, Minnesota does ordain as follows:

(Ord. 758, passed 04-02-2012)

§ 156.12 FINDINGS OF FACT:

- (A) The flood hazard areas of the City of Litchfield, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (B) Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
- (C) National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(Ord. 758, passed 04-02-2012)

§ 156.13 STATEMENT OF PURPOSE: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 156.12(A) by provisions contained herein.

(Ord. 758, passed 04-02-2012)

§ 156.20 GENERAL PROVISIONS

§ 156.21 LANDS TO WHICH ORDINANCE APPLIES: This Ordinance shall apply to all lands within the jurisdiction of the City of Litchfield, Minnesota shown on the Official Zoning

Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

(Ord. 758, passed 04-02-2012)

§ 156.22 ESTABLISHMENT OF OFFICIAL ZONING MAP: The Official Zoning Map together with all materials attached

thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study, Meeker County, Minnesota And Incorporated Areas and Flood Insurance Rate Map panels therein numbered 27093C0193C, 27093C0194C, 27093C0306C, 27093C0307C and 27093C0350C, all documents being dated April 3, 2012 and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Office of the City Administrator and the Code Enforcement Officer.

(Ord. 758, passed 04-02-2012)

(Note: For future annexation of floodplain lands, it is a requirement of the National Flood Insurance Program that a community legally apply the provisions of its floodplain ordinance to the annexed land on the date of annexation (see Section 156.29 that follows). The flood insurance rate map panels adopted into Section 156.22 above must be inclusive enough so that they encompass all of the unincorporated area of the county that may be annexed into the city into the foreseeable future. This may mean that a city will need to adopt flood insurance rate map panels in addition to those flood map panels that contain the current corporate boundaries of the city.)

§ 156.23 REGULATORY FLOOD PROTECTION ELEVATION: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

(Ord. 758, passed 04-02-2012)

§ 156.24 INTERPRETATION:

- (A) In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- (B) The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of

the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

(Ord. 758, passed 04-02-2012)

§ 156.25 ABROGATION AND GREATER RESTRICTIONS: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

(Ord. 758, passed 04-02-2012)

§ 156.26 WARNING AND DISCLAIMER OF LIABILITY: This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Litchfield, Minnesota or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

(Ord. 758, passed 04-02-2012)

§ 156.27 SEVERABILITY: If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

(Ord. 758, passed 04-02-2012)

§ 156.28 DEFINITIONS: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

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

BASEMENT - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

CONDITIONAL USE - means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(A) Certain conditions as detailed in the zoning ordinance exist.

(B) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

EQUAL DEGREE OF ENCROACHMENT - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FLOOD - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE - that portion of the flood plain outside of the floodway.

FLOOD PLAIN - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

FLOOD PROOFING - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

LOWEST FLOOR - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

MANUFACTURED HOME - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

OBSTRUCTION - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

PRINCIPAL USE OR STRUCTURE - means all uses or structures that are not accessory uses or structures.

REACH - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a

stream or river between two consecutive bridge crossings would most typically constitute a reach.

RECREATIONAL VEHICLE - a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

REGIONAL FLOOD - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood."

REGULATORY FLOOD PROTECTION ELEVATION - The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

STRUCTURE - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 156.93(A) of this Ordinance and other similar items.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (B) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

VARIANCE - means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

(Ord. 758, passed 04-02-2012)

§ 156.29 ANNEXATIONS: The Flood Insurance Rate Map panels adopted by reference into Section 156.22 above may include floodplain areas that lie outside of the corporate boundaries of the City of Litchfield, Minnesota at the time of adoption of this Ordinance. If any of these floodplain land areas are annexed into the City of Litchfield, Minnesota after the date of adoption of this Ordinance, the newly annexed floodplain lands shall be subject to the provisions of this Ordinance immediately upon the date of annexation into the City of Litchfield, Minnesota.

(Ord. 758, passed 04-02-2012)

§ 156.30 ESTABLISHMENT OF ZONING DISTRICTS

§ 156.31 DISTRICTS:

(A)*Floodway District.* The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 156.22. For lakes, wetlands and other basins, the Floodway District shall include those areas designated as Zone A and Zone AE (without a floodway designated) on the Flood Insurance Rate Map panels adopted in Section 156.22 that are below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

(B)*Flood Fringe District.* The Flood Fringe District shall include those areas designated as floodway fringe, which shall include the areas shown on the Flood Insurance Rate Map, adopted in Section 156.22, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe District shall include those areas designated as Zone A and Zone AE (without a floodway designated) on the Flood Insurance Rate Map panels adopted in Section 156.22 that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

(C)*General Flood Plain District.* The General Flood Plain District shall include those areas designated as Zone A on the Flood Insurance Rate Map adopted in Section 156.22, which are not subject to criteria in 156.31(A) and 156.31(B) above.

(Ord. 758, passed 04-02-2012)

§ 156.32 COMPLIANCE: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Sections 156.40, 156.50 and 156.60 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

(A) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 516.90.

(B) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 156.110.

(C) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 156.100 of this Ordinance.

(Ord. 758, passed 04-02-2012)

§ 156.40 FLOODWAY DISTRICT (FW)

§ 156.41 PERMITTED USES:

(A) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(B) Industrial-commercial loading areas, parking areas, and airport landing strips.

(C) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

(D) Residential lawns, gardens, parking areas, and play areas.

(Ord. 758, passed 04-02-2012)

§ 156.42 STANDARDS FOR FLOODWAY PERMITTED USES:

(A) The use shall have a low flood damage potential.

(B) The use shall be permissible in the underlying zoning district if one exists.

- (C) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
(Ord. 758, passed 04-02-2012)

§ 156.4.3 CONDITIONAL USES:

- (A) Structures accessory to the uses listed in 156.41 above and the uses listed in 156.43(B) - 156.43(H) below.
- (B) Extraction and storage of sand, gravel, and other materials.
- (C) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- (D) Railroads, streets, bridges, utility transmission lines, and pipelines.
- (E) Storage yards for equipment, machinery, or materials.
- (F) Placement of fill or construction of fences.
- (G) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 156. 93 of this Ordinance.
- (H) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.
(Ord. 758, passed 04-02-2012)

§ 156.44 STANDARDS FOR FLOODWAY CONDITIONAL USES:

- (A) All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- (B) All floodway conditional uses shall be subject to the procedures and standards contained in Section 156.104 of this Ordinance.
- (C) The conditional use shall be permissible in the underlying zoning district if one exists.

(D) Fill:

- (1) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
- (2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
- (3) As an alternative, and consistent with Subsection (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

(E) Accessory Structures:

- (1) Accessory structures shall not be designed for human habitation.
- (2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
 - (a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - (b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (3) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:
 - (a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
 - (b) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
 - (c) To allow for the equalization of hydrostatic pressure, there must be a minimum of two
“automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

- (F) Storage of Materials and Equipment:
- (1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
- (G) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.
- (H) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

§ 156.50 FLOOD FRINGE DISTRICT (FF)

§ 156.51 PERMITTED USES: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District "Permitted Uses" listed in Section 156.52 and the "Standards for all Flood Fringe Uses" listed in Section 156.55. (Ord. 758, passed 04-02-2012)

§ 156.52 STANDARDS FOR FLOOD FRINGE PERMITTED USES:

- (A) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
- (B) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with Section 156.44(E)(3).
- (C) The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 156.52(A) of this ordinance.

(D) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(E) The provisions of Section 156.55 of this Ordinance shall apply.
(Ord. 758, passed 04-02-2012)

§ 156.53 CONDITIONAL USES: Any structure that is not elevated on fill or flood proofed in accordance with Section 156.52(A) - 156.52(B) and or any use of land that does not comply with the standards in Section 156.52(C) - 156.52(D) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 156.54-156.55 and 156.104 of this Ordinance.
(Ord. 758, passed 04-02-2012)

§ 156.54 STANDARDS FOR FLOOD FRINGE CONDITIONAL USES:

- (A) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
- (1) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - (2) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - (a) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

- (b) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
- (B) Basements, as defined by Section 156.28(*BASEMENT*) of this Ordinance, shall be subject to the following:
- (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
 - (2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 156.54(C) of this Ordinance.
- (C) All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
- (D) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.
- (E) Storage of Materials and Equipment:
- (1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
- (F) The provisions of Section 156.55 of this Ordinance shall also apply.
(Ord. 758, passed 04-02-2012)

§ 156.55 STANDARDS FOR ALL FLOOD FRINGE USES:

- (A) All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
 - (B) Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
 - (C) Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 156.55(B) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
 - (D) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
 - (E) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
 - (F) Standards for recreational vehicles are contained in Section 156.93.
 - (G) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- (Ord. 758, passed 04-02-2012)

§ 156.60 GENERAL FLOOD PLAIN DISTRICT AND ZONE A LAKES**§ 156.61 GENERAL FLOOD PLAIN DISTRICT:**

(A) Permissible Uses:

- (1) The uses listed in Section 156.41 of this Ordinance shall be permitted uses.
- (2) All other uses shall be subject to the 1% annual chance flood (100-Year Flood Elevations) and/or Floodway and Flood Fringe determinations criteria pursuant to Sections 156.61(B) below. Section 156.40 shall apply if the proposed use is in the Floodway District and Section 156.50 shall apply if the proposed use is in the Flood Fringe District.

(B) Procedures for 1% annual chance flood (100-Year Flood Elevations) and/or Floodway and Flood Fringe Determinations for Streams Located Within the General Flood Plain District:

- (1) Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.
 - (a) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - (b) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
 - (c) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
 - (d) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- (2) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood (100-Year Flood Elevations), if not available, whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
 - (a) Estimate the peak discharge of the regional flood.
 - (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(3) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 156.40 and 156.50 of this Ordinance.

(Ord. 758, passed 04-02-2012)

§ 156.62 ZONE A LAKES: Procedures for determining 1% annual chance flood elevations (100-YR flood elevations) for lakes located in Zone A:

(A) Upon receipt of an application for a permit or other approval within a Zone A, the Zoning Administrator will use the 1% annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the 1% annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Zoning Administrator for the determination for the 1% annual chance flood elevation in accordance with approved FEMA methods.

(B) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood elevation (100-year flood elevation). Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.

(C) Once the 1% annual chance flood elevation (100-year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of Section 156.40 and 156.50 of this Ordinance depending on whether the use is in the Floodway district or the Flood Fringe District, respectively, as determined by the criteria in sections 156.31(A) and 156.31(B) of this ordinance.

(Ord. 758, passed 04-02-2012)

§ 156.70 SUBDIVISIONS

§ 156.71 REVIEW CRITERIA: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents. (Ord. 758, passed 04-02-2012)

§ 156.72 REQUIREMENTS FOR FLOODWAY/FLOOD FRINGE DETERMINATIONS:

1% chance annual flood (100-Year Elevations) and/or Floodway/Flood Fringe Determinations. Applicants shall provide the information required in Section 156.60 of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site as applicable. (Ord. 758, passed 04-02-2012)

§ 156.73 REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested. (Ord. 758, passed 04-02-2012)

§ 156.80 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

§ 156.81 PUBLIC UTILITIES. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation. (Ord. 758, passed 04-02-2012)

§ 156.82 PUBLIC TRANSPORTATION FACILITIES. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 156.40 and 156.50 of this Ordinance. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or

where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(Ord. 758, passed 04-02-2012)

§ 156.83 ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

(Ord. 758, passed 04-02-2012)

§ 156.90 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES.

§ 156.91 NEW MANUFACTURED HOME PARKS and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 156.70 of this Ordinance.

(Ord. 758, passed 04-02-2012)

§ 156.92 REPLACEMENT MANUFACTURED HOMES – EXISTING PARKS. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 156.50 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 156.55(A), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

- (A) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(Ord. 758, passed 04-02-2012)

§ 156.93 RECREATIONAL VEHICLES that do not meet the exemption criteria specified in Section 156.93(A) below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 156.93(C)- 156.93(D) below.

- (A) Exemption - Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 156.93(B) below and further they meet the following criteria:
- (1) Have current licenses required for highway use.
 - (2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
 - (3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
- (B) Areas Exempted For Placement of Recreational Vehicles:
- (1) Individual lots or parcels of record.
 - (2) Existing commercial recreational vehicle parks or campgrounds.
 - (3) Existing condominium type associations.
- (C) Recreational vehicles exempted in Section 156.93(A) lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 156.40 and 156.50 of this Ordinance. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
- (D) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
- (1) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 156.55(A) of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.
 - (2) All new or replacement recreational vehicles not meeting the criteria of (1) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of 156.104 of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 156.93(A) (1) and (2) of this Ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 156.83 of this Ordinance.

(Ord. 758, passed 04-02-2012)

§ 156.100 ADMINISTRATION

§ 156.101 ZONING ADMINISTRATOR. The Code Enforcement Officer or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 156.120 of the Ordinance.

(Ord. 758, passed 04-02-2012)

§ 156.102 PERMITS, CERTIFICATION REQUIREMENTS AND RECORD KEEPING.

Permit Requirements:

- (A) Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
- (B) Application for Permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
- (C) State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.
- (D) Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
- (E) Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of

zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 156.120 of this Ordinance.

- (F) Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.
- (G) Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
- (H) Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- (I) Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

(Ord. 758, passed 04-02-2012)

§ 156.103 BOARD OF AJUSTMENT:

- (A) Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.
- (B) Administrative Review. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.
- (C) Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or

circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- (1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (2) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (D) Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
- (E) Decisions. The Planning Commission shall arrive at a decision on such appeal or variance within 60 days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in Section 156.104(F), which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Section 156.120. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- (F) Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in this community's official controls and also by Minnesota Statutes.

(G)Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(Ord. 758, passed 04-02-2012)

§ 156.104 CONDITIONAL USES. The Planning Commission shall hear and decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the Code Enforcement Officer who shall forward the application to the Planning Commission for consideration.

(A)Hearings. Upon filing with the Planning Commission an application for a conditional use permit, the Code Enforcement Officer shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

(B)Decisions. The Planning Commission shall arrive at a decision on a conditional use within 60 days. In granting a conditional use permit the Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 10.4(F), which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance punishable under Section 156.120. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(C)Procedures to be followed by the Planning Commission_ in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

- (1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning Commission for determining the suitability of the particular site for the proposed use:
 - (a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and
 - (b) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (2) Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the

seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

- (3) Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(D) Factors Upon Which the Decision of the Planning Commission Shall Be Based. In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this Ordinance, and:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (12) Such other factors which are relevant to the purposes of this Ordinance.

(E) Time for Acting on Application. The Planning Commission shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to 156.104(C) of this Ordinance. The Planning Commission shall render a written decision within 60 days from the receipt of such additional information.

(F) Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning Commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- (1) Modification of waste treatment and water supply facilities.
- (2) Limitations on period of use, occupancy, and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

- (5) Flood proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(Ord. 758, passed 04-02-2012)

§ 156.110 *NONCONFORMING USES*

§ 156.111 *NONCONFORMING USES.*

A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 156.28(*SUSTANTIAL DAMAGE*)(1) of this Ordinance, shall be subject to the provisions of Sections 156.111(A) – 156.111(E) of this Ordinance.

- (A) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
- (B) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 156.111(C) and 156.111(F) below.
- (C) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 156.40 or 156.50 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
- (D) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.
- (E) If any nonconforming use or structure is substantially damaged, as defined in Section 156.28(*SUBSTANTIAL DAMAGE*) of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for

establishing new uses or new structures in Sections 156.40, 156.50 or 156.60 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

- (F) If a substantial improvement occurs, as defined in Section 156.28 (*SUBSTANTIAL IMPROVEMENT*) of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 156.40 or 156.50 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(Ord. 758, passed 04-02-2012)

§ 156.120 PENALTIES FOR VIOLATION

§ 156.121 Violation of the provisions of this Ordinance 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.

(Ord. 758, passed 04-02-2012)

§ 156.122 Nothing herein contained shall prevent the City of Litchfield from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

- (A) In responding to a suspected Ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- (B) When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

- (C) The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.
- (D) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

(Ord. 758, passed 04-02-2012)

§ 13.0 AMENDMENTS

§ 156.131 AMENDMENTS. The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

(Ord. 758, passed 04-02-2012)

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

(Ord. 758, passed 04-02-2012)

CHAPTER 157: RENTAL PROPERTY REGISTRATION ORDINANCE

Section

- 157.01 Purpose
- 157.02 Scope
- 157.03 Definitions
- 157.04 Rental Manager Required
- 157.05 Registration Application
- 157.06 Transfers and Changes
- 157.07 Registration Fee
- 157.08 Violations

- 157.09 Penalties

§ 157.01 PURPOSE.

The city intends to use the information collected to quantify the amount of rental housing available in the city, and to track the needs and availability of rental housing as the population and needs of the city change. This information is also intended to be used to enforce city ordinances that relate to the safety and condition of the rental units.
(Ord. 774, passed 1-04-2016)

§ 157.02 SCOPE.

The provisions of this chapter shall apply to all buildings or portions thereof used, or designed or intended to be let for human habitation. Rest homes, convalescent homes, licensed group homes, nursing homes, hotels, and motels are exempt from the provisions of this chapter.
(Ord. 774, passed 1-04-2016)

§ 157.03 DEFINITIONS.

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

APARTMENT BUILDING. A multi-family building containing dwelling units in a stacked configuration, having common walls and floors/ceilings.

APPLICANT. A natural person completing the registration form prescribed herein.

CITY. The City of Litchfield, Minnesota.

DWELLING. A building wholly or partly used or intended to be used for living, sleeping, cooking, or eating purposes by human occupants, but not including hotels and motels.

DWELLING UNIT OR RENTAL UNIT. A room or group of rooms located within a dwelling or apartment building which are used or intended to be used for living, sleeping, cooking and eating purposes.

LET. To give the use of a dwelling, dwelling unit or rooming unit by an owner or manager to an occupant in return for rent.

MANAGER. A person who has the charge, care, or control of a building or part thereof in which dwelling units or rooming units are let on behalf of the owner, and is able to respond in person to issues related to the rental property.

OCCUPANT. Any person living, sleeping, cooking, or eating in, or having actual possession of, dwelling unit or rooming unit.

OWNER. A person, firm, or corporation who, alone, jointly or severally with others, owns or has an ownership interest in a dwelling, dwelling unit or rooming unit within the city. Owner shall include any agent or manager designated by the owner to be responsible for the rental property, but the owner shall remain responsible for full compliance with this chapter.

PREMISES. Includes the dwelling and its land and all buildings thereon and areas thereof.

RENT. A stated return or payment for the temporary possession of a dwelling, dwelling unit or rooming unit. The return or payment may be money, service, property, or other valuable consideration.

RENTAL PROPERTY. Any dwelling, dwelling unit, rooming unit, or multiples thereof on one property and the related premises which are subject to this chapter.

ROOMING UNIT. A room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes, along with private or shared sanitation facilities.

TENANT. A person who does not own, but occupies a dwelling unit or rental unit for payment of a fee or other compensation to the owner under a lease or contract, written or verbal.

MEANING OF CERTAIN WORDS. Words in the singular include the plural and the plural the singular. When a specific position is identified, such as Code Enforcement Officer, it shall include designated agents. Whenever a specific place is referred to, it shall be construed to include any part of the said location.

(Ord. 774, passed 1-04-2016)

§ 157.04 RENTAL MANAGER REQUIRED.

Each owner of rental property shall appoint a rental manager upon whom the city may lawfully serve notices pertaining to the administration of this or any other chapter of the city code or state or federal law, service of which shall be as effective as if made upon such rental property owner.

The owner may serve as the manager, provided all requirements of a manager prescribed within this chapter are met by the owner.
(Ord. 774, passed 1-04-2016)

§ 157.05 REGISTRATION APPLICATION.

The owner or manager of any rental property intended to be let or currently being let shall register the rental property with the city by June 30, 2016. After June 30, 2016, the application shall be filed with the city at least 30 days prior to any rental property being let.

Registration of each rental property shall be made on a separate form provided by the city, and shall include the following information:

- (1) The name, address, telephone and email address (if applicable) of the owner and manager of the rental property;
- (2) The name, address, telephone and email address (if applicable) of the person completing the registration form;
- (3) The name of the rental property complex, if applicable;
- (4) The rental property building type, number of rental property units, and address of the rental property.

(Ord. 774, passed 1-04-2016)

§ 157.06 TRANSFERS AND CHANGES.

Within 30 days of transfer of ownership, change in manager, change in number of rental units, or a change in dwelling occupancy from owner-occupant to non-owner-occupant, the owner or manager shall complete and submit a registration application for any rental property affected by the transfer or change.

Owners or managers shall provide the full names, telephone numbers addresses, and e-mail addresses (if known) of the principal tenant of all Rental Units to the Code Enforcement Officer as soon as possible upon request, but no later than 5 days after receiving the request. Owners or managers shall also notify the Code Enforcement Officer within 10 days if the rental unit is vacant.
(Ord. 774, passed 1-04-2016)

§ 157.07 REGISTRATION FEE.

The registration fee shall be set by the city in an ordinance adopting the city's fees schedule. The fee, if any, shall be paid at the time the registration form is submitted to the city.
(Ord. 774, passed 1-04-2016)

§ 157.08 VIOLATIONS.

It is unlawful for any person to operate or cause to be operated any rental property in the city without first registering the property with the city as set forth herein.

It is unlawful for any person to provide false information on the prescribed registration form.

It is unlawful to fail to submit a new application as required in section 5.1 herein or to fail to provide the principal tenant's information as required in section 5.2 herein.
(Ord. 774, passed 1-04-2016)

§ 157.09 PENALTIES.

The first violation by an individual of any of the provisions of this chapter within any 24 month period shall be considered a petty misdemeanor. Any subsequent offenses by the same person for any violation of this chapter within 24 months of a previous conviction shall be a misdemeanor.

Each day that a violation continues shall be a separate punishable offense.
(Ord. 774, passed 1-04-2016)