

**TITLE XV: LAND USAGE**

Chapter

**150. [RESERVED]**

**151. ZONING**

**152. DEMOLITION OF DAMAGED OR UNSAFE BUILDINGS**



**CHAPTER 150: [RESERVED]**

## CHAPTER 151: ZONING

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***GENERAL PROVISIONS*****151.001 ENACTMENT AND PURPOSE.**

This chapter which shall be known and cited as the City of Buhl Zoning Code, a code setting minimum and maximum standards for the height and size of buildings, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings and land for trade, commerce, industry, residence, and other purposes; creating districts for said purposes and establishing the boundaries thereof; providing for changes in regulations, restrictions, and boundaries of such districts; defining certain terms used herein; providing for enforcement and administration and imposing

penalties for the violation of this chapter. The jurisdiction of this chapter shall include all lands within the corporate limits of the City of Buhl, Minnesota.

(Ord. 98-05, passed 7-21-98)

**§ 151.002 DEFINITIONS.**

(A) Captions, headings, titles, and the key words used in sections and sections are inserted herein for convenience and to facilitate the use of this chapter.

(B) For the purpose of this chapter, certain words and terms are herein defined.

(C) Words used in the present tense include the future tense; the singular number includes the plural and the plural includes the singular; the word "shall" is mandatory and not merely directory.

***ACCESSORY BUILDING.*** A subordinate building or structure on the same lot or a part of the principal building, occupied by or devoted exclusively to an accessory use.

***ACCESSORY USE.*** A use clearly and customarily subordinate and incidental to the principal permitted use of the premises.

***ALLEY.*** A public or private right-of-way primarily designed to serve as secondary access to land or structures on a property whose principal frontage is on a street.

***APARTMENT.*** A single room or set of rooms occupied as a dwelling unit that is part of a multiple-family dwelling.

***BASEMENT.*** That portion of a building which is one-half or more below grade. If the height of the ceiling is five feet or more above grade such basement shall be considered a story.

***BLOCK.*** A tract of land bounded by streets, or a combination of streets and public parks, cemeteries,

railroad rights-of-way, shorelines of waterways, municipal boundary lines, township lines, or county lines.

**BOARD, LODGING or ROOMING HOUSE.**

Any residential building, or portion thereof, containing lodging rooms which accommodate persons who are not members of the keeper's family. Lodging or meals or both are provided for compensation on a weekly or monthly basis. Motels, hotels, or apartment hotels are not included in this category.

**BUILDABLE AREA.** The part of a lot not included within the yards required by this chapter.

**BUILDING.** Any structure, permanently affixed to a lot, used for the support, shelter, protection, or enclosure of persons, animals, equipment, machinery, materials or property of any kind. When any portion of a building is completely separated from every other part by division walls from the ground up and is without openings, each portion of such building shall be deemed as a separate building. The connection of two buildings by means of an open porch, breezeway, passageway, or other such open structure, with or without a roof, shall not be deemed to make them one building.

**BUILDING, DETACHED.** A building surrounded by an open space on the same lot as another building.

**BUILDING PERMIT.** A permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is to be located.

**BUILDING, PRINCIPAL.** A non-accessory building in which a principal use of the lot on which it is located is conducted.

**CLINIC.** A public or proprietary institution providing diagnostic or preventive treatment for ambulatory patients by a group of doctors or dentists, or both, who have their offices in the same building.

**CLUB or LODGE.** Structures and facilities owned and/or operated by an association of persons, for a social, educational, or recreational purpose but not primarily for profit and not primarily to render a service which is customarily carried on as a business. Said persons shall be bona fide members paying annual dues and the use of such premises is restricted to members and their guests. It shall be permissible to serve food, meals, and beverages on such premises provided it is secondary and incidental to some other common objective of the organization and all applicable local and state laws are complied with.

**CONDITIONAL USE.** A use of such variable nature as to make control by rigid regulation impractical. After due consideration in each case, by the City Council, upon receiving a report and recommendation of the Planning Commission relative to the requirements of this chapter, approval of a conditional use may or may not be granted by the City Council.

**DRIVE-IN RESTAURANT.** Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

**DWELLING.** Any building or portion thereof designed or used exclusively for residential occupancy but not including a tent, cabin, trailer, hotel, or motel.

**DWELLING, MULTIPLE-FAMILY.** A residence designed for or occupied by three or more families, in separate dwelling units.

**DWELLING, SINGLE-FAMILY.** A detached residence designed for or occupied by one family in a single dwelling unit.

**DWELLING, TWO-FAMILY.** A residence designed for or occupied by two families only, in separate dwelling units.

**DWELLING UNIT.** One or more rooms that are arranged, designed, or used as living quarters for one

family only. Independent cooking facilities, permanently installed and individual sanitary facilities shall always be included for each **DWELLING UNIT**.

**ESSENTIAL SERVICES.** Utilities such as underground or over-head gas, electrical, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for the furnishing of adequate service by public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.

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

**FARMING.** An area which is used for the growing of the usual farm products such as vegetables, fruits, and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activity.

**GARAGE, COMMUNITY.** An accessory building or series of structures for the storage of motor vehicles by two or more occupants of property or dwellings in the vicinity and having no public shop or service therein.

**GARAGE, PRIVATE.** An accessory building designed or used for the storage or shelter of vehicles by the occupants of the building to which it is accessory.

**GRADE.** The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

**GREENBELT.** A planting strip of grass, trees, or shrubs established and maintained for the purpose of screening or limiting the view of certain property uses from surrounding uses and the general public.

**HOME OCCUPATION.** An occupation which is customarily and traditionally conducted within a dwelling by its occupants and is clearly incidental and secondary to the principal use of the dwelling.

**HOTEL.** A building in which lodging or boarding and lodging are provided and offered to the public for compensation and which is open to transient guests. Customary hotel services such as maid service, furnishing and laundering of linen, telephone and desk service, and the use and upkeep of furniture shall be provided.

**INCOMPATIBLE USE.** A use or service which is unsuitable for direct association with other uses because it is contradictory, incongruous, or discordant with respect to sight, sound, odor, vibration, or any other injurious or offensive variable.

**INSTITUTION.** A building or premises occupied by a non-profit corporation or establishment for public use.

**JUNKYARD.** Any open area of any lot or parcel where waste, discarded, or scrap materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored, or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles, or other vehicles or parts thereof. A **JUNKYARD** does not include uses established entirely within enclosed buildings.

**KENNEL.** Any lot or parcel of land where small animals are boarded for compensation or where dogs are bred or raised on a commercial scale.

**LIVESTOCK.** Cattle, horses, sheep, goats, poultry, or swine.

**LOADING SPACE, OFF-STREET.** Space logically and conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when off-street parking spaces are filled.

**LOT.** A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yard and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; and a parcel of land described by metes and bounds provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

**LOT AREA.** The area of horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by the waters of a recorded lake or river.

**LOT, CORNER.** A lot situated at the intersection of two streets with two adjacent sides abutting a street for their full length providing that the interior angle of such intersection shall not exceed 135 degrees.

**LOT, DOUBLE FRONTAGE.** A lot having two opposite lot lines along two more or less parallel public streets, and which is not a corner lot. On a double frontage lot, both lot lines abutting the street shall be deemed front lot lines.

**LOT, INTERIOR.** Any lot which is not a corner lot.

**LOT DEPTH.** The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot lines in the rear.

**LOT WIDTH.** The distance between straight lines connecting front and rear lot lines at each side of

the lot, measured across the rear of the required front yard. Width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the 80% requirement shall not apply.

**LOT LINE, FRONT.** Any lot line which is along an existing or dedicated public street.

**LOT LINE, REAR.** A lot line which is most distant from, and is, or is most nearly, parallel to the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line, not less than ten feet long, lying most distantly from the front lot line and wholly within the lot. With the exception of a double frontage lot, every lot shall have a rear lot line.

**LOT LINE, SIDE.** Any lot line not a front or rear lot line.

**LOT OF RECORD.** A lot which is part of a subdivision, the map of which has been recorded in the office of the county recorder or a lot described by metes and bounds, the deed to which has been recorded in the office of the County Recorder.

**LOT OF RECORD, EXISTING.** A lot which is part of a subdivision, or a lot described by metes and bounds, with the map and/or deed for such lot having been recorded in the office of the County Recorder prior to the adoption of this chapter.

**MOBILE HOME.** A dwelling unit designed to be transportable and suitable for year-round occupancy and containing the same water supply, waste disposal, and electrical conveniences as immobile housing whether mounted on wheels, jacks, or permanent foundation.

**MOBILE HOME PARK.** A lot, parcel, or tract of land upon which two or more occupied mobile homes are sited either free of charge or for revenue purposes, including any building, structure, or enclosure used or intended for use as a part of the equipment of such mobile home park.



**MOTEL.** Any building or group of buildings containing guestrooms primarily for the temporary occupancy for use by transient guests. Such building or group of buildings may include quarters for the use of the operating personnel.

**MOTOR VEHICLE.** Any passenger vehicle, truck, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

**NON-CONFORMING BUILDING OR USE.** Any building or use or building and use which does not comply with all of the regulations of this chapter or of any amendment hereto for the zoning district in which it is located.

**NURSING HOME.** A building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled or injured persons, in which three or more persons not of the immediate family are received, kept, and provided with food and shelter for compensation.

**PARKING LOT.** A parcel of land devoted to unenclosed parking spaces.

**PARKING SPACE.** A graded and surfaced area of not less than 200 square feet plus necessary maneuvering space for the parking or storage of a motor vehicle, which affords satisfactory ingress and egress to a street or alley.

**PERMITTED USE.** A use that may be lawfully established in a particular zoning district provided it conforms with all applicable requirements and regulations of such district and this chapter.

**PRINCIPAL USE.** The main use of land or structures as distinguished from an accessory use.

**PERSON.** Any individual, corporation, firm, partnership, association, organization, or other group acting as a unit. It also includes any executor, administrator, trustee, receiver, or other representative appointed by law.

**PREMISES.** A tract of land together with all structures thereon.

**PORCH, UNENCLOSED.** An entrance to a building which may include steps, a landing, railings, and a roof but not enclosed either partially or completely above the landing by windows, screens, or siding.

**PUBLIC UTILITY.** Any person, firm, corporation, municipal department, or board duly authorized to furnish and furnishing to the public under governmental regulation electricity, gas, steam, water, sewage disposal, communication, or transportation facilities.

**RECREATIONAL CAMPING VEHICLE.** The words **RECREATIONAL CAMPING VEHICLE** shall mean any of the following:

(1) Travel trailer means a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational, or vacation use.

(2) Pick-up coach means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

(3) Motor home means a portable temporary dwelling to be used for travel, recreation, and vacation and constructed as an integral part of a self-propelled vehicle.

(4) Camping trailer means a folding structure mounted on wheels and designed for travel, recreation, and vacation use.

**ROADSIDE STAND.** A temporary and unenclosed structure for the display and sale of agricultural products, produced or grown on the premises.

**SETBACK, BUILDING.** The horizontal distance between the front line of a building or structure and the front lot line.

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

**STORY, HALF.** A half story is an upper most story lying under a sloping roof, the useable floor area of which does not exceed 75% of the floor area of the story immediately below it and not used or designed, arranged or intended to be used, in whole or in part, as an independent housekeeping unit or dwelling. A half story containing independent apartments or living quarters shall be deemed a full story.

**STREET.** A public way which affords the principal access to abutting property excepting a public alley. The term street shall include road, avenue, highway, boulevard, drive, lane, circle, place, court, parkway, or other similar designation.

**STRUCTURE.** Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things structures include buildings, walks, fences, billboards, and poster panels.

**STRUCTURAL ALTERATION.** Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or exterior walls, beyond ordinary repairs and maintenance.

**TOWN HOUSE.** A building comprised of single-family dwelling units erected in a row as a single building on adjoining lots, each separated from the adjoining unit or units by a common wall or walls extending from the basement floor to the roof along the dividing lot line and having a yard space on the front, rear and both sides.

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

**VARIANCE.** A relaxation of the requirements of this chapter regarding height, area, size of structure, or size of yards. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance. Variances are granted only through the Board of Adjustments.

**YARD.** A required open space not occupied by a building or buildings, open to the sky and on the same lot as the principal building. A **YARD** extends along a lot line, and to a depth or width specified in the yard requirements for the applicable zoning district.

**YARD, FRONT.** A yard extending across the full width of the lot and lying between the front lot line and a line at a distance therefrom as specified by the regulations.

**YARD, REAR.** A yard extending across the full width of the lot and lying between the rear lot line and a line at a distance therefrom as specified by these regulations.

**YARD, SIDE.** A yard between the side lot line and a line at a distance therefrom as specified by the district regulations. Interior side yard is a side yard that is located adjacent to another lot. Street side yard is a side yard that adjoins a public street.

**ZONING ADMINISTRATOR.** The individual appointed by the City Council to administer and enforce the provisions of this chapter.

**ZONING MAP.** The areas comprising these zoning districts and boundaries of said districts as shown upon the map attached hereto and made a part of this chapter being designated as the official zoning map for the city with all proper notations, references, and other information shown thereon.  
(Ord. 98-05, passed 7-21-98)

### **§ 151.003 COMPLIANCE REQUIRED.**

It shall be the duty of all architects, contractors, subcontractors, builders, and other persons having

charge of the erecting, altering, changing, or remodeling of any building or structure including mobile homes, before beginning or undertaking any such work, to see that such work does not conflict with and is not a violation of the terms of this chapter. Any such architect, builder, contractor, or other person doing or performing any such work of erecting, repairing, altering, changing, or remodeling and in violation of, or in conflict with the terms of this chapter, shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the person or persons for whom such buildings are erected, repaired, altered, changed, or remodeled in violation hereof and shall be held accountable for such violation.

(Ord. 98-05, passed 7-21-98)

#### **151.004 VIOLATIONS.**

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 chapter, is hereby declared unlawful. In the event of violation or threatened violation of this chapter or other official control adopted under M.S. §§ 394.21 to 394.37, as they may be amended from time to time, 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.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.005 RELIEF FROM PERSONAL RESPONSIBILITY.**

Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this chapter and any claim based upon the performance 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 M.S. § 466.02, as it may be amended from time to time, 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 code except as provided in M.S. § 466.07, as it may be amended from time to time.

(Ord. 98-05, passed 7-21-98)

### **ZONING DISTRICTS**

#### **§ 151.010 ESTABLISHMENT OF DISTRICTS.**

For the purpose of this chapter, the city is divided into the following districts:

(A) AG District - Agricultural District;

(B) R-1 District - Low Density Residential District;

(C) R-2 District - High Density Residential District;

(D) C-1 District - Central Commercial District;

(E) C-2 District - Highway Commercial District;  
and

(F) I-1 District - Industrial District.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.011 ZONING MAP.**

The location and boundaries of the districts established by this chapter are set forth on the map entitled "Zoning District Map for the City of Buhl, St. Louis County, Minnesota", dated July 14, 1998. The original of this map shall be signed and dated by the

Mayor and the City Clerk. The map and all the information and amendments shown on the map shall be a part of this chapter.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.012 DISTRICT BOUNDARIES.**

The following rules shall apply with respect to the boundaries of the various districts as shown on the zoning district map:

(A) District boundary lines are the centerlines of highways, streets, alleys, streams, and trails; or right-of-way lines of railroads; or United States public land survey lines; or lot or property lines; or shorelines; or such lines extended, unless otherwise indicated.

(B) In areas not subdivided into lots and blocks, where a district is indicated as a strip adjacent to and paralleling a street or highway, the depth shall be in accordance with dimensions shown on the map measured at right angles from the center line of the street or highway.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.013 BOUNDARY INTERPRETATION.**

Questions concerning district boundary lines on the zoning map shall be decided by the Board of Adjustment.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.014 PROPERTY NOT INCLUDED - ANNEXATIONS.**

Annexations or consolidations with the city shall be placed in the AG district, unless the annexation ordinance temporarily places the land in another district. Within one year the Planning Commission shall evaluate and recommend a permanent district classification to the City Council.

(Ord. 98-05, passed 7-21-98)

### ***GENERAL USE REGULATIONS***

#### **§ 151.020 APPLICATION.**

The following general regulations in this subchapter shall apply equally to all districts except where special provisions provide otherwise.

(Ord. 98-05, passed 7-21-98)

#### **151.021 LOT AREA REQUIREMENTS.**

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

(Ord. 98-05, passed 7-21-98)

#### **§ 151.022 USE REGULATIONS.**

Only the following uses and their essential services shall be allowed in any district:

(A) Principal uses as specified for a district.

(B) Accessory uses and structures are permitted in any district but not until their principal structure is present or under construction. Uses accessory to residential district development shall not involve the conduct of any business trade, or industry except for home and professional occupations as defined herein. An accessory structure can not be occupied as a separate dwelling unit.

(C) Conditional uses and their accessory uses shall be permitted in specified districts after review, public hearing, and recommendation by the Planning Commission, and approval by the City Council in accordance with procedures and standards established in this chapter.

(D) Uses not specified in this chapter may be permitted by the City Council after the Planning Commission has made a review and written recommendation and provided that such uses are similar in character to the permitted uses in the district.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.023 BUILDING AREA.**

Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues, and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts, or unoccupied space. This provision shall allow one fireplace or one chimney, not more than eight feet in length and projecting not more than 30 inches into the allowable side yard space. This provision shall allow overhang not exceeding 24 inches in width.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.024 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 chapter may be completed and used in accordance with the plans and application on which said building permit was granted.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.025 FENCES AND OTHER VISION OBSTRUCTING OBJECTS.**

No fence, wall, structure, coniferous trees, or obstruction shall be erected, established, or maintained on a corner lot within a triangular area bounded by the lot lines and a line connecting points on each lot line ten feet from the intersection of such lot lines. An object within this area not exceeding 30 inches in height as measured from the center line elevation of

the street shall be allowed. This section does not apply to the C-1 district.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.026 FRONT YARD EXCEPTIONS.**

When the majority of residential or commercial buildings have been built in a block at the time of adoption of this chapter, 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 30 feet from the property line.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.027 GREENBELTS.**

In all commercial and industrial districts adjacent to residential districts and not divided by streets there shall be provided along the property line an eight-foot wide planting strip composed of grass, trees, and shrubs. Trees at least 1½ inches in diameter shall be planted not more than 40 feet apart. Shrubs shall be planted not more than five feet apart and be at least five feet in height after five full growing seasons, and attain a height of eight feet at maturity. A decorative masonry wall not less than five feet in height and not less than eight inches in thickness may be substituted for the above greenbelt upon approval of the Planning Commission. The greenbelt or wall area shall be maintained in an attractive condition at all times.

(Ord. 98-05, passed 7-21-98)

#### **151.028 HOME OCCUPATIONS.**

In any zoning district where home occupations are authorized, the following regulations governing said home occupations shall be complied with:

(A) Said use shall not occupy an area of more than 25% of the total floor area of all levels of the dwelling.

(B) No such home occupation shall require substantial interior or exterior alterations of the dwelling.

(C) Said use shall not create odor, dust, noise, electrical disturbances, glare, or vibrations noticeable outside of the dwelling nor shall it be visually detrimental to the neighborhood.

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

(E) The occupation is to be conducted solely by permanent occupants of the dwelling in which it is located except that one accessory person necessary to the occupation may be employed.

(F) Parking shall be governed by § 151.060 *et seq.* of this chapter.  
(Ord. 98-05, passed 7-21-98)

#### **§ 151.029 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.  
(Ord. 98-05, passed 7-21-98)

#### **§ 151.030 LOT, DOUBLE FRONTAGE.**

Double frontage lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.  
(Ord. 98-05, passed 7-21-98)

#### **§ 151.031 LOT, CORNER.**

Corner lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.  
(Ord. 98-05, passed 7-21-98)

#### **§ 151.032 LOT OF RECORD.**

A parcel legally created and existing at the time of passage of this chapter need not conform to the lot width or lot area of the district in which it is located. If two 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 chapter, 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 chapter. 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 chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter.  
(Ord. 98-05, passed 7-21-98)

#### **§ 151.033 SETBACK MEASUREMENTS.**

All setbacks shall be measured from property lines.  
(Ord. 98-05, passed 7-21-98)

#### **§ 151.034 SIGNS.**

(A) *Permits required.* All sign construction shall require a permit.

(B) *Permitted locations of signs.*

<i>Zoning District</i>	<i>Sign Types Permitted</i>
AG	1, 2, 3, 6, 7
R-1	2, 3, 6
R-2	3, 6
C-1 & C-2	2, 3, 4, 5, 6, 7
I-1	2, 3, 4, 5, 6, 7

(C) *Types of signs, maximum size, number and location.*

(1) *Type 1.* Directory signs advertising a business or activity conducted, an area of interest or a service available at a specific location. Such signs shall be not more than 22 square feet in gross area. There shall be not more than two such signs relating to any one such use in the approaching direction along any one street. Such signs may be placed at the right-of-way line of the street.

(2) *Type 2.* Signs advertising a customary home occupation, professional office, or signs used as a warning to the public. Such signs shall not exceed two square feet in gross area, shall be attached to the building and, if illuminated, shall be indirectly lighted.

(3) *Type 3.* Signs advertising the sale, rent, or lease of the property on which the sign is placed. Temporary signs, such as rummage, garage sale and political election signs. Such signs shall not exceed six square feet in gross area and may be placed at the right of way line of the street.

(4) *Type 4.* Signs located off-premises advertising a general brand or product, an area of interest, a business conducted, or a service available. Such signs shall not be more than 100 square feet per side in area and erected outside a line parallel to and 25 feet from the street right-of-way line.

(5) *Type 5.* Signs on the premises of commercial and industrial buildings advertising a

business conducted or a service available on the premises. No sign shall exceed 200 square feet in gross area, be higher than 10 feet above the top of the roof line, extend more than 6 inches outside of building's wall surface and exceed 20 feet in height above the main centerline of street.

(6) *Type 6.* On-premises, self-supporting signs advertising a public or semipublic use. Such signs shall not exceed 32 square feet in gross area. On-premises wall signs advertising a public or semi-public use shall not exceed 200 square feet there shall be no more than one sign for each street upon which the property faces.

(7) *Type 7.* Recreational directory signs indicating the direction to a cottage, resort, residence, or similar use. Such signs shall not be more than one square foot in gross area. Where a common posting standard is provided, all such signs shall be attached to the standard recreational directory.

(D) *Characteristics for commercial and industrial signs.*

(1) Wall signs placed against the exterior walls of buildings shall not extend more than 6 inches outside of a building's wall surface, exceed 200 square feet in area for any one premises and exceed 20 feet in height above the mean centerline street grade.

(2) Projecting signs fastened to, suspended from or supported by structures shall not exceed 100 square feet in area for any one premises, extend more than six feet into any required yard, extend more than three feet into any public right-of-way, be less than ten feet from all side lot lines, exceed a height of 20 feet above the mean centerline street grade and be less than ten feet above the sidewalk nor 15 feet above a driveway or alley.

(3) Ground signs shall not exceed 20 feet in height above the mean centerline street grade, shall meet all yard requirements for the district in which it is located, shall not exceed 100 square feet on all sides for any single premises.

(4) Roof signs shall not exceed ten feet in height above the roof, shall meet all the yard and height requirements for the district in which it is located and shall not exceed 200 square feet on all sides for any one premises.

(5) Window signs shall be placed only on the inside of commercial buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed.

(6) Combinations of any of the above signs shall meet all the requirements of the individual sign.

(E) *Prohibited characteristics of signs.*

(1) No sign shall be so placed as to interfere with the visibility or effectiveness of any official traffic sign or signal or with driver vision at any access point or intersection.

(2) No sign will be permitted that resembles the size, shape, form, or color of official traffic control signs, signals, or devices.

(3) No sign shall contain more than 100 square feet in gross area.

(4) No sign shall contain or be illuminated by a flashing light in any residential district.

(5) No sign in a conspicuous state of disrepair shall be permitted to exist. The Planning Commission may order removal on a 20 day public notice or immediately if public danger exists.

(F) *Existing signs.* Any sign which becomes a nonconforming sign at the effective date of this chapter or which becomes a nonconforming sign at any future date may be continued, provided that no increase in size, illumination or flashing of such sign shall be made and further provided that any sign, including structures and all supporting members, shall be discontinued and removed not more than five years after the date that such sign becomes a nonconforming sign, unless such nonconforming sign shall be made to

conform to all of the regulations of the district in which it is located.

(G) *Bonds and insurance.* Every applicant for a permit for a "type 4" sign may, before the permit is granted, be required by the Building Inspector and/or Zoning Administrator, Planning Commission or Board of Adjustments to execute a surety bond or show evidence of liability insurance coverage in an amount to be set by the above mentioned individual or agency. Removal of any sign shall be the financial obligation of the sign and/or property owner.

(H) *Penalties.* Failure to obtain a permit prior to commencement of work under this section shall double the fees for the required permit.

(Ord. 98-05, passed 7-21-98)

**§ 151.035 FENCES.**

(A) *Permits required.* All fence construction shall require a building permit.

(B) *Fences placed on property lines.*

(1) All fences placed on property lines must have written approval of the adjoining property owners.

(2) If the adjoining property owner does not grant permission, the fence can be placed no closer than two feet from the property line.

(3) If a new fence is constructed or erected on the property line without the expressed approval of the adjoining property owner, whether requiring a permit or not, a written complaint may be filed with the Zoning Administrator and he shall serve notice to the owner that the fence must be removed. If the fence owner does not comply within 30 days, the Zoning Administrator may request the city to remove it at the owner's expense.



(C) *Setbacks.*

(1) Any fence may be placed two feet from the property line without permission of adjoining property owners.

(2) All fences must be set back from at least five feet from the front property line.

(3) See § 151.025 for additional setback requirements.

(4) When property lines are not known or if there is a dispute in regards to where the property line is, it is up to the property owner who is erecting the fence to prove where the property lines are.

(D) *Construction.* Fences must be wood, chain-link, PVC or composite and may not exceed six feet in height. All fences erected shall have the structural components thereof facing the side of the property for and on which the same is erected.

(E) *Barbed wire fences.* No fence constructed wholly or in part of barbed wire shall be located in the city, except in any industrial and utility areas, none of which may be within five feet of any public street, alley, or sidewalk.

(F) *Swimming pools.* Every owner of an outdoor, below grade swimming pool located in the city shall erect and maintain a fence or barrier of not less than six feet in height around such swimming pool of such construction as to safeguard the area. Said fence or barrier shall not leave a gap between the fence or barrier and ground level.

(G) *Snow fences.* Utility snow fences may be used without a permit only during the winter months and shall be removed at the end of each winter season. (Ord. 98-05, passed 7-21-98; Am. Ord. 09-03, passed 12-15-09)

**§ 151.036 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 permit shall be required for all retaining walls constructed that exceed 24 inches in height, including terraced retaining wall projects where the total height of all walls exceeds 24 inches, and are closer than 15 feet to a property line.

(C) *Application.* Application shall be made to the Zoning Administrator on forms provided and shall include a site plan and a set of construction plans. Plans sealed 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 Zoning Administrator.

(D) *Performance standards.* A retaining wall shall be designed to resist the lateral pressure of the retained material in accordance with accepted engineering practice. Walls retaining drained earth may be designed for pressure equivalent to that exerted by an equivalent fluid weighing not less than 30 pounds per cubic foot and having a depth equal to that of the retained earth. Any surcharge shall be in addition to the equivalent fluid pressure.

(E) *Setbacks.* Setbacks for retaining walls shall be the same as for fences under § 151.035(B) and (C). (Ord. 98-05, passed 7-21-98)

**§ 151.037 BED AND BREAKFAST INNS.**

(A) *Authority granted.* Any person shall have the right and privilege to request a conditional use permit to operate a bed and breakfast inn.

(B) *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.

(C) *Regulations.* The following restrictions shall apply to bed and breakfast:

(1) *Location.* All bed and breakfast units shall be established within a principle structure only.

(a) A bed and breakfast may be located in a formally designated local, state, or national historical structure with an area of not less than 1,000 square feet of living space.

(b) A bed and breakfast may be located in an existing single-family dwelling with an area of not less than 1,000 square feet of living space, however, a new single-family dwelling shall not be constructed for the purpose of establishing a bed and breakfast.

(2) *Number of units.* A maximum of six bed and breakfast units may be established in a structure.

(3) *Domicile requirement.* The bed and breakfast shall be the domicile for the owner or manager.

(4) *Employee restriction.* The bed and breakfast shall employ not more than the equivalent of two full-time persons who are not domiciled in the principal structure.

(5) *Dining and other facilities.* 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.

(6) *Parking.* See §§ 151.060 *et seq.*

(7) *Permit and license.*

(a) The bed and breakfast shall have a valid, current conditional use permit.

(b) The bed and breakfast shall have a valid, current state license (hotel and/or food). (Ord. 98-05, passed 7-21-98)

## ***NONCONFORMITIES***

### **§ 151.045 NONCONFORMING STRUCTURES.**

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter 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:

(A) No such structure may be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof hereof may be altered to decrease its nonconformity.

(B) Should such structure be destroyed by any means to an extent of more than 50% of its current appraised value, exclusive of the foundation, it shall not be reconstructed except in conformity with the provisions of this chapter. If less than 50% damaged, exclusive of the foundation, it may be restored, reconstructed, or used as before, provided that it is done within 12 months of such happening and that it be built of like or similar materials, or the architectural design and building materials are approved by the Planning Commission and the Building Inspector.

(C) If the nonconforming structure is moved to another lot, it shall thereafter conform to the regulations for the district to which it is moved.

(D) All nonconforming signs, of all types not exempted by the definition thereof, and all nonconforming open land uses such as storage yards, junk yards, and the like shall be removed and made to conform to the provisions of this chapter within a period of two years after the adoption of this chapter, and the mailing of a notice instructing the removal of the nonconformity.

(Ord. 98-05, passed 7-21-98)

**151.046 REPAIRS AND MAINTENANCE.**

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 cubic content existing when it became nonconforming is not increased. This section 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. (Ord. 98-05, passed 7-21-98)

**151.047 NONCONFORMING USE, LAND.**

The nonconforming lawful use of land where a structure thereon is not so employed or existing at the time that this chapter becomes effective, may be continued provided:

(A) The nonconforming use of land shall not in any way be expanded or extended either on the same or adjoining property.

(B) That if the nonconforming use of land, existing at the time this chapter became effective, is thereafter discontinued or changed, then the future use of such land shall be in conformity with the provisions of this chapter. (Ord. 98-05, passed 7-21-98)

**§ 151.048 NONCONFORMING USE, CHANGE.**

A nonconforming use can not be changed to a comparable nonconforming use. Once a use has been brought into conformity with regulations of the district, it must remain in conformity. (Ord. 98-05, passed 7-21-98)

**§ 151.049 NONCONFORMING USE, DISCONTINUANCE.**

In the event that a nonconforming use of any building or building and land is discontinued for a period of six months, any future use shall conform to the provisions of this chapter. (Ord. 98-05, passed 7-21-98)

**§ 151.050 NONCONFORMING USE, ZONE CHANGE.**

The above provisions shall apply to buildings, land, and uses that may become nonconforming due to classification or reclassification of districts under this chapter. (Ord. 98-05, passed 7-21-98)

***OFF-STREET PARKING AND LOADING*****§ 151.060 OFF-STREET PARKING REQUIREMENTS.**

In all zoning districts, with the exception of allowed uses in C-1 districts, off-street parking and loading facilities shall be provided and maintained as provided below.

(A) Loading space shall not be construed as supplying off-street parking space.

(B) 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  $\frac{1}{2}$  shall be disregarded and fractions over  $\frac{1}{2}$  shall require one parking space.

(C) 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 subchapter, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.

(D) 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.

(E) 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.

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

(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 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 table.

(I) If a building is extended into a parking area, the existing parking area must be expanded to provide the same number of parking spaces that existed before the building expansion.

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

(K) Off-street parking spaces shall be provided with vehicular access to a street or alley and shall be deemed required open space associated with permitted use.

<i>Use</i>	<i>Required Parking Space</i>
Residential	One for each dwelling unit; the area of which may include driveways for one- and two-family dwellings.
Supervised living	One for each two facilities employees.
Tourist homes, bed & breakfast inns, motels, hotels, boarding & rooming houses	One for each guest or sleeping room or suite plus two for owner, management or service personnel.
Health care facilities	One for each three beds plus one for each two employees.
Libraries, museums, post offices and other similar uses	An improved area which shall be not less in size than two times the floor space of the building.
Theaters and auditoriums	One for each four seats.
Churches, auditoriums and sports arenas incidental to schools	One for each four seats in the main assembly unit.
Schools	One for each employee and one for each eight students beyond ninth grade.
Dance hall, pool and billiard rooms, assembly and exhibition halls, community centers, civic clubs, fraternal orders, union halls and similar uses	One for each four people allowed within the maximum occupancy load as established by the State Fire Marshal.

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<i>Use</i>	<i>Required Parking Space</i>
Bowling alleys	Six for each alley.
Mortuaries, funeral homes	One for each 50 square feet of floor space in the slumber rooms, parlors or individual funeral service rooms.
Establishments for sale and consumption on the premises of alcoholic beverages, food, or refreshments	One for each 75 square feet of floor area.
Drive-in restaurants and roadside stands	One for each 50 square feet of ground floor area of the building.
Medical or dental clinics, banks, business or professional offices	One for each 200 square feet of floor area.
Drive-in banks	One for each 200 square feet of floor area.
Furniture and appliance stores, personal service shops (not including beauty or barber shops), household equipment or furniture repair shops, clothing, shoe repair or service shops, wholesale stores and machinery sales	One for each 500 square feet of floor area.
Beauty parlors and barber shops	Two for each barber and/or beauty shop chairs.
All retail stores, except as otherwise specified	One for each 100 square feet of floor area.

<i>Use</i>	<i>Required Parking Space</i>
Service garages, automobile salesrooms, automobile repair, and body shops	Two per service stall and wash rack plus one per employee.
Gasoline service stations	One for each employee, plus one for the owner and/or management plus two for each grease rack, service stall or wash rack.
Industrial establishments including manufacturing, research and testing laboratories, creameries, bottling works, printing and engraving shops, warehousing and storage buildings	Provide about each establishment, an improved area which shall be sufficient in size to provide adequate facilities for the parking of automobiles and other motor vehicles used by the firm or employees or persons doing business therein. Such space shall not be less than one for each three employees computed on the basis of the greatest number of persons to be employed at any one period during the day or night. Parking of automobiles and other motor vehicles is permitted in the front and side yards in manufacturing districts if landscaped.

(Ord. 98-05, passed 7-21-98)

**§ 151.061 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:

(A) Adequate ingress and egress shall be provided;

(B) Such parking lots shall be maintained in a usable dust-proof condition, and shall be kept graded and drained to dispose of surface water;

(C) Whenever such parking lot boundary adjoins property zoned for residential use, a setback of eight feet from said lot line shall be required;

(D) Necessary curbs or other protections against damage to adjoining properties, streets and sidewalks shall be provided and maintained;

(E) Plans for the construction of any such parking lot must be approved by the Zoning Administrator before construction is started; and

(F) Illumination from parking lot lighting shall not project onto adjoining properties.  
(Ord. 98-05, passed 7-21-98)

**§ 151.062 LOADING SPACE.**

On the premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly involving 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 interference with public use of the streets or alleys. Such space shall be sufficient for the proposed use as determined by the Planning Commission and

approved by the Planning Commission and the City Council.

(Ord. 98-05, passed 7-21-98)

***DISTRICT USE REGULATIONS*****§ 151.070 AG - AGRICULTURAL DISTRICT.**

(A) *Purpose.* The AG agricultural district is intended to preserve for a limited time those lands devoted to agricultural enterprises located within the city where urban expansion is planned to take place. In this manner, conflicts between agricultural and non-agricultural land uses shall be minimized. Its effect is to control the infiltration of urban development into areas generally devoted to agriculture until the City Council determines that it is financially and economically feasible to provide public services and facilities, thereby promoting orderly urban development. It is intended that the status of all areas in this district be reviewed by the Planning Commission no less frequently than every five years in order to determine whether, in light of current land development trends, there should be a transfer of all or any part of such areas to some other appropriate use district. Any such review shall be considered in relation to the land use plan in addition to the need for permitting other uses on such land, the nature of the use or uses to be permitted, the cost and availability of the public services and facilities which will be necessitated by such new use or uses.

(B) *Permitted uses.* The following uses shall be permitted in the AG agricultural district:

- (1) Agricultural activity including:
  - (a) Field crops;
  - (b) Livestock;
  - (c) Nurseries and greenhouses;

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- (d) Orchards; and
- (e) Agricultural buildings;
- (2) Mining activities;
- (3) Game refuge and preserve areas;
- (4) Publicly-owned parks, playgrounds, and community buildings;
- (5) Single-family and duplex residences for resident landowners, their children, and laborers engaged in permitted activities.
- (6) Home occupations; and
- (7) Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property.

(C) *Conditional uses.* The following uses may be permitted in the AG agricultural district upon recommendation of the Planning Commission and approval of the City Council:

- (1) Churches, chapels, and similar places of worship;
- (2) Public schools and similar private education institutions;
- (3) Hospitals, nursing, rest, or convalescent homes;
- (4) Public utility buildings such as substations, transformer stations, and regulator stations without storage yards;
- (5) Cemeteries;
- (6) Day care or nursery schools;
- (7) Temporary produce stands on premises used for agricultural purposes provided there is adequate off-street parking;

- (8) Commercial radio, television and telephone towers, and transmitters;
- (9) Stables;
- (10) Veterinary and animal clinics;
- (11) Excavating of sand and gravel;
- (12) Parks, campgrounds, gun clubs, golf courses, golf driving ranges, race tracks, historical sites and museums;
- (13) Carnivals, outdoor circuses, and migratory amusement enterprises;
- (14) Airports and landing fields;
- (15) Accessory buildings and structures and uses customarily incidental to any of the above-listed uses when located on the same property.

(D) *Bulk regulations.* The following minimum requirements shall be observed:

- (1) *Lot area, width and yard requirements.*

***[Table begins on following page.]***

Use	Lot Area	Lot Width	Yards		
			Front	Rear	Side
Single-Family Dwelling	30,000 sq. ft.	150 feet	30 feet	50 feet	25 feet
Other Uses	100,000 sq. ft.	300 feet	50 feet	50 feet	50 feet

(2) *Height restrictions.* The following height restrictions shall be observed:

(a) No residential building hereafter erected or altered shall exceed 36 feet.

(b) Public or semipublic buildings, churches, schools, hospitals, nursing homes, and similar uses may be erected to a height of 60 feet.

(c) Agricultural and mining uses and accessory buildings shall be exempted from height requirements.

(3) *Building dimension requirements.* The main exterior walls of each residential structure shall not be less than 20 feet wide at the narrowest point of the structure.  
(Ord. 98-05, passed 7-21-98)

**§ 151.071 R-1 - LOW DENSITY RESIDENTIAL DISTRICT.**

(A) *Purpose.* The R-1 district is intended to provide for low-density residential development with a limited number of institutional and recreational uses permitted. The district is designed to protect residential areas now developed and to regulate the efficient use and orderly development of vacant land designated for residential uses. It is essential that areas be designated and regulations imposed for various kinds of residential developments in order that the city can plan ahead for services, future schools, parks, streets, and utilities. The regulations are

designed to promote a suitable environment for family life. Recreational and institutional uses that are compatible with residential areas are also permitted on parcels of adequate size to allow required parking and building needs. A site plan, as described in §§ 151.080 *et seq.*, is required by the Planning Commission.

(B) *Permitted uses.* The following uses shall be permitted in the R-1 residential districts:

- (1) Single-family dwellings;
- (2) Attached duplex dwellings;
- (3) Publicly-owned parks and playgrounds;
- (4) Home occupations;
- (5) Accessory buildings or structures and uses customarily incidental to any of the above-listed uses when located on the same property, provided such accessory buildings or structures are located a minimum of five feet from the back and side lot line and have a ten feet maximum side wall height with a nine feet maximum door height. The entrance of a garage must be at least ten feet from the property line.

(6) (a) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes are not permitted except for a 14-day period when owner/occupant(s) move to or when owner/occupant(s) move out of said property. Storage containers, mobile storage trailers,



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storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes shall not be considered, or permitted as, accessory buildings, motor homes or vehicles in transit.

(b) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes that are placed on a street or public right of way must have a street use permit issued by the city. Permits will be valid for 14 days and all parking restrictions must be observed.

(C) *Conditional uses.* The following uses may be permitted in the R-1 residential district upon recommendation of the Planning Commission and approval of the City Council:

- (1) Attached three- and four-unit dwellings;
- (2) Churches, chapels, and similar places of worship;

(3) Public schools and similar private education institutions;

(4) Hospitals, nursing, rest, or convalescent homes;

(5) Public utility buildings such as substations, transformer stations, and regulator stations without storage yards;

(6) Day care or nursery schools;

(7) Funeral homes with adequate parking;

(8) Community buildings;

(9) Bed and breakfast inns;

(10) Accessory buildings and structures and uses customarily incidental to any of the above listed uses when located on the same property.

(D) *Bulk regulations.* The following minimum requirements shall be observed:

- (1) *Lot area, width and yard requirements.*

<i>Use</i>	<i>Lot Area</i>	<i>Lot Width</i>		<i>Yards</i>			
		<i>At Street</i>	<i>At Building</i>	<i>Front</i>	<i>Rear</i>	<i>Least Side</i>	<i>Sum of Sides</i>
Single-Family Dwelling	10,000 sq. ft.	45 feet	75 feet	30 feet	25 feet	6 feet	16 feet
Two-Family Dwellings	14,000 sq. ft.	50 feet	80 feet	30 feet	25 feet	6 feet	16 feet
Other Uses	20,000 sq. ft.	100 feet	100 feet	30 feet	45 feet	12 feet	24 feet

(2) *Building height.* No residential building hereafter erected or altered shall exceed 36 feet in height. Provided, however, public and semipublic buildings, churches, cathedrals, temples, hospitals, or schools may be erected to a height of 60 feet when set back from all lot lines not less than one foot, in addition to required yard dimensions, for each foot such building exceeds 36 feet in height.

(3) *Corner lot, special requirements.* On any corner lot or lot fronting on more than one street, no building or structure shall be placed or erected closer than 25 feet to any property line abutting and paralleling a street. All corner lots shall be at least 10% larger in lot frontage at the building line and lot area than is required above for one- and two-family dwellings.

(4) *Surface coverage.* Maximum impervious surface coverage shall not exceed 35%.

(5) *Building dimension requirements.* The main exterior walls of each residential structure shall not be less than 20 feet wide at the narrowest point of the structure.

(E) Lots in the First, Second and Frantz Additions to Buhl which have a minimum of 50 feet of frontage and a minimum of 6,000 square feet for the lot area are considered buildable lots subject to all other provisions in this chapter.

(Ord. 98-05, passed 7-21-98; Am. Ord. 06-02, passed 11-8-06; Am. Ord. 07-01, passed 6-19-07; Am. Ord. 08-05, passed 10-7-08)

### **§ 151.072 R-2 - HIGH DENSITY RESIDENTIAL DISTRICT.**

(A) *Purpose.* The R-2 high-density residential district is intended to provide for high-density residential development. It is designed to accommodate single-family and multiple-family structures in an acceptable relationship with one another and to regulate the efficient use and orderly development of vacant land designated for such use.

Mobile home parks and institutional uses which are compatible with residential areas are also permitted on parcels of adequate size to allow required parking and building needs.

(B) *Permitted uses.* The following uses shall be permitted in the R-2 residential district:

(1) Any permitted use as permitted in the R-1 residential district;

(2) Dwellings in groups of not more than four housekeeping units in any one building; and

(3) Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property.

(4) (a) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes are not permitted except for a 14-day period when the owner/occupant(s) move to or when owner/occupant(s) move out of said property. Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes shall not be considered, or permitted as, accessory buildings, motor homes or vehicles in transit.

(b) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes that are placed on a street or public right-of-way must have a street use permit issued by the city. Permits will be valid for 14 days and all parking restrictions must be observed.

(C) *Conditional uses.* The following uses may be permitted in the R-2 residential district upon recommendation of the Planning Commission and approval of the City Council.

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- (1) Any conditional uses permitted in the R-1 residential district;
- (2) Mobile home parks;
- (3) Institutions of a philanthropic or charitable nature;
- (4) Bed and breakfast inns;
- (5) Boarding and rooming house for up to five persons;

- (6) Dwellings in groups of five or more housekeeping units in any one building; and
- (7) Accessory buildings and structures and uses customarily incidental to any of the above-listed uses when located on the same property.

(D) *Bulk regulations.* The following minimum requirements shall be observed:

- (1) *Lot area, width and yard requirements.*

Use	Lot Area	Lot Width		Yards			
		At Street	At Building	Front	Rear	Least Side	Sum of Sides
Single-Family Dwelling	10,000 sq. ft.	45 feet	75 feet	30 feet	25 feet	6 feet	16 feet
Two-Family Dwellings	14,000 sq. ft.	50 feet	80 feet	30 feet	25 feet	6 feet	16 feet
Three-Family Dwellings	20,000 sq. ft.	55 feet	85 feet	30 feet	25 feet	12 feet	28 feet
Four or More Family Dwellings	25,000 sq. ft.	60 feet	90 feet	30 feet	25 feet	12 feet	28 feet
Row Houses	7,000 sq. ft. per unit	16 feet per unit		30 feet	25 feet	10 feet <sup>(a)</sup>	20 feet
Other Uses <sup>(b)</sup>	25,000 sq. ft.	100 feet	100 feet	30 feet	45 feet	12 feet	28 feet

Notes: <sup>(a)</sup> Side yard exempt for interior units.  
<sup>(b)</sup> Special requirements exist for mobile home parks.

(2) *Building height.* No residential building, hereafter erected or altered, shall exceed 36 feet in height. Provided, however, public and semipublic buildings, churches, cathedrals, temples, hospitals, or schools may be erected to a height of 60 feet when set back from all lot lines not less than one foot, in addition to required yard dimensions, for each foot such building exceeds 36 feet in height.

(3) *Corner lot.* On any corner lot or lot fronting on more than one street, no building or structure shall be placed or erected closer than 25 feet to any property line abutting or paralleling a street. All corner lots shall be at least 10% larger in lot frontage at the building line and lot area than is required for one- and two-family dwellings.

(4) *Surface coverage.* Impervious surface coverage shall not exceed 35% of the lot and common area.

(5) *Multi-family structures.* Multi-family structures, townhouses/row houses, and condominiums shall have at least 2,500 square feet per unit.

(6) *Zero lot line requirements.* When interior units of townhouses are placed on interior side property lines with zero setbacks, the structure setback for end units shall be a minimum of 16 feet. All developments using the zero lot line provision must submit a site plan according to the provisions of this chapter. The site plan shall include a plat drawn to the specifications of the city's subdivision chapter. Each structure shall be located on its own individually platted lot. The plat shall indicate the zero lot lines, easements, and provisions for common areas and their maintenance.

(7) *Building dimension requirements.* The main exterior walls of each residential structure shall not be less than 20 feet wide at the narrowest point of the structure.

(Ord. 98-05, passed 7-21-98; Am. Ord. 07-01, passed 6-19-07)

## § 151.073 C-1 - CENTRAL BUSINESS DISTRICT.

(A) *Purpose.* The C-1 central business district is intended to provide for a wide variety of retail activities and could act as a banking and financial center, entertainment and hotel center, or as a center for business and professional offices. The district comprises the "downtown" section of the city. The use of land is intensive, this being one of the main determinants of its vitality. It is the purpose of these regulations to encourage such intensity of use and to exclude activities that have a negative effect upon the proper functioning of the central business district.

### (B) *Uses permitted.*

(1) Business services including banks, offices, and postal stations;

(2) Clothing services including dry cleaning and laundry establishments, laundromats, dressmaking, millinery and tailor shops, shoe repair shops;

(3) Equipment services including radio and television shops, electrical appliance shops, and show room of a plumber, decorator or similar trade;

(4) Food services including grocery stores, fruit, vegetable, and meat markets, supermarkets, restaurants, delicatessens, candy shops and bakeries;

(5) Personal services including barber and beauty shops, reducing salons, photographic shops, and funeral homes;

(6) Retail services including drug stores, hardware stores, haberdashery, stationery and bookstores, news shops, apparel shops, show room for articles to be sold at retail, flower shops and commercial greenhouses;

**Buhl - Land Usage**

(7) Buildings used for storage or distributing stations.

(C) *Commercial restrictions.* The uses permitted shall be subject to the following conditions:

(1) Such businesses and sales or display or storage areas shall be confined within a building beyond normal business hours except that the City Council by resolution or by ordinance may allow an exception for citywide promotions and activities.

(2) All public entrances to such businesses shall be from the principal street upon which the property abuts or within 50 feet thereof, except that an additional rear entrance may be provided from a public parking area.

(3) (a) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes are not permitted except for a 14-day period when owner/occupant(s) move or when owner/occupant(s) move out of said property. Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes shall not be considered, or permitted as, accessory buildings, motor homes, or vehicles in transit.

(b) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes that are placed on a street or public right-of-way must have a street use permit issued by the city. Permits will be valid for 14 days and all parking restrictions must be observed.

(D) *Conditional uses.* The following uses may be permitted upon recommendation of the Planning Commission and approval of the City Council:

(1) Automobile service including auto equipment sales, car wash service, new and used car sales lots, trailer sales areas, gasoline service stations, and auto repair garages;

(2) Recreation services including theaters, bowling alleys, pool and billiard rooms, dance halls, roller and ice skating rinks;

(3) Hotels, motels, private clubs and lodges; wholesale establishments, taverns, night clubs, on- and off-liquor stores, trade schools, commercial parking garages and ramps;

(4) Drive-in restaurants, drive-in banks, and other drive-in services;

(5) Open-air display areas for the sale of products such as garden furniture, hardware items, nursery stock or automobiles or areas used to display rental equipment such as tools or trailers; and

(6) Buildings and uses customarily incidental to any of the uses listed in this section when located on the same property and which will not be detrimental either by reason of odor, smoke, noise, dust, or vibration to the surrounding neighborhood.

(E) *Building height.* No building or structure hereafter erected or altered shall exceed 40 feet in height.

(F) *Lot area, frontage, lot coverage, yard size and loading space.* For permitted uses in C-1 districts there will be no requirements for lot area, frontage, lot coverage, yard sizes or loading space. For uses requiring conditional use permits, lot area, frontage, lot coverage, yard size, parking and loading space shall be specified by the Planning Commission. (Ord. 98-05, passed 7-21-98; Am. Ord. 09-02, passed 8-4-09; Am. Ord. 09-03, passed 12-15-09)

**§ 151.074 C-2 - HIGHWAY COMMERCIAL DISTRICT.**

(A) The purpose of the C-2 highway commercial district is established to encourage the functional grouping of those commercial enterprises that cater primarily to either "local" or "through" motorists. Typical uses offer accommodations and services to

motorists, specialized outlets and commercial amusement enterprises. The requirements of this district are developed to minimize traffic hazards and interference with other related uses in the vicinity. All activities in the district shall be carried on in a manner not injurious or offensive to the occupants of adjacent premises due to odors, dust, smoke, noise, or vibrations and shall not be visually detrimental to the neighborhood.

(B) *Uses permitted.*

(1) Business services including banks, offices and postal stations;

(2) Clothing services including dry cleaning and laundry establishments, Laundromats, dressmaking, millinery and tailor shops, and shoe repair shops;

(3) Equipment services including radio and television shops, electrical appliance shops, and showrooms;

(4) Medical services including clinics, hospitals, rest homes, and animal clinics;

(5) Food services including grocery stores, fruit, vegetable, and meat markets, supermarkets, restaurants, delicatessens, candy shops, and bakeries;

(6) Personal services including barber and beauty shops, reducing salons, photographic shops, and funeral homes;

(7) Retail services including drug stores, hardware stores, haberdashery, stationery and book stores, news shops, apparel shops, show rooms, flower shops and commercial greenhouses;

(8) Recreation services including theaters, bowling alleys, pool and billiard rooms, dancing academies, and roller and ice skating rinks, and miniature golf courses;

(9) Hotels, motels, private clubs and lodges; wholesale establishments, taverns, night clubs and on and off sale liquor stores; trade schools; commercial parking garages; sales rooms, public transportation terminals, public utility buildings and transformer stations without storage yards;

(10) Drive-in restaurants, drive-in banks, and drive-in services or businesses not here strictly prohibited;

(11) Rental units may be maintained above the ground floor. In such buildings the ground floor must be commercial space only.

(C) *Conditional uses.*

(1) Recreational camping areas.

(2) Automobile service including auto equipment sales, car wash services, new and used car sales lots and trailer sales areas, gasoline service stations, and auto repair garages.

(3) Any similar commercial establishment or professional service or commercial service not specifically stated or implied elsewhere in this section.

(4) Open air display areas for the sale of manufactured products such as garden furniture, hardware items and nursery stock, or rental of manufactured products or equipment.

(5) Buildings used for storage, distributing stations, but not including fuel yards, junkyards, or used automobile parts or wrecking establishments or businesses handling waste or junk and those businesses which are offensive by reason of sight, odor, noise, smoke, or vibration to the surrounding neighborhood.

(6) Buildings and uses customarily necessary to any of the above permitted uses, which may include repair, alteration, finishing, assembly, fabrication, or storage of goods.

(7) Buildings and uses customarily necessary to any of the above permitted uses, but which will not be detrimental either by sight, odor, smoke, noise, dust, or vibration to the surrounding neighborhood.

(8) Building and uses customarily necessary to any of the above uses which may include the repair, alteration, finishing, assembly, fabrication, or storage of goods. Such use shall not be detrimental either by reason of odor, smoke, noise, dust, or vibration or visually detrimental to the surrounding neighborhood;

(9) Lumberyards.

(10) Storage, auxiliary to the permitted use, is permitted in the open, but not within 20 feet of the property lines.

(11) Open storage of lumber, metals, machinery or other materials shall be enclosed by an eight-foot wood or metal screening fence.

(12) Waste materials incidental to the principal operation shall be kept in neatly-stored containers screened from public view and shall be removed and emptied periodically so no wastes shall be piled on open grounds. Storage of waste materials must be in accordance with all applicable state and federal regulations and laws.

(13) Screening shall be provided at lot boundaries abutting a residential district, and may consist of solid fencing or dense hedge or shrub to minimum of eight feet in height.

(D) *Building height.* No building or structure hereafter erected or altered shall exceed 40 feet in height.

(E) *Lot area, frontage and yard requirements.*

(1) The following minimum requirements shall apply:

***[Table begins on following page.]***

Use	Lot Area	Lot Width	Yards			
			Front	Rear	Least Side	Sum of Sides
All	5,000 sq. ft. <sup>(a)</sup>	50 feet	45 feet	30 feet <sup>(b)</sup>	0 feet	20 feet <sup>(c)</sup>

- Notes:
- (a) Commercial condominiums shall have a minimum of 7,000 square feet of lot area per unit.
  - (b) Where alleys exist, the measurements of the rear yard may include ½ the width of the alley.
  - (c) A minimum side yard of 30 feet shall be required on that side of the property abutting any AG, R-1, or R-2 district.

(2) *Zero lot line requirements.* When structures are placed on one interior side property line with a zero setback, the structure setback on the other interior side property line shall be a minimum of 20 feet. When interior units of townhouses/row houses are placed on interior side property lines with zero setbacks, the structure setback for end units shall be a minimum of 16 feet. All developments using the zero lot line provision must submit a site plan according to the provisions of this chapter. The site plan shall include a plat drawn to the specifications of the city's subdivision code. Each structure shall be located on its own individually platted lot. The plat shall indicate the zero lot lines, easements, and provisions for common areas and their maintenance.

(F) (1) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes are not permitted except for a 14-day period when owner/occupant(s) move or when owner/occupant(s) move out of said property. Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes shall not be considered, or permitted as, accessory buildings, motor homes, or vehicles in transit.

(2) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes that are placed on

a street or public right-of-way must have a street use permit issued by the city. Permits will be valid for 14 days and all parking restrictions must be observed. (Ord. 98-05, passed 7-21-98; Am. Ord. 09-02, passed 8-4-09; Am. Ord. 09-03, passed 12-15-09)

**§ 151.075 I-1 - INDUSTRIAL DISTRICT.**

(A) *Purpose.* The regulations for the I-1 industrial district are intended to provide for areas for manufacturing, warehousing, and related commercial operations. It is their intent to encourage industrial development that is compatible with surrounding uses and districts. All activities in the district shall be carried on in a manner not injurious or offensive to the occupants of adjacent premises due to odors, dust, smoke, noise, or vibrations and shall not be visually detrimental to the neighborhood.

(B) *Permitted uses.* All uses in this district are conditional uses and must be approved in accordance with the procedures of this chapter.

(C) *Conditional uses.* The following uses may be permitted upon recommendation of the Planning Commission and approval of the City Council:

- (1) Any production, processing, assembly, manufacturing, cleaning service, repair, testing or storage of goods or products excepting those which may be injurious or offensive to the occupants of adjacent premise by reason of the emission of or creation of noise, vibration, smoke, dust, odors, or noxious materials; or



(2) Accessory buildings or structures and uses customarily necessary to any of the above permitted uses which will not be detrimental either by reason of sight, odor, smoke, noise, or vibration to the surrounding neighborhood.

*(D) Industrial district special requirements.*

(1) Storage, auxiliary to the permitted use, is permitted in the open, but not within 20 feet of the property lines.

(2) Open storage of lumber, metals, machinery, or other materials shall be enclosed by an eight-foot wood screening fence.

(3) Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and shall be removed and emptied periodically so no wastes shall be piled on open grounds. Storage of waste materials must be in accordance with all applicable state and federal regulations and laws.

(4) Screening shall be provided at lot boundaries abutting a residential district, and may consist of solid fencing or dense hedge or shrub to a minimum of eight feet in height.

*(E) Bulk regulations.* The following requirements shall be observed:

*(1) Lot area, width and yard requirements.*

<i>Use</i>	<i>Lot Area</i>	<i>Lot Width</i>	<i>Yards</i>			
			<i>Front</i>	<i>Rear</i>	<i>Interior Side</i>	<i>Street Side</i>
All	20,000 sq. ft. <sup>(a)</sup>	100 feet	45 feet	30 feet <sup>(b)</sup>	10 feet <sup>(c)</sup>	25 feet

Notes: <sup>(a)</sup>

<sup>(b)</sup> A minimum rear yard of 30 feet shall be required when the use backs up to any AG or residential district.

<sup>(c)</sup> A minimum side yard of 30 feet shall be required on that side of the property abutting any AG or residential district.

(2) *Height restrictions.* No building or structure hereafter erected or altered shall exceed 40 feet in height.

(3) *Lot coverage.* Impervious surface coverage shall not exceed 35% of the total lot area.

(4) *Zero lot line requirements.* When structures are placed on one interior side property line with a zero setback, the structure setback on the other interior side property line shall be a minimum of 16 feet. When interior units of townhouses/row houses are placed on interior side property lines with zero setbacks, the structure setback for end units shall be a minimum of 24 feet. When structures are placed on one interior side property line and one rear property line with a zero setback on each, the structure setback on the other side and the front property lines shall be a minimum of 25 feet for each. All developments using the zero lot line provision must submit a site plan according to the provisions of this chapter. The site plan shall include a plat drawn to the specifications of the city's subdivision code. Each structure shall be located on its own individually platted lot. The plat shall indicate the zero lot lines, easements, and provisions for common areas and their maintenance. (Ord. 98-05, passed 7-21-98)

#### § 151.076 (R-3) - STUBLER PIT DISTRICT.

(A) *Creation.* A special zoning district to be named Stubler Pit Zoning District (R-3) is hereby created and described as being located in the NE 1/4 of the SW 1/4 of Section 20, Township 58, Range 19 and the portion of the SE 1/4 of the SW 1/4 of Section 20, Township 58, Range 19 lying north of Old Highway 169 and the westerly 200 feet of the NW 1/4 of the SE 1/4 of Section 20, Township 58, Range 19 and the westerly 200 feet of the portion of the SW 1/4 of the SE 1/4 of Section 20, Township 58, Range 19 lying north of Old Highway 169.

(B) *Statutory authorization and policy.*

(1) *Statutory authorization.* This section is adopted pursuant to the authorization and policies contained in M.S. Chapter 103F, Minnesota Regulations, Parts 6120.2500-6120.3900 and the planning and zoning enabling legislation in M.S. Chapter 462.

(2) *Policy.* The uncontrolled use of shorelands of the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shoreland of public waters. The Legislature of Minnesota 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. The city hereby recognizes this responsibility.

(C) *General provisions and definitions.*

(1) *Jurisdiction.* The provisions of this section shall apply to the lands legally described above and designated above as the Stubler Pit Zoning District.

(2) *Compliance.* The use of any shoreland on Stubler Pit; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this section and other applicable regulations.

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

(4) *Interpretation.* In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

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

(6) *Other provisions.* All other applicable provisions of Chapter 151 must be complied with in the Stubler Pit Zoning District.

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

**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.

**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 USE.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

**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 chapter exist, the use or development conforms to the comprehensive land use plan of the community and the use is compatible with the existing neighborhood.

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

**DUPLEX.** A dwelling structure on a single lot, having two units 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.

**FRONT YARD.** The width of the property that is closest to the road.

**GENERAL CAMPGROUND**

**FACILITIES.** Campgrounds are solely intended for tourists and transient guests using recreational vehicles, trailers or tents.

**HEIGHT OF BUILDING.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

**LOT.** A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plat, or other accepted means and separated from other parcels or portions by said 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.

**MINE PIT LAKE SETBACK.** One hundred and fifty feet from the ordinary high water level of the pit.

**NON - CONFORMITY (NON-CONFORMING USE).** Any building or land occupied by a use on the effective date of this chapter, or any amendment to it rendering such use nonconforming which does not comply with all of the regulations of this chapter, or any amendment hereto, governing use for the zoning district in which such use is located.

**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.

**PUBLIC WATERS.** Any waters as defined in M.S. § 103G.005, subds. 15 and 15a. However, no lake, pond, or flowage of less than ten acres in size in municipalities and 25 acres in size in unincorporated areas need be regulated for the purposes of parts 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland may, at the discretion of the local government, be exempted from parts 6120.2500 to 6120.3900.

**SETBACK.** The minimum horizontal distance between a structure, or other facility and an ordinary high water level, top of a bluff, road, highway, property line or other facility.

**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 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 flood plain 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.

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

**SUBDIVISION.** Land that is divided for the purpose of sale, or lease, including campground facilities.

**VARIANCE.** The same as that term is defined or described in M.S. Chapter 462 (for municipalities).

(8) *Purpose.* The R-3, Stubler Pit District is intended to provide areas primarily for single-family residential uses on parcels of land. District regulations are designed to maintain low density residential uses and restrict incompatible development such as apartment complexes, offices, or commercial establishments, and to keep the land described as Outlot A as either campground or green space and to keep the land described as Outlot B as either beach or green space.

(9) *Permitted uses.* The following uses are permitted:

(a) Single-family residences.

(b) Accessory uses clearly incidental to principal use subject to the minimum lot line setback and maximum height requirements for accessory structures.

(c) Accessory buildings or structures, provided such accessory buildings or structures are located a minimum of ten feet from the back and side lot line and have a ten-foot maximum side wall height with a nine-foot maximum door height. The entrance of a garage must be at least ten feet from the property line.

(d) Public beaches.

(e) Public campgrounds.

(10) *Conditional uses.* There will be no Conditional Use Permits issued for this zoning district.

(11) *Non-permitted uses.*

(a) No commercial, industrial, wholesale or retail businesses, which prohibition is to include but is not limited to: kennels; automobile body shops or recreational vehicle body shops or paint shops; automobile or small engine repair shops; junk yards or scrap or recycling businesses; auction houses, auction garages, auction businesses of any kind; pawnbrokers or pawn shops; adult bookstores; massage parlors.

(b) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes are not permitted except for a 14-day period when the owner/occupant(s) move to or when the owner/occupant(s) move out of said property. Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes shall not be considered, or permitted as, accessory buildings, motor homes or vehicles in transit.

(c) Storage containers, mobile storage trailers, storage structures or cargo boxes designed or once serving as commercial shipping or cargo containers, truck trailers or boxes that are placed on a street or public right of way must have a street use permit issued by the city. Permits will be valid for 14 days and all parking restrictions must be observed.

(12) *Requirements.* The following requirements shall be observed:

(a) Minimum lot area: 12,500 square feet.

(b) Minimum lot width: 100 feet.

(c) Minimum lot depth: 125 feet.

(d) Maximum lot coverage allowed, including accessory buildings: 35%.

(e) *Maximum height.*

1. Principal structure: 36 feet.

2. *Accessory buildings.*

Maximum height of detached accessory buildings shall be 15 feet measured from finished grade to roof peak with walls no higher than ten feet.

(f) *Building requirements.*

1. Dwelling units must be stick built or modular with earth tone or muted colors. No manufactured or mobile homes are permitted in this district.

2. *Minimum width of dwelling units.* The main exterior walls of each residential structure shall not be less than 28 feet wide at the narrowest point of the structure. Minimum square footage per residential unit is 1,400 square feet not including accessory buildings.

3. *Permanent foundation.* All dwelling units shall be located upon a permanent foundation that meets the requirements of the State Building Code. All slabs will meet the requirements of the State Building Code for Engineered Slabs.

4. *Detached accessory structures.* As defined and regulated elsewhere in this chapter and this subdivision shall be hereafter permitted only where there is an existing principal residential dwelling on the property in question; and where the exterior walls for said structure shall be finished with an unobtrusive color aesthetically compatible with the surrounding neighborhood structures. In any case the use of galvanized finished metal, or any metal lacking a factory finish, or any unfinished materials shall be prohibited for exterior siding or roofing.

5. *Fences.* Must be wood and left natural or stained earth tones.

6. *Driveways.* Driveways must be poured (asphalt, concrete, or brick paved).

7. *Signs.* Signs advertising the sale, rent, or lease of the property on which the sign is placed. Temporary signs, such as rummage, garage sale and political election signs. Such signs shall not exceed six square feet in gross area and may be placed at the right-of-way line on the street.

(g) Lot line setbacks for lots adjacent to Stubler Pit (Lots 1 through 7, Block 3, inclusive):

1. *Front yard setbacks.*

a. Principal structure: 30 feet.

b. Detached accessory structure: ten feet.

2. *Side yard setbacks.*

a. Principal structure: Least side six feet, sum of sides 16 feet.

b. Detached accessory structure: five feet.

3. *Rear yard setback.*

a. Principal structure: 25 feet.

b. Detached accessory structure except for garages: ten feet.

c. Garages: 25 feet.

(h) Lot line setbacks for lots not adjacent to Stubler Pit (Lots 1-6, Block 1 and Lots 1-6, Block 2, inclusive):

1. *Front yard setbacks.*

a. Principal structure: 30 feet.

b. Detached accessory structure: ten feet.

2. *Side yard setbacks.*

a. Principal structure: Least side six feet, sum of sides 16 feet.

b. Detached accessory structure: five feet.

3. *Rear yard setback.*

a. Principal structure: 25 feet.

b. Detached accessory structure except for garages: ten feet.

c. Garages: 25 feet

(D) *Other provisions.* Except where Stubler Pit Zoning District (R-3) provision, sections 1 through 4, inclusive, and the provisions of § 151.071 are inconsistent, in which case the Stubler Pit Zoning District (R-3) provision, divisions (A) through (D), inclusive, control, all the provisions of § 151.071 and all other provisions of general applicability in Chapter 151 apply to and within the Stubler Pit Zoning District (R-3) and must be complied with.

(Ord. 08-01, passed 3-18-08; Am. Ord. 09-02, passed 8-4-09)

***SITE PLAN*****§ 151.080 EXEMPT USES.**

The following shall be exempt uses and shall not have to comply with the site plan requirements described herein: Temporary uses (not to exceed six months) of land different from its existing state. (Ord. 98-05, passed 7-21-98)

**§ 151.081 SITE PLAN REQUIRED.**

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 Planning Commission. No building permit shall be issued prior to approval of the site plan. The site plan need not be drawn by an architect or engineer.

(Ord. 98-05, passed 7-21-98)

**§ 151.082 PROCEDURE.**

The following procedure shall be followed in the preparation of site plans.

(A) Preparation of site plans in the in the AG - agricultural district and R-1 - low-density residential district.

(1) The person, developer, contractor, or builder shall be responsible for preparation of the site plan.

(2) The site plan shall contain the following information as is pertinent to the proposed use of the land:

(a) Name and address of the developer and property owner;

(b) Small key (location) map;

(c) Zoning classification of the land and names of adjoining land owners and zoning classification of adjacent lands;

(d) Proposed buildings and/or land use;

(e) Area of land in square feet;

(f) Survey and engineering information including distances with angles, bearings, lengths, and legal description of property involved shall be shown on drawings at a scale not to exceed 1 inch = 50 feet and including the following information:

1. Proposed buildings with location dimensions, building area, and height;
2. Distances on all sides from buildings to property lines and between buildings;
3. Location, dimensions, and area of existing buildings not to be razed;
4. Location of underground utilities, such as wells, fuel tanks, or septic tanks;
5. Such other or different information as may be required by the design standards set forth hereinafter or as required elsewhere in this chapter; and
6. Generalized drainage plan.

(B) Preparation of site plans in other districts.

(1) The person, developer, contractor, or builder shall be responsible for preparation of the site plan.

(2) The site plan shall contain the following information as is pertinent to the proposed use of the land:

- (a) Name and address of the developer and property owner;
- (b) Small key (location) map;
- (c) Zoning classification of the land and names of adjoining land owners and zoning classification of adjacent lands;

(d) Proposed buildings and/or land use;

(e) Area of land in square feet; and

(f) Survey and engineering information including distances with angles, bearings, lengths, and legal description of property involved shall be shown on drawings at a scale not to exceed 1 inch = 50 feet and including the following information:





1. Proposed buildings with location dimensions, building area, and height;

2. Distances on all sides from buildings to property lines and between buildings;

3. Location, dimensions, and area of existing buildings not to be razed;

4. Location and use of all buildings and adjacent lands that are within 50 feet of the property line in question;

5. Existing and proposed contours or spot grades at no more than two-foot intervals;

6. Drainage design for roof areas, parking lots, and driveways showing area for or method of disposal of surface run-off waters;

7. Existing and proposed street curb cut radii and curb cut width;

8. Limits and location of proposed or existing streets, cartways, curbs, sidewalks, easements, and rights-of-way;

9. Location, size, and elevation of proposed or existing sanitary sewerage facilities, storm sewers, catch basins, and drywalls;

10. Location and approximate diameter of proposed or existing trees and other woody stemmed plantings together with the common names of the plantings;

11. Limits and location of plantings or physical structures designed for screening;

12. Limits, location, and size of retaining walls and the type of material to be used in construction;

13. Limits and location of parking lots, driveways, parking bays, outside storage,

burning rubbish and garbage areas, loading and unloading areas, and surfacing and screening thereof;

14. Directions of vehicular traffic flow to, from, and within the area, together with traffic control signs and markings;

15. Locations, height, candle power, and type of all outside lighting including street lighting and sign lighting;

16. Locations, size, height, and overall dimensions of outside signs;

17. Location of underground utilities, such as wells, fuel tanks, or septic tanks; and

18. Such other or different information as may be required by the design standards set forth hereinafter or as required elsewhere in this chapter.

(3) The following general principles of design shall be incorporated into the site plan:

(a) *Landscaping.* Surface denuded of vegetation shall be seeded or sodded or otherwise treated to prevent soil erosion.

(b) *Light glare from vehicles.*

1. When a building, parking lot, or driveway adjoins or is within 200 feet of a residential area, provision shall be made to screen all vehicle lights so as to curtail direct illumination of the residential area. Screening provided on the land may be provided by the use of closely spaced evergreen trees, shrubs, or physical structures that will harmonize with the developed use of the land and with the residential area.

2. Vehicle lights need not be screened on that portion of a site bounded by and parallel to a street.

(c) *Surface water, sewage disposal, and erosion control.*

1. Storm water systems shall be laid out by a professional engineer;

2. Run-off water from parking lots, roofs, and driveways shall not be allowed to cross sidewalks or to run onto private property that is not a part of the site unless easements have been obtained;

3. Surface run-off waters shall be directed into municipal facilities where such facilities are available. Where municipal facilities are not available, a drywell or drainage area owned or controlled by the owner or developer shall be provided;

4. Sanitary sewage shall be directed into municipal facilities where such facilities are available. Where municipal facilities are not available, other disposal methods approved by the Planning Commission may be used; and

5. Retaining walls shall be constructed where necessary for land stabilization.

(d) *Parking lots.*

1. Parking lots shall be designed to avoid creating large open expanses;

2. Parking lots shall be designed to avoid the problem of vehicles backing onto streets, alleys, and sidewalks;

3. Vehicular traffic flow to, from, and within land containing a parking lot shall be controlled by appropriate traffic control signs and surface markings;

4. Adequate provision shall be made for vehicular ingress and egress;

5. Provisions shall be made for a safe and convenient circulation pattern within any parking lot; and

6. Proposed curb cut widths shall be kept to a minimum consistent with vehicular and pedestrian safety. Curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street that they adjoin. Existing curb cuts and curb radii shall be used only if they comply with appropriate standards for proposed curb cuts and curb cut radii.

(e) *Parking lot lighting.* A parking lot shall be lighted for vehicular and pedestrian safety.

(C) Processing.

(1) Adequate copies of the complete site plan shall be filed with the Zoning Administrator;

(2) The Zoning Administrator shall forward the site plan to the Planning Commission and to applicable reviewing agencies as instructed by the Planning Commission.

(3) The Planning Commission or a delegation thereof shall view the area being considered within the site plan.

(D) Decision.

(1) The Planning Commission shall review the site plan and any written comments from reviewing agencies and recommend notification as necessary within 45 days from the time it is filed.

(2) Decisions and recommendations of the Planning Commission shall be filed and recorded with the Zoning Administrator. Copies shall be sent to the applicant and/or his representative.

(E) Compliance Required.

(1) It shall be the duty of the Zoning Administrator to ensure that the approved site plan is followed by the owner and/or developer.

(2) The land area of a site developed pursuant to an approved site plan shall not thereafter be reduced in size, and no departure from the approved site plan shall be made without the express written permission of the Planning Commission. 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 chapter and any special conditions as provided by this section have been complied with.

(F) Appeal. If the site plan applicant is denied a building permit, the decision may be appealed to the City Council. The City Council may grant a variance from the provisions of this section only when all other requirements for the granting of a variance have been met.

(Ord. 98-05, passed 7-21-98)

**§ 151.083 BONDS.**

The city may require performance bonds in amounts adequate to insure that development proposed in the plan submitted is actually completed.

(Ord. 98-05, passed 7-21-98)

**ADMINISTRATION**

**§ 151.090 ZONING ADMINISTRATOR DUTIES.**

(A) The City Council shall appoint a Zoning Administrator.

(B) It shall be the duty of the Zoning Administrator to:

(1) Administer the requirements of this chapter for building permits and issue or deny each application in accordance with the provisions of this chapter;

(2) Conduct inspections of buildings and the use of land to determine compliance with the terms of this chapter;

(3) Publish and attend to the service of all notices required under the provisions of this chapter;

(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 chapter including, but not limited to maps, amendments, conditional uses, variances, appeals, and applications thereof;

(6) Provide technical assistance to the City Council, Planning Commission, and the Board of Adjustments;

(7) Make recommendations to the City Council, Planning Commission, and Board of Adjustments as necessitated by this chapter; and

(8) Refer to the City Attorney all violations of this chapter which can not be handled administratively.

(Ord. 98-05, passed 7-21-98)

**§ 151.091 BUILDING PERMITS REQUIRED.**

(A) *Permits required.* No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area or remodeled to increase the number of dwellings or accommodate a change in use of the building and/or premises or part thereof without a building permit issued by the Zoning Administrator.

(B) *Applications.* All applications for building permits shall be accompanied by the fee as set by the City Council and shall be made on forms furnished by the Zoning Administrator and shall include the following where applicable:

(1) Names and addresses of the:

- (a) Applicant;
- (b) Owner of the site;
- (c) Architect; and
- (d) Professional engineer or contractor;

(2) Description of the site by lot, block and record subdivision, or by metes and bounds and the address of the proposed site;

(3) Lots shall have all corners clearly marked with stakes. Side property lines will have stakes placed at intervals not to exceed 30 feet;

(4) Site plans as appropriate and required by this chapter;

(5) Type of structure, existing and/or proposed operation or use of the structure or site, and the zoning district in which the site is located;

(6) Where applicable, the number of housekeeping units, families, rental units, or employees the proposed building is designed to accommodate; and

(7) Additional information as may be required by the Planning Commission, Zoning Administrator, or other city office or officials.

(C) *Compliance required.* The Zoning Administrator shall examine all applications for building permits and the necessary site plan to determine whether the proposed construction, alteration, extension, repair, and proposed use shall comply with the provisions of this chapter. Upon examination, a building permit shall be issued or denied.

(D) *Approval or denial of building permit.* Upon approval or denial, the Zoning Administrator shall attest to it by his signature on the building permit. If

the building permit is approved, one copy shall be returned to the applicant and one copy shall be retained by the Zoning Administrator. If the building permit is denied, the Zoning Administrator shall, in addition to the above, notify the applicant with a memorandum stating the reason for denial of the building permit.

(E) *Expiration.* A building permit shall become void if the work described therein has not begun within six months from the date of issuance. If the work described in any building permit has not been substantially completed within one year of the date of issuance, said permit shall expire and be canceled by the Zoning Administrator. Further work shall not proceed unless and until a new building permit has been obtained.

(F) *Construction and use to be same as application and plans.* Building permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only that use, arrangement, and construction set forth in such approved site plan and applications and for no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and be punishable as provided herein.

(Ord. 98-05, passed 7-21-98)

#### § 151.092 CONDITIONAL USES.

(A) Any proposed conditional use permitted by the provisions of this chapter shall be submitted to the Planning Commission and the City Council for review and determination of its applicability to the district in which it is proposed.

(B) The following procedure shall be followed for conditional use permit application:

(1) *Application.*

(a) The applicant requests proper form for a conditional use permit from the Zoning Administrator.

(b) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:

1. The legal description and local address of the property;
2. The names and addresses of the owners of all property within 50 feet of the property for which the conditional use permit is being applied;
3. Detailed description of the proposed conditional use;
4. Detailed plans of all buildings, roadways, and any other structural or cultural improvements;
5. A map showing the locations, dimensions, and use of all property within 50 feet of the applicant's property including streets, alleys, railroads, and other physical and cultural features;
6. A statement describing the reasons for the request of the conditional use permit; and
7. Other information or exhibits as required by the Planning Commission and City Council in making recommendations, determinations, and dispositions on the application.

(2) *Application processing.*

(a) Upon receipt of the application by the Zoning Administrator, a copy of the completed application and attachments shall be forwarded immediately to the Planning Commission.

(b) The Planning Commission shall set the date for a public hearing and instruct the Zoning Administrator to give notice of time, place, and purpose of the public hearing in the following manner:

1. Notify by mail all property owners within 50 feet of the property at least ten days prior to the date of the public hearing;

2. Give public notice in a newspaper of general circulation in the city at least ten days prior to public hearing;

3. Notify the appropriate township Board of Supervisors, County Planning Commission and other agencies as instructed or deemed necessary;

4. The Planning Commission or delegation thereof shall view the area being considered for a conditional use permit.

(3) *Public hearings.*

(a) The chairperson of the Planning Commission shall conduct the public hearing.

(b) The applicant and/or his representative shall appear before the Planning Commission and answer any questions relative to the proposed conditional use permit.

(c) An accurate record of all testimony shall be kept by the secretary of the Planning Commission. This record shall include the names of all persons who participated in the meeting.

(4) *Recommendation.*

(a) The Planning Commission shall consider all possible adverse effects of the proposed conditional use permit and what, if any, additional requirements may be necessary to prevent such adverse effects.

(b) The Planning Commission, in considering an application for a conditional use permit, shall make findings on the following criteria and report these findings in its recommendation to the City Council:

**Buhl - Land Usage**

1. That the establishment, maintenance, or operation will not be detrimental to or endanger the public health, safety, or general welfare and is not contrary to established standards, regulations, or ordinances of other governmental agencies;

2. That each structure or improvement is so designed and constructed that it is not unsightly, undesirable, or obnoxious in appearance to the extent that it will hinder the orderly and harmonious development of the city and of the district wherein proposed;

3. That the use will not be substantially injurious to the permitted uses nor unduly restrict the enjoyment of other property in the immediate vicinity nor substantially diminish and impair property values within the area;

4. That the establishment of the use will not impede the orderly and normal development and improvement of the surrounding property for uses permitted in the zoning district;

5. That adequate water supply and towage disposal facilities are provided and in accordance with applicable standards;

6. That adequate access roads, on-site parking, on-site loading and unloading berths, and drainage have been or will be provided;

7. That adequate measures have been taken to provide ingress and egress so as to minimize traffic congestion on public roads;

8. That the use will not be in major conflict with the comprehensive city plan; and

9. That the use will conform to all other applicable regulations as required in this chapter.

(c) The Planning Commission shall make a decision and forward its report and

recommendations to the City Council within 45 days from the date of public hearing

(5) *Decision.*

(a) Upon receipt of the report and recommendations from the Planning Commission, the City Council shall place the consideration of the application for a conditional use permit on the agenda for its next regular meeting.

(b) The City Council shall make a decision on the application for a conditional use permit within 45 days after the regular Council meeting following the receipt of the report and recommendations from the Planning Commission.

(c) The concurring vote of a majority of the full Council membership shall be necessary for the approval or denial of an application for a conditional use permit.

(d) Decisions of the City Council shall immediately be filed and recorded with the Zoning Administrator. Copies shall be sent to the applicant and/or his representative.

1. The Council shall detail its reasons for denial or approval;

2. Upon approval of an application, the Council may impose any additional special conditions if considered necessary to protect the public health, safety, and welfare.

(6) *Issuance.*

(a) The Zoning Administrator shall issue a conditional use permit for a particular use on a particular tract of land.

(b) The conditional use permit, if granted, shall also be recorded with the County Recorder and become a part of the title to the property.

(c) A conditional use permit shall become void one year from the date of issuance if significant construction has not been undertaken.  
(Ord. 98-05, passed 7-21-98)

### § 151.093 VARIANCE.

(A) *Application.* A variance from the terms of this chapter shall not be granted by the Board of Adjustments unless and until a written application for a variance is submitted in the following manner:

(1) The applicant requests the proper form for a variance from the Zoning Administrator.

(2) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:

(a) Applicant's name and address;

(b) Legal description and local address of the property;

(c) A map showing the locations, dimensions, and use of the applicant's property and all property within 50 feet thereof including streets, alleys, railroads, and other physical and cultural features; and

(d) Statement on what is intended to be done on or with the property that does not conform to this chapter.

(3) The following requirements shall be addressed within the application:

(a) That there are exceptional or extraordinary circumstances or conditions that are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

(b) That literal interpretation of the provisions of this chapter would deprive the applicant

of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(c) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest;

(d) That the condition or situation of the specific piece of property, or the intended use of said property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations;

(e) That the special conditions and circumstances do not result from the actions of the applicant.

### (B) *Application processing.*

(1) Upon receipt of the application by the Zoning Administrator, a copy of the completed application shall be forwarded immediately to the Board of Adjustments.

(2) In the case of an application to the Board for the granting of a variance, the Board shall set the date for a public hearing within 30 days from the submittal date of the application. The Zoning Administrator shall be instructed to give notice of time, place, and purpose of the public hearing in the following manner:

(a) Notify by mail all property owners within 50 feet of the property at least ten days prior to the date of the public hearing;

(b) Give public notice in a newspaper of general circulation at least ten days prior to the public hearing; and

(c) Notify the appropriate township Board of Supervisors, Planning Commission, and other agencies as instructed or deemed necessary.



(3) In the case of an appeal, all proceedings in furtherance of the action appealed are stayed, unless the Zoning Administrator certifies to the Board of Adjustments after the application for appeal is filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life and property.

(C) *Public hearing.*

(1) The chairperson of the Board of Adjustments shall conduct the public hearing.

(2) The applicant and/or his representative shall appear before the Board of Adjustments and answer questions relative to the application for variance.

(3) An accurate record of all testimony shall be kept by the secretary of the Board of Adjustments. This record shall include the names of all persons who participated in the meeting.

(D) *Decision.*

(1) In the case of an appeal, the Board of Adjustments shall adopt a resolution stating its interpretation and determination of the provisions of this chapter being appealed through the application.

(2) In the case of an application for a variance, the Board of Adjustments shall make a finding that the reasons set forth in the application justify the granting of the variance as the minimum variance that will make possible the reasonable use of the land, building, or structure. The Board of Adjustments may further attach any condition to the grant of the variance as it shall determine is necessary and desirable to bring it within the purpose and intent of this chapter. Violations of such conditions shall be deemed a violation of this chapter and punishable thereunder.

(3) The Board of Adjustments shall make a decision on the application within 100 days of receipt of the application. Such decision shall show the reasons for the determination and may reverse or

affirm, wholly or in part, or may modify the order or determination appealed from. Such decision shall also state in detail, in the case of variances, any exceptional difficulty or unusual hardships upon which the appeal was based and which the Board found present. The decision shall also state in detail what, if any, conditions and safeguards are required.

(4) The concurring vote of a majority of the members of the Board of Adjustments shall be necessary for the approval or denial of an application for appeal or variance.

(5) Decisions of the Board of Adjustments shall immediately be filed and recorded with the Zoning Administrator. Copies shall be sent to the applicant and/or his representative by United States mail.

(E) *Issuance.*

(1) The Zoning Administrator shall issue a variance or modify the order or determination appealed from.

(2) Unless otherwise stated in the decision, any order or decision of the Board of Adjustments shall become void if significant construction has not been undertaken within 12 months.

(F) *Rehearing.* An application for a rehearing shall be made in the same manner as for an original hearing. The application for a rehearing shall be denied by the Board if from the record it shall appear that there has been no substantial change in facts, evidence or condition.

(G) *Appeal.* Any decision by the Board of Adjustments may be appealed to the City Council. (Ord. 98-05, passed 7-21-98)

**§ 151.094 APPEAL.**

(A) *Intent.* It is the intent of this section that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator, and that

such questions shall be presented to the Board of Adjustments only on appeal from the decision of the Zoning Administrator.

(B) *Application.* An appeal may be taken by any aggrieved person or by any city officer, department, board, or commission. Such an appeal shall be filed within 30 calendar days after the date of the decision or determination of the Zoning Administrator. The appeal shall be made in the following manner:

(1) The applicant requests the proper form from the Zoning Administrator.

(2) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:

(a) The applicant's name, address, and phone number;

(b) The section of the zoning code in question;

(c) The nature of the difficulty encountered with the zoning code;

(d) The nature of the action by the Zoning Administrator; and

(e) The manner in which it is believed that an error in action, determination, or decision has occurred.

(C) *Application processing.*

(1) Upon receipt of the application by the Zoning Administrator, a copy of the completed application shall be forwarded immediately to the Board of Adjustments.

(2) In the case of an application to the Board for the granting of a variance, the Board shall set the date for a public hearing within 30 days from the submittal date of the application. The Zoning Administrator shall be instructed to give notice of

time, place, and purpose of the public hearing in the following manner:

(a) Notify by mail all property owners within 50 feet of the property at least ten days prior to the date of the public hearing;

(b) Give public notice in a newspaper of general circulation at least ten days prior to the public hearing; and

(c) Notify the appropriate township Board of Supervisors, Planning Commission, and other agencies as instructed or deemed necessary.

(3) In the case of an appeal, all proceedings in furtherance of the action appealed are stayed, unless the Zoning Administrator certifies to the Board of Adjustments after the application for appeal is filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life and property.

(D) *Public hearing.*

(1) The chairperson of the Board of Adjustments shall conduct the public hearing.

(2) The applicant and/or his representative shall appear before the Board of Adjustments and answer questions relative to the application for variance.

(3) An accurate record of all testimony shall be kept by the secretary of the Board of Adjustments. This record shall include the names of all persons who participated in the meeting.

(E) *Decision.*

(1) In the case of an appeal, the Board of Adjustments shall adopt a resolution stating its interpretation and determination of the provisions of this chapter being appealed through the application.

(2) In the case of an application for a variance, the Board of Adjustments shall make a

finding that the reasons set forth in the application justify the granting of the variance as the minimum variance that will make possible the reasonable use of the land, building, or structure. The Board of Adjustments may further attach any condition to the grant of the variance as it shall determine is necessary and desirable to bring it within the purpose and intent of this chapter. Violations of such conditions shall be deemed a violation of this chapter and punishable thereunder.

(3) The Board of Adjustments shall make a decision on the application within 100 days of receipt of the application. Such decision shall show the reasons for the determination and may reverse or affirm, wholly or in part, or may modify the order or determination appealed from. Such decision shall also state in detail, in the case of variances, any exceptional difficulty or unusual hardships upon which the appeal was based and which the Board found present. The decision shall also state in detail what, if any, conditions and safeguards are required.

(4) The concurring vote of a majority of the members of the Board of Adjustments shall be necessary for the approval or denial of an application for appeal or variance.

(5) Decisions of the Board of Adjustments shall immediately be filed and recorded with the Zoning Administrator. Copies shall be sent to the applicant and/or his representative by United States mail.

(F) *Issuance.*

(1) The Zoning Administrator shall issue a variance or modify the order or determination appealed from.

(2) Unless otherwise stated in the decision, any order or decision of the Board of Adjustments shall become void if significant construction has not been undertaken within 12 months.

(G) *Rehearing.*

(1) An application for a rehearing shall be made in the same manner as for an original hearing. The application for a rehearing shall be denied by the Board if from the record it shall appear that there has been no substantial change in facts, evidence, or condition.

(H) *Appeal.* Any decision by the Board of Adjustments may be appealed to the City Council. (Ord. 98-05, passed 7-21-98)

**§ 151.095 AMENDMENT PROCEDURE.**

(A) The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or repealed.

(B) No such action may be taken unless it shall have been proposed by, or shall have been first submitted to the Planning Commission for review and recommendation in the following manner:

(1) *Application.*

(a) Applicant requests the proper form for zoning amendment from the Zoning Administrator.

(b) Application shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:

1. The legal description and local address of the property;

2. The present zoning classification and the zoning classification requested for the property;

3. The existing use and proposed use of the property;

4. The names and addresses of the owners of all property within 50 feet of the property for which the change is proposed;

5. A statement of the reasons why the applicant believes the present zoning classification is no longer valid; and

6. A map showing the locations, dimensions, and use of the applicant's property and all property within 50 feet thereof, including streets, alleys, railroads, and other physical features.

(c) Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

(2) *Application processing.*

(a) Upon receipt of the application by the Zoning Administrator, a copy of the completed application shall be forwarded immediately to the Planning Commission for study and recommendation.

(b) The Planning Commission shall schedule a date for public hearing within 45 days of receipt of application and instruct the Zoning Administrator to give notice of time, place and purpose of the public hearing in the following manner. The Zoning Administrator shall:

1. Notify by mail all property owners within 50 feet of the property at least ten days prior to the date of the public hearing;

2. Give public notice in a newspaper of general circulation in the city at least ten days prior to the public; and

3. Notify the appropriate township Board of Supervisors, County Planning Commission, and other agencies as instructed and deemed necessary.

(c) The Planning Commission or delegation thereof shall view the area being considered.

(3) *Public hearing.*

(a) The chairperson of the Planning Commission shall conduct the public hearing.

(b) Any person with legitimate interest in the application may present his or her views to the Planning Commission either verbally or in writing.

(c) An accurate record of all testimony shall be kept by the secretary of the Planning Commission. This record shall include the names and addresses of all persons who participated in the meeting.

(3) *Planning Commission decisions and recommendations.*

(a) The Planning Commission shall, prior to making a recommendation, consider the following:

1. All relevant facts and findings brought out in public hearings;

2. Physical inspection of property in question by all members or a delegation of members of the Planning Commission;

3. The following items should be considered in reaching a decision:

a. Would the granting of the rezoning request conform to the presently accepted future land use plans for the city as well as present land uses;

b. Is it in the community's best interest for additional land space to be zoned to the class requested;

c. If it is in the community's best interest for additional land to be zoned as requested, should the rezoning be done in areas requested or would the community's interest be better served if the rezoning were done in other areas of the city;

d. Would the granting of the rezoning request adversely affect property values of adjacent landowners to an unreasonable degree;

e. If the request was granted, what additional public services would be required;

f. Is the capacity of existing roads and sewer and water facilities sufficient to accommodate this proposal;

g. Was there an error or oversight in preparing the original zoning map that indicates that this zoning should have been included at that time; and

h. Is this change beneficial to the community or is it merely a convenience to the applicant.

(b) The Planning Commission shall make a written recommendation with reasons for approval or denial of the application to the City Council.

(5) *City Council decisions.*

(a) The City Council may approve or deny the application by simple majority vote of the entire City Council when concurring with the Planning Commission's recommendation.

(b) The City Council may override the recommendation of the Planning Commission and thereby approve or disapprove an application. Such action shall require a concurring four-fifths vote of the entire City Council.

(6) *Approval.*

(a) The City Council officially adopts the ordinance change.

(b) The Zoning Administrator shall forward a certified copy to the County Recorder and make map and/or ordinance changes.

(7) *Denial.* If the application is denied by the City Council, a period of not less than one year is required between presentation of the same petitions for a change or amendment applying to a specific piece of property unless there has been a substantial change of facts.

(Ord. 98-05, passed 7-21-98)

**§ 151.096 FEES.**

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, appeals, amendments, conditional uses, variances, and other matters pertaining to this chapter. 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.

(Ord. 98-05, passed 7-21-98)

**§ 151.097 VIOLATIONS.**

If it is found that any of the provisions of this chapter are being violated, it shall be the duty of the Zoning Administrator to take the following action:

(A) Document the violation in writing, with photographs, historical records, and dates of information;

(B) Notify in writing the person responsible for such violations indicating the nature of the violation, and outlining action necessary to correct it;

(C) Order the discontinuance of illegal use of land, buildings, or structures;

(D) Order the removal of illegal buildings or structures or of illegal additions, alterations, or structural changes;

(E) Order discontinuance of any illegal work being done; and

(F) Take any other action authorized by this chapter to ensure compliance with or to prevent violations of its provisions.  
(Ord. 98-05, passed 7-21-98)

### ***BOARD OF ADJUSTMENTS***

#### **§ 151.110 ESTABLISHMENT.**

A Board of Adjustments is hereby established for the purpose of hearing appeals and granting variance under the provisions of this chapter in harmony with the purpose and intent of this chapter.  
(Ord. 98-05, passed 7-21-98)

#### **§ 151.111 MEMBERSHIP AND ORGANIZATION.**

The Planning Commission shall serve as the Board of Adjustments. The officers of the Planning Commission shall be the officers of the Board of Adjustments.  
(Ord. 98-05, passed 7-21-98)

#### **§ 151.112 RULES.**

(A) The City Council hereby adopts rules for the conduct of the business of the Board of Adjustments in accordance with the provisions of this chapter. The Council may adopt further rules as necessary.

(B) Meetings shall be held at the call of the chairperson and at such other times as the Board may determine. All meetings shall be open to the public. A quorum shall consist of two-thirds of the members of the Board. No Board member shall sit in hearing or vote in passing upon any case in which he/she is personally or financially interested.

(C) Minutes shall be kept for all Board meetings. The minutes shall include all important facts pertaining to each meeting which will include, but not be limited

to names and addresses of all persons appearing before the Board, a record of all hearings and testimony, all exhibits presented to the Board, a copy of each resolution acted upon by the Board, the vote of each member upon each question, the reasons for the Board's determination, and the members absent or failing to vote. These records shall be immediately filed in the office of the Zoning Administrator and shall be a public record.

(Ord. 98-05, passed 7-21-98)

#### **§ 151.113 POWERS AND DUTIES.**

The Board of Adjustments shall have the following powers and duties with regard to this chapter:

(A) *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement and interpretation of this chapter.

(B) *Variances.* To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. As used in this chapter, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. Under no circumstances shall a variance be granted to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter 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.

(Ord. 98-05, passed 7-21-98)

***PLANNING COMMISSION*****§ 151.120 POWERS AND DUTIES.**

It is the intent of this chapter that the duties of the Planning Commission shall include the following:

(A) Review all applications for appeals and variances to this chapter and report the findings and recommendations to the Board of Adjustments and City Council as provided in this chapter;

(B) Review or initiate applications for amendments and changes to this chapter and report the findings and recommendations to the City Council as provided in this chapter;

(C) Review, hear, and make disposition of all applications for conditional use permits as provided in this chapter;

(D) Review all applications for conditional use permits and report the findings and recommendations to the City Council as provided in this chapter; and

(E) Prepare, in cooperation with the Zoning Administrator, an annual review related to the effectiveness of this chapter as provided in this chapter.  
(Ord. 98-05, passed 7-21-98)

**§ 151.121 DECISIONS.**

All actions and recommendations of the Planning Commission pertaining to this chapter shall require the vote of a majority of the members of the entire Commission.  
(Ord. 98-05, passed 7-21-98)

**§ 151.122 ANNUAL REVIEW.**

(A) The Planning Commission, in cooperation with the Zoning Administrator, shall annually prepare and file with the City Council a report on the

operations of the zoning code as amended, including when necessary, recommendations as to the enactment of amendments or supplements thereto.

(B) This report shall include, but not be limited to the study of the following:

(1) Development of property uses;

(2) Nature of population trends;

(3) Commercial and industrial growth, both actual and prospective; and

(4) Effect upon the community as whole in view of the city's comprehensive plan and how the code has assisted in implementing the plan.  
(Ord. 98-05, passed 7-21-98)

***CITY COUNCIL*****§ 151.130 POWERS AND DUTIES.**

It is the intent of this chapter that the duties of the City Council shall include the following:

(A) Review formulation and adoption of this chapter and applicable maps as empowered by M.S. 1974, 462.357, Subdivision 2, as it may be amended from time to time;

(B) Appoint members to and delegate certain powers and duties to the Planning Commission, Board of Adjustments, and Zoning Administrator for the purpose of implementing and enforcing the requirements of this chapter in a fair, conscientious, and intelligent manner;

(C) Review all applications for changes and amendments and make disposition of applications as provided in this chapter;

(D) Review all applications for conditional use permits, hear and make disposition of applications as provided in this chapter;

(E) Review all appeals from decisions of the Planning Commission; and

(F) Establish a schedule of fees and charges as relating to this chapter.  
(Ord. 98-05, passed 7-21-98)

**§ 151.131 DECISIONS.**

All actions and recommendations of the City Council pertaining to this chapter shall require the vote of a majority of the members of the full City Council.  
(Ord. 98-05, passed 7-21-98)

**§ 151.999 PENALTY.**

Any person, firm, corporation, or entity who violates any of the provisions of this chapter or any order of the Zoning Administrator issued in accordance with this chapter, 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. 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 chapter, and the city may pursue, by appropriate actions or proceedings, any or all additional remedies.  
(Ord. 98-05, passed 7-21-98)





## CHAPTER 152: DEMOLITION OF DAMAGED OR UNSAFE BUILDINGS

### Section

- 152.01 Policy and findings
- 152.02 Securing vacant buildings
- 152.03 Moving or demolishing buildings
- 152.04 Demolition of damaged or unsafe buildings

### § 152.01 POLICY AND FINDINGS.

(A) *Policy.* Pursuant to authority provided in M.S. § 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in division (B), and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declares that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements.

(B) *Findings.* The City Council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and an invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and that the unkempt grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such

buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional government services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition of annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated.

(Ord. 14-03, passed 5-7-14)

### § 152.02 SECURING VACANT BUILDINGS.

(A) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the Building Official may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six days after the order is served, the Building Official shall cause the building to be boarded up or otherwise properly secured.

(B) *Emergency*. When it is determined by the Building Official or the Fire Chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing the building, the Building Official or Fire Chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:

(1) The conditions showing the existence of an exigency are documented in writing by the Building Official or Fire Chief or their designees;

(2) Notice be mailed immediately by the department invoking this section to the address of the owner and taxpayer, and if recorded on the Assessor's rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefore; and

(3) After a vacant or unoccupied building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired, the Building Official shall re-secure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee and all other costs incurred by the city for boarding or otherwise securing a building under this chapter, including, but not limited to the actual costs for boarding, posting and monitoring the building and housing code compliance inspections, police or fire department inspection, response, or protection, public health and safety investigation, control of people or property wrongfully on the premises shall be assessed. "Owner", for the purpose of this section, shall mean the person who is listed as the owner by the City Assessor on the homestead record, or, if none, the taxpayer as shown on the records of the City Assessor.

(Ord. 14-03, passed 5-7-14)

### **§ 152.03 MOVING OR DEMOLISHING BUILDINGS.**

Before any permit is issued for the moving, wrecking, razing or demolishing of a building or structure, the applicant shall file with the city a performance bond and a certificate of insurance, as hereinafter required.

(A) *Wreckers and movers performance bond*. The wrecker's and mover's performance bond shall be executed by the applicant and a corporate surety licensed to do business in this state and shall provide in substance that the applicant and surety are firmly bound unto the city in the penal sum of \$10,000, and that such bond shall be void if the applicant shall perform and sufficiently complete all work for which the permit is issued in accordance with all ordinances of the city within a reasonable period of time, and shall restore any street or sidewalk damaged or excavated by applicant to its prior condition, and shall reimburse the city for all damages to any city property, and shall save the city harmless from any and all claims resulting from the work operations, regardless of whether the damage is done by the applicant, its agents, employees or subcontractors. For the purpose of interpreting and applying the phrase, "within a reasonable period of time" the Building Official shall, without excluding other relevant factors, take into account:

(1) Whether the building or structure is to be wrecked, razed or demolished;

(2) Whether the building or structure is to be moved from one premises to another premises;

(3) Whether the building or structure is to be moved upon, along, over and across any one or more of the public highways or grounds of the city; and

(4) As to whether delay by the permittee or his or her subcontractor in prosecuting the work will endanger or tend to endanger the public health or safety of the city or its inhabitants.

(B) *Insurance.* The applicant shall also file with the city a certificate of an insurance company authorized by the laws of the state to transact such business duly certifying to the fact that the applicant has in force with such company a comprehensive general liability policy, including completed operations, product liability, explosion, collapse, and underground property liability coverage to cover the applicants' operations under such permit. Such policy shall be in the amount of \$500,000 for bodily injuries occurring in any year and \$100,000 for property damage occurring in any year and shall name the city as an additional insured. Such policy shall contain a provision that no cancellation of such insurance shall become effective without ten days written notice to the city.

(Ord. 14-03, passed 5-7-14)

#### **§ 152.04 DEMOLITION OF DAMAGED OR UNSAFE BUILDINGS.**

(A) *General.* Whenever it comes to the notice of the Building Official that any building or structure is in a damaged, dilapidated or dangerous condition, it shall be his or her duty to make an inspection of such building or structure. It shall be unlawful to repair or alter any building or structure located in the city, if, in the opinion of the Building Official based upon information documented in the official file and records, such building or structure has been damaged or deteriorated from any cause to the extent that the Building Official's good faith, reasonable estimate of the cost of repairing and restoring the building is more than 60% of the current fair market value of the building, as shown in the records of the City Assessor or as adjusted by the Assessor for accuracy, and all such buildings or structures so damaged or deteriorated shall be torn down and removed when so ordered by the Building Official; provided, however, that the Building Official, or the Building Appeal Board in cases appealed to it, may allow such a damaged or deteriorated building to be repaired, for good cause shown related to the use, location or

unique characteristics of the building, when the owner shows that he or she has dedicated sufficient funds to pay for the repair, have entered into a valid contract to have the repairs completed, and will complete all the repair and restoration work within a reasonable time, not to exceed six months. In the case of arson, the six-month timetable will not begin until the appropriate official, i.e. Fire Marshal, Law Enforcement and Insurance Inspector, has finished their investigation and has signed off on it.

(B) *Orders for demolition and assessment of costs.* All orders for the demolition of a dangerous, defective or deteriorated building, or for repairs of the same, shall be in writing, signed by the Building Official, and shall allow not less than 30 days in which to comply with said order. Each order shall identify the structure, state the legal basis of the order, the date of the order, the fair market value of the building, the Building Official's good faith, reasonable estimate of the cost of repairs, the calculation that forms the basis for the opinion that the damage requires that the building be demolished, the time and procedure for appeal, and other information deemed relevant by the Building Official. Should any such order not be complied with within the time allowed therefor or, should the structure constitute an immediate threat of bodily harm to the public, or the appeal not be taken, the Building Official shall, in writing, communicate such information to the City Council. The City Council may direct the Building Official to proceed with the work ordered, or to contract to have the work done. In case of the demolition of a building, should the sale of the salvage from such building exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto. A statement of the cost of such work shall be transmitted to the City Council which may cause the same to be charged against the land on which the building existed as a municipal lien, which lien shall be recorded with the register of deeds or registrar of titles as a lien against such land, or to be recovered in a suit at law against the owner, or to

cause any or all such costs to be assessed against the property from which such removal takes place. If the City Council decides to assess the cost of demolition against the affected property, such assessment shall be made by resolution of the Council, and such resolution shall state a time by which such assessment shall be payable, which time shall be not less than 30 days after publication of such resolution and service of notice of the assessment upon the property owner. Notice of such assessment and the time within which it shall be paid, shall be served on the owner of such property in the manner provided in division (C) of this section, except that it shall be necessary to post such notice on the affected property or to publish such notice other than to publish in the regular manner the resolution by which such assessment is made. Delinquent assessments shall be certified to the County Auditor of St. Louis County for collection in the same manner as other assessments.

(C) *Notice to owner.* Except as otherwise provided for in division (B) above, service of all orders provided for in the section shall be made as follows:

(1) Upon an individual owner, residing within the city, by delivering a copy to him/her personally or by leaving a copy at his/her usual place of abode with some person of suitable age and discretion then residing therein. If the owner does not reside within the city, by sending a copy of such order by certified mail to his/her last known address, and in addition a copy of such order shall be posted in a conspicuous place in the building to which it relates. Such mailing and posting shall be deemed adequate service. If it should come to the attention of the Building Official that the owner, as shown by the land records of the register of deeds or the registrar of titles of the county of St. Louis, Minnesota, is deceased, such order shall be sent by certified mail to the known heirs of the deceased owner if the Building Official is reasonably able to ascertain such heirs. In addition, a copy of the said order shall be posted in a conspicuous place on the building in which it relates,

and said order shall be published in the official newspaper of the city for one day in each of two consecutive weeks during the period to which the order relates. Such mailing, posting and publication shall be deemed adequate service;

(2) If the owner is confined to a state institution, by serving also the chief executive offices of the institution;

(3) If the owner be an infant under the age of 14 years, by serving a resident guardian, and if he or she has none, then by serving the person having control of such infant or with whom he or she resides;

(4) If the owner be a partnership or association, by delivering the order to a member or the managing agent of the partnership or association;

(5) If the owner be a domestic or foreign corporation, by delivering the order to an officer or managing agent. If such corporation be foreign corporation and has no such agent in the city, then service may be made upon any such agent of the corporation within the state.

(Ord. 14-03, passed 5-7-14)