

**CITY OF HANOVER**  
**CHAPTER 10: ZONING ORDINANCE**

APPROVED:

*7/2/13*

AMMENDED:

*6/3/14 – Ordinance No. 2014-05*

*8/4/14 – Ordinance No. 2014-06*

*10/7/14 – Ordinance No. 2014-08*

*4/07/15 -- Ordinance No. 2015-01*

*4/05/16 – Ordinance No. 2016-01*

SEC 10.01 DEFINITIONS

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

*Accessory use of structure.* See *Use, Accessory*.

*Administrator.* The individual responsible for overseeing the requirements of City Land Use Ordinances. For purposes of this Article, the Administrator shall be the City Administrator, or his/her designee.

*Agricultural use.* The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including, but not limited to, the following:

- (1) Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
- (2) Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits, and mink.
- (3) Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.

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

*Alteration.* Any change or modification of land, water, vegetation, or existing structures.

*Animal Unit Equivalent.* For purposes of this Chapter "One Animal Unit Equivalent" is herein defined as one of the following: One horse, one cow, one pig, one sheep, one goat, twenty-five chickens, or other fowl, or twenty-five rabbits. Animal Unit Equivalents, not included in this definition may be determined by the City Council as needed.

*Animated Sign.* Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

*Antenna.* Any structure or device used for the purpose of collecting or radiating electromagnetic waves, including but not limited to directional antennas, such as whips.

*Apartment Building.* A multiple family dwelling originally designed and constructed to accommodate three (3) or more apartments, designed with more than one (1) dwelling unit connecting to a common corridor or entrance way, in contrast to single or two-family dwellings converted for multiple family use or attached row dwelling (party wall type) as defined herein.

*Apiary,* Means the assembly of one or more colonies of bees at a single location.

*Apiary lot,* Means the lot upon which the apiary is located.

*Applicant.* A permittee, or any person or entity that applies for any permit for a project that includes a land disturbing activity. Applicant also means that person's agents, employees, and others acting under that person's direction.

*Area Identification Sign.* A free standing sign which identifies the name of a neighborhood, a residential subdivision, a multiple residential complex consisting of three (3) or more structures, a shopping center consisting of five (5) or more separate businesses, an industrial area, an office complex consisting of three (3) or more structures, or any combination of the above located on contiguous property.

*Automobile Repair.* An establishment providing goods or services related to automobiles such as car washes, repair businesses limited to minor engine repair, fluid changing, and tire service and muffler repair, collision service, general repair, and painting

*Awning.* A non-rigid hood or cover projecting from a building, which may be folded, collapsed, or retracted against the building.

*Banner Sign.* Any temporary sign of lightweight fabric or similar material intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

*Basement.* A portion of a building located partly underground, but having half or more of its floor to ceiling height below the average grade of the adjoining ground.

*Beekeeper,* Means a person who owns or has charge of one or more colonies of bees.

*Beekeeping equipment,* Means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

*Best Management Practices (BMPs).* Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions,

and other management practices published by state or designated area-wide planning agencies. Examples of BMPs can be found in *Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices*, U.S. Environmental Protection Agency 1992; *Protecting Water Quality in Urban Areas*, Minnesota Pollution Control Agency 2000; *Minnesota Urban Small Sites BMP Manual*, Metropolitan Council 2001; *Erosion Control Handbook*, Minnesota Department of Transportation 2002; *State of Minnesota Stormwater Manual*, MPCA 2005.

*Billboard Sign.* A billboard, poster panel board, painted bulletin board, or other communicative device which is used to advertise (billboard) products, goods and/or services, any part of which are not sold, produced, assembled, manufactured, furnished or otherwise related to activities conducted on the premises on which such sign is located.

*Bluff.* A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

- a. The slope rises at least twenty-five (25) feet above the ordinary high water level of the water body.
- b. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater.
- c. The slope must drain toward the water body.
- d. An area with an average slope of less than eighteen (18) percent over a distance for fifty (50) feet or more shall not be considered part of the bluff.

*Bluff Impact Zone.* A bluff and land located within twenty (20) feet from the top of a bluff.

*Bluff, Toe of.* The lower point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.

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

*Buffer Strip.* An area of vegetated ground cover abutting a wetland that is maintained in its natural condition.

*Buildable Area.* The portion of the lot above the ordinary high watermark and exclusive of restrictive soils, wetlands, slopes in excess of twelve (12) percent, and significant natural or unique resources to be protected or conserved.

*Building.* Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when said structures are divided by

party walls without openings, each portion of such building so separated shall be deemed a separate building.

*Building complex.* A group of two or more buildings, planned or developed in a joint manner with shared parking facilities, regardless of whether such buildings or uses are located on the same lot or parcel.

*Building height.* The vertical distance to be measured from the grade of a building line to the top to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the upper most point on a round or other arch type roof, to the top of the highest gable on a pitched or hip roof.

*Building line.* A line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way line.

*Building setback.* The minimum horizontal distance between the furthest protruding part of the building and a lot line.

*Business.* Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

*Business Sign.* A sign relating in its subject matter to the premise on which it is located or to products, accommodations, services or activities thereon.

*Car Wash.* A building, or portion thereof, containing facilities for washing more than two (2) automobiles, using production line methods with a steam cleaning devise or other mechanical devices.

*Changeable Copy Sign.* A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature or stock market data shall be considered a “public service information sign” temporary portion of a sign and not a changeable copy sign for the purposes of this Chapter.

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

*Clearing and Grubbing.* Clearing and grubbing is the cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots, and other remains in the designated areas.

*Colony*, Means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

*Commercial sign*. A communicative device that seeks to draw attention to or promote a commercial, business or economic interest or activity in contrast to noncommercial signs that expresses an opinion or viewpoint of a social or political nature.

*Comprehensive plan*. A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the municipality and its environs, as defined in Minn. Stats. §§ 462.351--462.365, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

*Conditional use*. A use classified as conditional generally may be appropriate or desirable in a specified zone, but requires special approval because if not carefully located or designed it may create special problems such as excessive height or bulk or abnormal traffic congestion. Also known as special use.

*Conservation Design*. A pattern of subdivision development that places housing units into compact groupings while preserving valuable ecological resources through a network of commonly owned or dedicated open space.

*Construction Sign*. A sign giving the project name, name(s) of principal contractors, architects, and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.

*Daycare Facility*. Any state licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person’s own home. Daycare facilities include, but are not limited to: family daycare homes, group family daycare homes, daycare centers, day nurseries, nursery schools, daytime activity centers, day treatment programs, and day services, as defined by Minnesota Statutes Section 245A.02, Subdivision 10 as amended from time to time.

*Directional Sign*. A sign which contains no advertising and is intended to facilitate the safe movement of pedestrians and vehicles into, out of and around the site on which the sign is located.



*Drainageway.* Any natural or constructed channel which provides a course for water flowing either continuously or intermittently.

*Drive-in Establishment.* A business that customarily offers goods, services, or entertainment for compensation to clientele within automobiles (examples: automobile service stations, drive-in restaurants and outdoor theaters, but not drive-in cleaners, where the customer must leave his automobile to pick up or deliver goods).

*Dwelling, attached.* A dwelling which is joined to another dwelling at one or more sides by a party wall or walls, including a two-unit dwelling.

*Dwelling, detached.* A dwelling which is entirely surrounded by open space on the same lot.

*Dwelling, multiple-family.* A building designed exclusively for or occupied exclusively by three or more families living independently of each other.

*Dwelling, multiple-family, townhouse.* A building exclusively for or occupied exclusively by between three and six families living independently of each other. Each dwelling unit is attached horizontally in a linear arrangement with private front and rear entrances. Each dwelling unit must be separated from other dwelling units by a fire wall extending from foundation through the roof with no openings. Each dwelling unit shall have a totally exposed front and rear wall to be used for entry, light, and ventilation.

*Dwelling unit.* A residential building or portion thereof, intended for occupancy by a single-family, but not including hotels, motels, boardinghouses, rooming houses or tourist homes.

*Dynamic display.* Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the Sign Structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

*Easement.* A grant by a property owner for the use of a portion of land by the public or any person for any specific purpose.

*Ecological Corridor.* A network of land containing linear elements that are planned, designed and managed for multiple purposes including ecological, recreational,

cultural, aesthetic, or other purposes compatible with the concept of sustainable land use. Ecological corridors are also known as Greenways.

*Ecological Resources.* Ecological resources include fish and wildlife populations, habitats, and their relationships to each other and the environment/ecosystem.

*Erect.* To build, construct, attach, hang, place, suspend, or affix and also includes the painting of wall signs.

*Erosion and Sediment Control Plan.* Otherwise known as a Stormwater Pollution Prevention Plan (SWPPP) which is a set of plans prepared by or under the direction of a licensed professional engineer or certified contractor indicating the specific measures and sequencing to be used to control the sediment and erosion on a project site during and after construction.

*Erosion and Sediment Control Planning Checklist.* An erosion and sediment control planning checklist provided by the City, to be used by Applicants to plan erosion and sediment control measures for land disturbing activities. The Checklist is available at City Hall or on the City's website.

*Essential Services.* Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures, used by public utilities, rural electric cooperatives or governmental departments or commission or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings. For the purpose of this Chapter the word "building" does not include "structure" for essential services.

*Equal Degree of Encroachment.* A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

*Excavation.* Any breaking of ground, except common household gardening and ground care.

*Extraction.* To draw out or forth; hence to derive as if drawing out; removal of physical matter in a solid, liquid, or gaseous state from its naturally occurring location; the initial step in use of a natural resource; examples include petroleum and natural gas wells, shale and coal mines, gravel pits, timber cutting.

*Exterior storage.* The open storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

*Family.* An individual, or two or more persons related by blood, marriage, or adoption, or not more than four persons not related by blood, marriage, or adoption, occupying a dwelling unit as an individual housekeeping organization.

*Farm.* A tract of land, ten (10) acres or more in size, which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such farm may include an agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

*Farming.* The cultivation of the soil and all activities incidental thereto; agriculture.

*Fence.* Any partition, structure, wall or gate erected as a divider, marker, barrier or enclosure, and located along the boundary or within the required yard.

*Fence, height.* The height of any fence as measured from the base of the fence or the grade of the nearest adjacent roadway, whichever is lower.

*Flags.* A piece of cloth or bunting varying in color and design, attached to a pole, used as a symbol, standard, emblem or insignia, or containing text other than that associated with a commercial, business or economic interest or activity.

*Flashing sign.* A sign on which artificial light is not maintained stationary or constant in intensity, form or color at all times including but not limited to video signs, electronic message boards, animated signs, electronic display screens and scrolling signs.

*Flood.* A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

*Flood Frequency.* The frequency for which it is expected that specific flood stage or discharge may be equaled or exceeded.

*Flood Fringe.* That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for the City of Hanover.

*Floodplain.* The beds proper and the areas adjoining a wetland, lake or watercourse, which have been, or hereafter may be covered by the regional flood.

*Flood Proofing.* A combination of structural provisions, changes, or adjustments to properties and structure subject to flooding, primarily for the reduction or elimination of flood damages.

*Floodway.* The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain that are reasonably required to carry or store the regional flood discharge.

*Floor area.* The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas

located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor areas shall not include basement floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices.

*Floor plan, general.* A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

*Freestanding Sign.* Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure, including, but not limited to, a ground sign, pole sign, pylon sign or monument sign.

*Frontage.* That boundary of a lot which abuts an existing or dedicated public street.

*Garage.* An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the families resident upon the premises.

*Governing body.* The Hanover City Council.

*Grading.* Changing the natural or existing topography of the land. The act of excavation or filling or combination thereof or any leveling to a smooth horizontal or sloping surface on a property, but not including normal cultivation associated with an agricultural operation.

*Ground Monument Sign.* A block type sign structure not supported by poles or braces, but rather placed directly on the ground.

*Height of freestanding sign:* The actual distance from the grade to the highest point of the sign, including any structure or architectural component of the sign.

*Hive,* Means the receptacle inhabited by a colony that is manufactured for that purpose.

*Home occupation.* Any gainful occupation or profession engaged in by the occupants of a dwelling unit when conducted within said dwelling unit or garage, provided that no signs other than those normally utilized in a residential district are present, no stock in trade is stored in the premises, over-the-counter retail sales are not involved, and entrance to the home occupation is gained from within the dwelling unit or garage egress doors. Such uses include professional offices, minor repair services, photo or art studios, dressmaking and millinery and similar domestic crafts, barbershops, beauty shops, tourist homes or similar uses. In no instance shall the home occupation adversely

affect the character of the uses permitted in the zoning district in which the property is located. No mechanical or electrical equipment not customarily found in a home shall be employed, installed or maintained.

*Home occupation sign.* A sign located at a residence advertising a business conducted in the residence or by persons residing in the residence.

*Honey bee,* Means all life stages of the common domestic honey bee, *apis melli/era* species.

*Hotel.* A building which provides a common entrance, lobby, halls and stairway and in which 20 or more people are, for compensation, lodged with or without meals.

*Illicit Connections.* An illicit connection is defined as either of the following:

- a. any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including but not limited to any conveyance which allows any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- b. any drain or conveyance connected from a residential, commercial or industrial land use to the storm drain system, which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency

*Illuminated Sign.* Any sign that has characters, letters, design or outlines illuminated by artificial light direct to or from the interior of the sign.

*Impervious Surface.* A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to runoff the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include roof tops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

*Kennel.* Any structure or premises on which four (4) or more domestic animals over six (6) months of age are kept.

*Land Disturbance Activity.* Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government's jurisdiction, including clearing and grubbing, grading, excavation, transporting, logging, and filling of land. Within the context of this rule, land disturbance activity does not mean:

- a. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work.
- b. Construction, installation, and maintenance of electric, telephone, and cable television, utility lines or individual service connection to these utilities, which result in creating under five thousand (5,000) square feet of exposed soil.
- c. Tilling, planting, or harvesting of agricultural or horticultural crops.
- d. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles that result in creating under five thousand (5,000) square feet of exposed soil.
- e. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have required an approved erosion and sediment control plan, except for the emergency, then the land area disturbed must be shaped and stabilized in accordance with the City's requirements as soon as possible.

*Landscaping.* Plantings such as trees, grass, and shrubs.

*Large Site Projects.* A type of land disturbing project requiring a stormwater permit. The emphasis of the stormwater permit for large site projects is to reduce and control erosion and sediment generated during construction activity and to manage stormwater runoff from the site after construction. These activities protect surface waters from stormwater runoff pollution. Activity thresholds for large site projects are defined in the City's Stormwater Management Article.

*Legal Non-Conforming Sign.* Any advertising structure or sign which was lawfully erected and maintained prior to such time as it came within the purview of this Chapter, and any amendments thereto, and which fails to conform to all applicable regulations and restrictions of this Chapter.

*Long Term Care Facility.* A state licensed facility which provides nursing care and related medical services on a 24-hour per day basis for the elderly, chronically or incurably ill persons, physically or mentally challenged persons where residents are provided with food and shelter or care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

*Lot.* A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

*Lot area.* The area of a lot in a horizontal plane bounded by the lot lines.

*Lot, corner.* A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

*Lot, depth.* The mean horizontal distance between the front lot line and the rear lot line of a lot.

*Lot line.* The property line bounding a lot except that where any portion of a lot exceeds into the public right-of-way, the line of such public right-of-way shall be the lot line for applying this chapter.

*Lot line, front.* The boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed with the City Council.

*Lot line, rear.* That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the lot line.

*Lot line, side.* Any boundary of a lot which is not a front lot line or a rear lot line.

*Lot of record.* Any lot which is one unit of a plat heretofore duly approved and recorded, or a registered land survey that has been recorded in the office of the county recorder prior to the effective date of the ordinance from which this chapter is derived.

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

*Lot, through.* A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this chapter.

*Lot width.* The maximum horizontal distance between the side lot lines of a lot at the setback line.

*Manufactured Home.* Any vehicle or structure constructed in such a manner as to permit occupancy thereof as living quarters and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power. Any manufactured home less than thirty (30) feet in overall length is defined as a Travel Trailer.

*Manufactured Home Park.* Any lot or part thereof, or any parcel of land which is used or offered as a location for two (2) or more manufactured homes used for any purpose set forth in the definition of manufactured home.

*Master sign plan.* Written document describing all proposed signs regarding a specific site, development, or complex, submitted by owner/manager including all type of signs/signage desired, reviewed and approved by the city, and shall at a minimum include sign type, location, size illustrations.

*Menu/order board sign.* A sign installed in a drive-through facility and intended for drive-through customers advertising the products available at the facility.

*Mobile sign.* A sign designed or intended to be moved or transported. Examples of mobile signs are included, but not limited to, A – or T – frame signs, sandwich signs and signs designed to be transported by trailer or on wheels. A sign may be a mobile sign even if it has wheels removed, was designed without wheels, or is attached temporarily to the ground, a structure, or other sign. Signs mounted on a vehicle for advertising purposes, when the vehicle is parked and visible from public right-of-way, except signs identifying a business when the vehicle is being used in the normal day-to-day operation of that business.

*Mining.* The extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removing thereof from the site without processing shall be mining. The only exclusion from this definition shall be removal of materials associated with construction of a building provided such removal is an approved item in the building permit.

*Minnesota Pollution Control Agency (MPCA).* The state agency primarily responsible for administering the implementation of the Clean Water Act including the NPDES program.

*Motel.* A building or group of detached, semi-detached or attached buildings on a lot containing guest rooms or dwellings each of which has a separate outside entrance leading directly from the outside of the building, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients. Motels do not include hotels, boarding houses or trailer campers.

*Motor Fuel Station.* A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.

*Nameplate sign.* A wall sign which states only the name or address or both of the business or occupant of the lot where such sign is placed. Letters and/or numbers must be at least 4 inches in height and the maximum sign area shall not exceed 4 square feet.

*National Pollutant Discharge Elimination System (NPDES) program.* The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301,318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345; as administered under the Minnesota NPDES General Stormwater Permit for Construction Activity, Permit Number MN R100001 and all subsequent revisions.

*Non-commercial sign:* Communicative devices that express an opinion or viewpoint of a social or political nature in contrast to commercial signs that seek to draw attention to or promote a commercial, business or economic interest or activity.

*Non-Conforming Lot.* A lot that does not comply with the minimum lot area or frontage requirements of the district in which it is located.

*Non-conforming sign:* A sign which does not comply with this Ordinance.

*Non-Conforming Structure.* A structure that does not comply with the bulk, yard, setback or height regulations of the district in which it is located.

*Non-Conforming Use of Land.* Any use of a lot which does not conform to the applicable use regulations of the district in which it is located except that such a use is not non-conforming if it would be authorized under a Conditional Use Permit where located.

*Normal High Water Mark.* A mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. In areas where the normal high water mark is not evident, setbacks shall be measured from the stream bank.

*Nucleus colony,* Means a small quantity of bees with a queen housed in a smaller than usual hive box designed for a particular purpose.

*Nursery, landscape.* A business growing and selling trees, flowering and decorative plants and shrubs, and which may be conducted within a building or without, for the purpose of landscape construction.

*Nursing home.* A building with the facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the state board of health as provided for in Minn. Stats. § 144.50.

*Off-site sign:* A sign which advertises any business, product, person, event or service conducted, sold, manufactured or located off the premises where the sign is located.

*Off-street loading space.* A space accessible from a street, alley, or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials.

Such space shall be of size to accommodate one vehicle of the type typically used in the particular business.

*Open sales lot.* Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

*Ordinary high water mark.* A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high water mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters and sloughs.

*Painted sign:* A sign painted directly on the outside wall or roof of a building or on a fence, rock or similar structure or feature in any zoning district.

*Parking space.* A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

*Pennant.* Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

*Permanent Cover.* The surface type that will minimize soil failure under erosive conditions. Examples include grass, native vegetation, landscape rock, gravel, asphalt, and concrete.

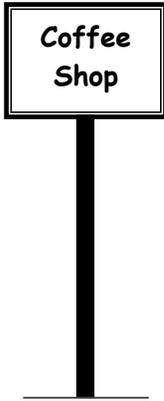
*Permanent Sign.* Any sign that is permitted without a time limitation on its existence.

*Permit.* An official document or certificate issued by the City Administrator authorizing performance of a specified activity.

*Planned Unit Development.* A type of development that may incorporate a variety of land uses planned and developed as a unit. The Planned Unit Development is distinguished from the traditional subdivision process of development in those zoning standards such as density, setbacks, height limits, and minimum lot sizes may be altered by negotiation and agreement between the developer, the municipality and the Commissioner.

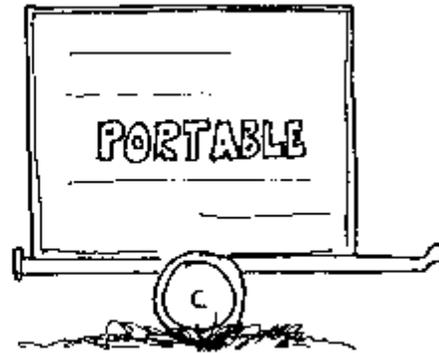
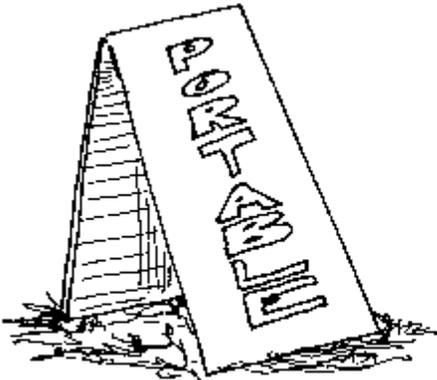
*Planning Commission.* The Planning Commission of the city except when otherwise designated.

*Pole sign.* A sign that is mounted at or near the top of a single or double pole.



*Political Sign or Campaign Sign.* A sign announcing candidate(s) seeking political office and/or political issues and data pertinent thereto.

*Portable Sign.* Any temporary sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to, signs designed to be transported by means of wheels, signs converted to A or T frames, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless a vehicle is used in the normal day-to-day operations of the business.



*Principal structure or use. See Use, Principal.*

*Property line.* The legal boundaries of a parcel of property which may also coincide with a right-of-way line of a road, cartway, and the like.

*Projecting Sign.* Any sign other than a wall sign affixed to any building or wall whose leading edge extends beyond the building or wall.

*Principal Building.* The building in which it is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

*Public land.* Land owned or operated by municipal, school district, county, state or other governmental units.

*Public Water.* Any waters of the State that serve a beneficial public purpose, as defined in Minnesota Statutes 1974, Section 105.37, and Subdivision 6. However, no lake, pond, or flowage of less than 10 acres in size and no river or stream having a total drainage area less than two square miles need be regulated by the municipality for the purposes of these regulations. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commissioner shall be exempt from the provisions of these regulations. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner. The official size of lakes, ponds, or flowages shall be the areas listed in the Division of Waters, Soils, and Minerals Bulletin 25, An Inventory of Minnesota Lakes, or in the event that lakes, ponds, or flowage are not listed therein, official determination of size and physical limits shall be made by the Commissioner in cooperation with municipalities.

*Pylon Sign.* A free-standing sign erected upon a single pylon or post, which is in excess of ten (10) feet in height with a sign mounted on top thereof.

*Real Estate Sign.* A temporary sign erected by a realtor or private individual for purposes of advertising for sale or lease a particular building and/or parcel of property.

*Recreation, commercial.* Includes all uses such as bowling alleys, driving ranges, and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

*Recreation, public.* Includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

*Recreational Vehicle.* A self-propelled vehicle which is used primarily for recreational-leisure time activities and purposes, and which is operable and licensed, as required by the State of Minnesota. Recreational Vehicle shall include related trailers.

*Regional Flood.* A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

*Regulatory Flood Protection Elevation.* The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments of the ordinary or

normal high water mark or between a structure or sanitary facility and a road, highway, right-of-way line or property line.

*Roof Sign.* A sign erected upon the roof of any building.

*Rotating Sign.* A sign that revolves or rotates on its axis by mechanical means.

*Searchlight:* A powerful light or lights equipped with a reflector to produce a bright beam or beams.

*Semi-Public Use.* A use owned or operated by a non-profit, religious or charity dependent institution and providing educational, cultural, recreational, religious or similar types of public programs.

*Setback Line.* The mean horizontal distance between the property line and the line of the building or the allowable building line as defined by the yard regulations of this Chapter.

*Sewage Disposal System.* Any system for the collection, treatment and dispersion of sewage including but not limited to septic tanks, soil absorption systems, and drain fields.

*Sign.* Any written announcements, declaration, demonstration, display, illustration, insignia or illumination used to advertise or promote the interest of any person or persons when the same is displayed or placed out of doors in the view of the general public, or a pylon exterior wall or building surface or inside of a building within three (3) feet of a transparent window. A sign shall be considered as a structure or a part of a structure for the purpose of applying yard and height regulations except as herein stipulated. Signs shall be constructed of metal, plastic, masonite, or wood and be painted in colors that will aesthetically fit the surroundings. Signs shall be of sound construction so as not to be toppled by the weather.

*Sign Area.* The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. The structural supports for a sign, whether they be columns, pylons, or a building, or a part thereof, shall not be included in the calculation of the sign area.

*Shoreland.* Land located within the following distances from public water (i) 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and (ii) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by topographic

divides that extend landward from the waters for lesser distance and when approved by the Commissioner.

*Sign.* A sign is a name, identification, description, display, illustration or device which is affixed to, painted or represented directly or indirectly upon the outside of a building or other surface other than a flag as defined in this ordinance and which directs attention to an object, product, place, activity, person, institution, organization or business. A sign shall be considered as a structure or a part of a structure for the purpose of applying yard and height regulations.

*Small Site Projects.* A type of land disturbing project requiring a stormwater permit. The emphasis of the stormwater permit for small site projects is on the prevention and control of erosion and sediment, generated through construction activity to protect surface waters from sediment pollution. Activity thresholds for small site projects are defined in the City's Stormwater Management Article.

*Soil Types* as described by the U.S. Department of Agriculture's Natural Resource Conservation Service describes the major soil groups as follows:

*Group A*—Soils in this group have low runoff potential when thoroughly wet. Water is transmitted freely through the soil. Group A soils typically have less than 10 percent clay and more than 90 percent sand or gravel and have gravel or sand textures. Some soils having loamy sand, sandy loam, loam or silt loam textures may be placed in this group if they are well aggregated, of low bulk density, or contain greater than 35 percent rock fragments

*Group B*—Soils in this group have moderately low runoff potential when thoroughly wet. Water transmission through the soil is unimpeded. Group B soils typically have between 10 percent and 20 percent clay and 50 percent to 90 percent sand and have loamy sand or sandy loam textures. Some soils having loam, silt loam, silt, or sandy clay loam textures may be placed in this group if they are well aggregated, of low bulk density, or contain greater than 35 percent rock fragments.

*Group C*—Soils in this group have moderately high runoff potential when thoroughly wet. Water transmission through the soil is somewhat restricted. Group C soils typically have between 20 percent and 40 percent clay and less than 50 percent sand and have loam, silt loam, sandy clay loam, clay loam, and silty clay loam textures. Some soils having clay, silty clay, or sandy clay textures may be placed in this group if they are well aggregated, of low bulk density, or contain greater than 35 percent rock fragments.

*Group D*—Soils in this group have high runoff potential when thoroughly wet. Water movement through the soil is restricted or very restricted. Group D soils typically have greater than 40 percent clay, less than 50 percent sand, and have clayey textures. In some areas, they also have high shrink-swell potential. All

soils with a depth to a water impermeable layer less than 50 centimeters [20 inches] and all soils with a water table within 60 centimeters [24 inches] of the surface are in this group, although some may have a dual classification, as described in the next section, if they can be adequately drained.

*Special event device.* Any sign, searchlight, laser display or other attention-getting device used in conjunction with a special event.

*Special Use.* See *Conditional Use*.

*Storm Water Management Plan.* A joint storm water and erosion and sediment control plan that is a document containing the requirements set forth in this Chapter, that when implemented will decrease soil erosion on a parcel of land and off-site non-point pollution and sediment damages.

*Stormwater Pollution Prevention Plan.* A joint stormwater management and erosion and sediment control plan that is prepared in compliance with the requirements for a Stormwater Pollution Prevention Plan (SWPPP) in the Minnesota NPDES General Stormwater Permit for Construction Activity, Permit Number MN R100001 and all subsequent revisions. A SWPPP will provide for both temporary and permanent control of soil erosion on a parcel of land, prevent off-site non-point source pollution, and control stormwater runoff rates and volumes. Land disturbing activities disturbing greater than one acre of land are required to obtain a Minnesota NPDES General Stormwater Permit for Construction Activity (or other size as modified by revision to the NPDES requirements), in addition to the requirements of the City.

*Story.* That portion of building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story.

*Street.* A public right-of-way which affords a primary means of access to abutting property, and shall also include avenue, highway, road, or way.

*Street Frontage.* For purposes of this Chapter, any reference to street herein shall mean any street or roadway, public or private, but not to include private driveways.

*Structural alteration.* Any change, other than incidental repairs, which could prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

*Structure.* Anything constructed, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground.

*Subdivision.* The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, or lots for residential, commercial, industrial, or other use or any combination thereof, except those separations:

- a. Creating Cemetery lots;
- b. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

*Swimming Pool.* Any enclosure, designed or intended or used for the containment of water, whether constructed below ground level or above ground level, having a surface area exceeding 100 square feet and a depth exceeding 18 inches which is designed, tenant of the property upon which the pool is constructed, or by their family or invited guests without payment of a fee.

*Temporary Erosion Protection.* Methods employed to prevent erosion before final stabilization. Examples include: straw, mulch, erosion control blankets, wood chips, and erosion netting.

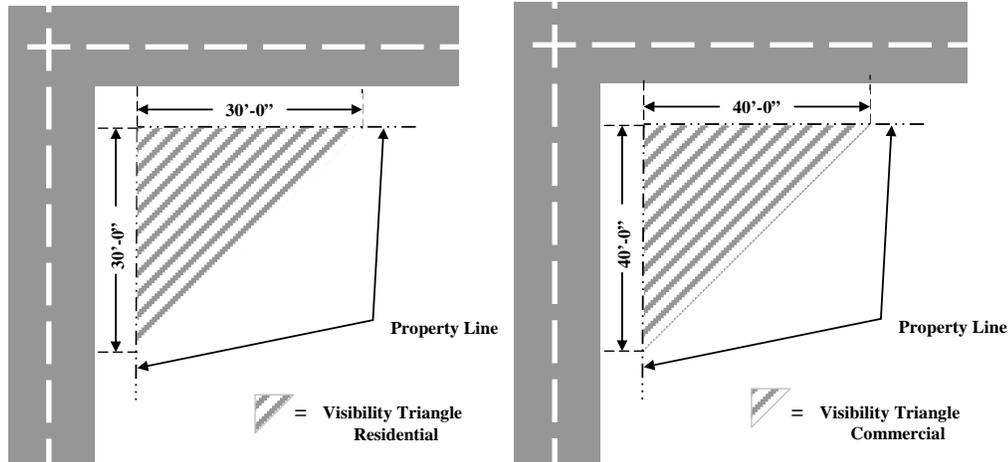
*Temporary Sign.* A sign erected or displayed for a limited period of time and is not permanently mounted.

*Total Maximum Daily Load (TMDL).* Total Maximum Daily Load means a scientific study that contains a calculation of the maximum amount of a pollutant that may be introduced into a surface water and still ensure that applicable water quality standards for that water are restored and maintained. A TMDL also is the sum of the pollutant load allocations for all sources of the pollutant, including a waste load allocation for point sources, a load allocation for nonpoint sources and natural background, an allocation for future growth of point and nonpoint sources, and a margin of safety to account for uncertainty about the relationship between pollutant loads and the quality of the receiving surface water. "Natural background" means characteristics of the water body resulting from the multiplicity of factors in nature, including climate and ecosystem dynamics, that affect the physical, chemical, or biological conditions in a water body, but does not include measurable and distinguishable pollution that is attributable to human activity or influence. A TMDL must take into account seasonal variations.

*Tower.* Any self-supporting structure, or combination thereof, at least twenty (20) feet in height, including supporting lines, cables, telephone lines, electrical lines or similar apparatus above ground level.

*Townhouse.* A single structure consisting of two (2) or more dwelling units having the first story at or near the ground level with no other dwelling unit connected to the other dwelling units except by a party wall with no openings.

*Traffic visibility triangle.* The area created by drawing an imaginary line between points 30 feet back (residential) or 40 feet back (commercial) from where the curb lines of the intersection quadrant meet.



*Undeveloped property.* Means any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human occupancy and the grounds maintained in associations therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

*Use.* The purpose of activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained.

*Use, accessory.* A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

*Use, nonconforming.* See *Nonconforming Use of Land.*

*Use, permitted.* A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

*Use, principal.* The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

*Wall Sign.* Any sign attached parallel to a wall, which projects less than fifteen (15) inches from the surface at all points of the building or structure, and which displays only one sign surface.

*Wetlands.* Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Surface water features classified as wetlands in the United States Fish and Wildlife Service Circular #39 (1971 edition), which shall hereby be incorporated by reference, and is available through the Minitex interlibrary loan system, and is not subject to frequent

change, or by applicable State law. For purposes of this Chapter, wetlands must have the following three attributes:

- a. Have a predominance of hydric soils. (Hydric Soils are defined as: soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part)
- b. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. (Hydrophytic Vegetation is defined as: Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content).
- c. Under normal circumstances, support a prevalence of such vegetation.

*Wetland Transition Area.* Land area around a wetland which could be encroached upon by standing water during a heavy storm, and which provides a natural habitat for local wetland plants and animals.

*Whirling device.* Any attention-getting device that twirls or spins by control of wind or mechanical means.

*Window Sign.* Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or within thirty-six (36) inches of a window, or upon the window panes or glass and is visible from the exterior of the building.

*Windsock.* A large roughly conical device open at both ends and attached to a stand by a pivot so that the wind blows through it, not including devices used for navigational purposes.

*Yard.* A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this chapter. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

*Yard, front.* A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such lot is located.

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

*Yard, side.* The yard extending along the side lot line between the front and rear yards to a depth of width required by setback regulations for the zoning district in which such lot is located.

*Zoning amendment.* A change authorized by the governing body either in the allowed use within a district or in the boundaries of a district.

*Zoning district.* An area within the limits of the community for which the regulations and requirements governing use are uniform.

*Zoning District Overlay.* A zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

*Zoning Map.* The map setting forth the boundaries of the Zoning use Districts of the City which map is a part of this Chapter.

#### SEC. 10.02 VIOLATIONS

The violations of any provision of this chapter or the violation of the conditions or provisions of any permit issued pursuant to this chapter shall be a misdemeanor.

#### SEC. 10.03 INTENT AND PURPOSE

This chapter is adopted for the purpose of:

- A. Protecting the public health, safety, morals, comfort, convenience and general welfare.
- B. Promoting orderly development of the residential, commercial, industrial, recreational and public areas.
- C. Conserving the natural and scenic beauty and attractiveness of the community and its blend of rural and residential uses.
- D. Conserving and developing natural resources, and preserving active and passive open spaces.
- E. Providing for the compatibility of different land uses and the most appropriate use of land throughout the community.

SEC. 10.04 APPLICATION OF CHAPTER PROVISIONS

- A. In its interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public, health, safety, morals and welfare.
- B. Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- C. Except as in this chapter specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose nor in any manner that is not in conformity with this chapter.
- D. This chapter is not intended to abrogate any easements, restrictions, covenants, relating to the use of land or imposed on lands within the community by private declaration or agreement, but where the provisions of this chapter are more restrictive than any such easement, restriction, or covenant, or the provision of any private agreement, the provisions of this chapter shall prevail.

SEC. 10.05 ESSENTIAL SERVICES

The provisions of this chapter shall not prohibit structures which are an integral part of a system for public transportation, or for transmitting power, water, heat, communication, gas or sewage by any public utility. Such structures are subject to the Right-of-Way Management Provisions of City Code.

SEC. 10.06 ADMINISTRATION

The Administrator shall enforce this chapter and shall perform the following duties:

1. Receive, file, and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
2. Institute, in the name of the city, any appropriate actions or proceedings against a violator as provided for.
3. Serve as an ex officio nonvoting member of the Planning Commission.

SEC. 10.07 FEES

- A. To defray administrative costs of processing of requests for amendments, variances, or conditional uses, administrative fees shall be charged to the applicant based upon a schedule adopted by ordinance.
- B. In addition, to defray the typically higher cost of processing applications (amendments, conditional use, variance) for developments, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in reviewing all materials for the applicant's request.

SEC. 10.08 PLANNING COMMISSION

A City Planning Commission has been created by Section 2.25 of City Code. The Commission shall perform those duties as established in Chapter 2 and Chapters 10-11 of City Code.

SEC. 10.09 ZONING AMENDMENTS

- A. *Criteria for granting zoning amendments.* The City Council may adopt amendments to this chapter and zoning map in relation both to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect change in the goals and policies of the community as reflected in the policies plan or changes in conditions in the City.
- B. *Procedure.*
  - 1. An amendment to the text of this chapter or the zoning map may be initiated by the City Council, the Planning Commission, City staff or by application of a property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the City Council until it has received the Planning Commission recommendations. Individuals wishing to initiate an amendment to this chapter shall fill out a zoning amendment application form and submit it to the Administrator.
  - 2. A public hearing on the rezoning application shall be held by the Planning Commission. Notice of said hearing shall be published in the official newspaper designated by the City Council at least ten days prior to the public hearing. When the amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed by the city clerk at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly

within 350 feet of the property to which the amendment relates. The notice shall include the description of the land and the proposed changes in zoning.

3. The City Council must take action on the application following referral by the Planning Commission. The person making the application shall be notified of the action taken. The Administrator shall maintain records of amendments to the text and zoning map of this chapter.
4. No application of a property owner for an amendment to the text of this chapter or the zoning map shall be considered by the Planning Commission within the one-year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

#### SEC. 10.10 BUILDING PERMITS.

For the purpose of enforcing the provisions of this chapter, a building permit shall be required of all persons intending to erect, alter, demolish or move any building or structure or part thereof. Detached accessory buildings not exceeding one hundred twenty (120) square feet in floor area shall be allowed without the issuance of a building permit.

- A. Persons requesting a building permit shall fill out a building permit form available from the Administrator. All applications for building permits pertaining to erection or major alteration which will affect the outside dimension of the structures, shall be accompanied by two copies of a certificate of survey. The certificate of survey shall also show dimensions of existing and/or proposed structures to be erected or structurally altered, their location on the site in relation to the outside boundary, the required off-street parking plan, and such other information as may be necessary to provide for the enforcement of these regulations.
- B. Completed building permit forms and a fee may be established by resolution of the City Council. The completed form shall be submitted to the Zoning Administrator. If the proposed development conforms in all respects to this chapter, and after approval by the City Council where required, a building permit shall be issued by the zoning Administrator.
- C. If the proposed development involves a zoning amendment, variance, or conditional use permit, the application, shall be submitted either to the Planning Commission or Board of Adjustment and Appeals for review and appropriate action according to the procedures set forth herein prior to the issuance of the building permit.

SEC. 10.11 CONDITIONAL USE PERMITS

- A. *Purpose.* Certain uses, while generally not suitable in a particular zoning district, may under some circumstances be suitable if conditions are attached. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and a periodic review of the permit may be required. The permit shall be granted for a particular use and not for a particular person or firm.
- B. *Criteria for granting conditional use permits.* In granting a conditional use permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands. Among other things, the City Council shall make the following findings where applicable:
1. The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
  2. The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
  3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
  4. The use, in the opinion of the City Council, is reasonably related to the overall needs of the City and to the existing land use.
  5. The use is consistent with the purposes of the zoning code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
  6. The use is not in conflict with the Comprehensive Plan of the City.
  7. The use will not cause traffic hazard or congestion.
  8. Existing homes and/or businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.
- C. *Additional conditions.*
1. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to

these standards and requirements expressly specified by this chapter, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited, to the following:

- a. Increasing the required lot size and yard dimension.
  - b. Limiting the height, size or location of buildings.
  - c. Controlling the location and number of vehicle access points.
  - d. Increasing the street width.
  - e. Increasing the number of required off-street parking spaces.
  - f. Limiting the number, size, location or lighting of signs.
  - g. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  - h. Designating sites for open space.
  - i. Placing hours of operation restrictions on the proposed use.
2. Any change involving structural alterations, enlargement, intensification of use, or similar changes not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the City Council, time limits, review dates, and such other information as may be appropriate.

D. *Procedure.*

1. The person applying for a conditional use permit shall fill out and submit to the Administrator the conditional use permit application form, and such submittal shall include all information as required on the form unless a waiver of certain information is granted by the Administrator.
2. The Administrator shall refer the application to the Planning Commission.
3. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the city at least ten days prior to the hearing. Notice of the

hearing shall also be mailed to owners of property located within 350 feet of the outside of the land to which the conditional use will be applicable if the conditional use permit is for an area of five acres or less. The notice shall include a description of the land and the proposed conditional use.

4. The report of the Planning Commission shall be placed on the agenda of the City Council following referral from the Planning Commission.
5. An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit, amended conditional use permits shall include request for changes in conditions, and as otherwise described in this chapter.
6. No application for a conditional use permit shall be resubmitted for a period of 12 months from the date of said order of denial. A conditional use permit shall expire and be considered null and void one year after it has been issued if no construction has begun.
7. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten days prior to the review. It shall be the responsibility of the Administrator to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review. A public hearing for annual review of a conditional use permit may be granted at the discretion of the City Council.
8. In the event that the applicant violates any of the conditions set forth in this permit, the City Council shall have the authority to revoke the conditional use permit.
  - a. A violation of any condition set forth in a conditional use permit shall be a violation of this development code. If within 30 days of written notice from the Administrator the violation has not been corrected, the City may pursue the following procedure to terminate the permit.
  - b. Written notice of revocation shall be served upon the permittee at least ten working days prior to the conditional use permit being revoked.
  - c. Notice to the permittee shall be served personally or by first class mail at the address designated in the permit application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation constituting the basis of the revocation, the facts which support the conclusions that a violation

has occurred and a statement that if the permittee desires to appeal, the permittee must, within ten working days, exclusive of the day of service, file a request for a hearing.

- d. The hearing request shall be in writing, stating the grounds for appeal and served personally or received by first class mail on the City Clerk at the City Hall by 4:30 p.m. of the tenth city working day following service.
  - e. Following the receipt of a request for hearing, the City Council shall set a time and place for the hearing.
9. Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of such permit and of any conditions designated in connection therewith. Conditional use permits shall remain in effect for so long as the conditions agreed upon are observed, provided that nothing in this section shall prevent the City Council from enacting or amending official controls to change the status of conditional uses.

#### SEC. 10.12 APPEALS AND THE BOARD OF ADJUSTMENT AND APPEALS

- A. The City Council shall serve as the Board of Adjustment and Appeals. However, the Planning Commission shall conduct required public hearings, and shall make a recommendation to the Council on all matters within the purview of the Board of Adjustment and Appeals.
- B. The Board of Adjustment and Appeals shall act upon all questions as they may arise in the administration of this development code, including the interpretation of the zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing this chapter.

#### SEC. 10.13 VARIANCES

- A. *Criteria for granting variances.* Variances from the literal provisions of this chapter may be granted in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration. A variance shall be granted only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter. The term "practical difficulties" as used in connection with the granting of a variance means the request proposes a reasonable use of land; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic

considerations alone shall not constitute a practical difficulty if reasonable use for the property exists under the terms of this chapter. Practical difficulty also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in Minn. Stats. § 216C.06, subd. 14, when in harmony with this chapter. The Board of Adjustment and Appeals shall not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person's land is located. The Board may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties.

B. *Procedure.*

1. The person applying for a variance shall fill out and submit to the Administrator the variance request form.
2. The Administrator shall refer the application to the Planning Commission.
3. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the City Council at least ten days prior to the hearing. Notice of the hearing shall also be mailed to owners of property within 350 feet of the outside of the land to which the variance will be applicable if the variance is for an area of five acres or less. The notice shall include a description of the land and the proposed variance.
4. The Planning Commission shall make a recommendation to the City Council.
5. If the Council grants the variance, the Council may impose conditions, including time limits, it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit of the use to exist or operate.
6. The Council shall make written findings of fact in any case of an application for a variance and shall state therein the reasons for its decision; the order issued shall include the legal description of the land involved. Any such order shall be filed with the Administrator.
6. No application for the same variance as ruled upon by the City Council shall be resubmitted for a period of 12 months from the date of denial of the previous application unless there has been a substantial change in circumstances as it relates to the request. A variance shall be considered null and void one year after it has been approved if no construction has begun.

SEC. 10.14 NON-CONFORMING EXISTING LOTS OF RECORD

A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the county recorder or register of titles, on or before the date of adoption of the ordinance from which this chapter is derived may be used for single-family detached dwelling purposes provided the area and width thereof are within 60 percent of the minimum requirements of this chapter and provided it can be demonstrated that safe and adequate sewage treatment systems can be installed to serve such permanent dwelling. No lot or parcel of land in a residential district shall be split or subdivided so as to render the original lot nonconforming subject to the provisions of this chapter. No building permit shall be issued on a lot so conveyed.

SEC. 10.15 NONCONFORMING USES AND STRUCTURES

Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

- (1) The nonconformity or occupancy is discontinued for a period of more than one year; or
- (2) In the case of a nonconforming use, that is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

SEC. 10.16 INTERIM USE PERMITS

A. *Purpose and intent:* The purpose and intent of allowing interim uses is:

1. To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.
2. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
3. To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses

and is in keeping with the architectural character and design standards of existing uses and development.

- B. *Procedure:* An application for an interim use permit requires a public hearing.
1. **New Uses.** Uses defined as interim uses that do not presently exist within a respective zoning district shall be processed according to the submittal requirements, standards and procedures for a conditional use permit as established by Section 10.11 (Conditional Use Permits) of this Chapter.
- C. *Criteria:* The Planning Commission and City Council shall consider possible effects of the proposed interim use. Their judgment shall be based upon, but not limited to, the factors outlined in Section 10.11 (Conditional Use Permits) of this Chapter.
- D. *General Performance Standards:* As may be applicable, the evaluation of any proposed interim use permit request shall be subject to and include, without limitation:
1. The general performance standards and criteria outlined in this Chapter;
  2. The date or event that will terminate the use shall be identified with certainty;
  3. The use shall not impose additional unreasonable costs on the public; and
  4. The user agrees to any conditions that the City Council deems appropriate for permission of the use.
- E. *Termination:* An interim use shall terminate upon the happening of any of the following events, whichever occurs first:
- A. Upon the date or event stated in the permit.
  - B. Upon violation of any condition under which the permit was issued.
  - C. Upon change in the Zoning Ordinance that renders the use non-conforming.
  - D. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.
- F. *Revocation:* If an approved interim use permit is in violation of this

Chapter or the conditions of permit approval, the City may revoke the interim use permit. The City shall conduct a public hearing to consider the revocation of an interim use permit. The public hearing shall be conducted by the Planning Commission, which shall make a recommendation to the City Council. In considering revocation, the Planning Commission and City Council shall consider compliance with the approved conditions of the interim use permit and the performance standards of this Chapter.

#### SEC. 10.17 BUILDING ELIGIBILITIES

- A. It is presumed that all parcels of record existing on July 2, 2013 that are zoned for residential use shall be eligible to have one single-family home (“Building Eligibility”) constructed on that parcel, subject to compliance with all other requirements of this Chapter 10 except for lot size requirements.
- B. Every parcel of land containing up to forty (40) acres zoned for residential use shall have one Building Eligibility on that parcel.
- C. For parcels larger than forty (40) acres, the number of Building Eligibilities shall equal one per 40 acres as rounded to the nearest 40 acres. By way of example, both 65 acres and 99 acres rounds to 80 acres, granting two single-family Building Eligibilities to either of those properties.
- D. When a parcel is annexed to the City, the parcel is considered undeveloped for the purpose of this calculation regardless of the number of lots that may have been created while under the Township’s jurisdiction.
- E. In the event that a subdivision is proposed that results in any parcel no longer having the number of Building Eligibilities that would be anticipated under paragraphs A or B above, then a condition of approval of the subdivision shall be that a document is recorded against the property documenting the remaining number of Building Eligibilities for that parcel.

#### SEC. 10.18 EXPIRATION OF ZONING APPROVALS

- A. *Automatic Expiration.* Unless otherwise specified by the City Council at the time it is authorized, an amendment, conditional use permit, interim use permit, Planned Unit Development, variance, or site and building plan approval shall be null and void and expire if the applicant fails to implement such approval and fulfill each and every condition attached thereto within one (1) year from the date of its authorization unless an extension of time is granted as provided herein.
- B. *Extension of Time.*
  - 1. Administrative.
    - a. A petition for an extension of time in which to implement the approved plans or conditions may be granted by the Zoning

Administrator provided that:

- 1) The extension is requested in writing and filed with the City at least thirty (30) days prior to the expiration of the initial approval of the conditional use permit, interim use permit, variance, or site and building plan.
  - 2) The request for extension states facts demonstrating that a good faith attempt has been made to complete or utilize the use or activity permitted in the approval.
- b. A maximum of one (1) administrative extension shall be granted.
  - c. The extension shall not exceed ninety (90) days from the initial expiration date.
  - d. The fee for the filing of a petition for an administrative extension shall be established in the City's fee schedule.
2. Extension of Time by City Council Action. Upon receiving a recommendation from the Planning Commission and City staff, the City Council may grant an extension of greater than ninety (90) days provided that:
    - a. The extension shall not exceed one (1) year from the initial expiration date.
    - b. The filing of a petition for extension is subject to fee requirements established by the City Council resolution.

#### SEC. 10.19 COST RECOVERY

- A. *Purpose.* The costs to the City for receiving, analyzing, processing, hearing and final process for requests of changes, modification, or special consideration under this Chapter, such as requests for rezoning (map or text), site and building plan review, conditional use permits, interim use permits, and variances are considered to be unique to the applicant requesting such consideration, and it is the intent of this Article to provide that all costs of the City occasioned by such requests shall be borne by the applicant. The reimbursement to the City shall be limited to actual costs of the City. Actual costs shall include all engineering, legal, planning, or other consultant fees or costs paid by the City for other consultants for expert review of a development application.
- B. *Base Zoning Fee.* Each applicant shall pay a non-refundable base zoning fee at the time an application is presented to the City for a zoning change of any nature, site

and building plan review, a conditional use, or a variance. This fee is intended to reimburse the City for its reasonable costs for administrative processing of a development application. If this fee proves to be insufficient to cover such costs, such additional costs will be charged as a part of the zoning deposit, or the supplemental zoning deposit.

- C. *Escrow Deposit.* At the time of application, in addition to the non-refundable basic zoning fee, each applicant shall pay an escrow deposit in an amount established by City Council resolution. The applicant shall also sign a written agreement to pay any and all costs incurred by the City in processing the application. Actual costs including, but not limited to, planning, engineering, legal, or other consultant fees or costs, incurred by the City in the processing of the application shall be paid from or reimbursed to the City, from the escrow deposit.
- D. *Supplemental Deposit.* At any time while the application is pending and before its final conclusion, if the Administrator determines that the amount of the escrow deposit required by Section 10.19 (General Administration, Cost Recovery) of this Chapter is or is estimated to be insufficient to pay for present or anticipated actual costs of the application, a supplementary deposit shall be required by the Administrator to be paid by the applicant. The one or more supplemental deposits shall be in an amount sufficient to pay all actual costs of the City. Supplemental deposits shall be paid within five business days of the City's request.
- E. Refunds
1. Administrative Costs. The base zoning fee intended to cover administrative costs is non-refundable.
  2. Direct Costs. If the direct costs of the City in processing the application are less than the amount of the escrow deposit and any supplemental deposit, any such overage shall be refunded to the applicant upon the conclusion of the proceedings, and any such costs in excess of the supplemental deposits on hand with the City shall be paid by the applicant prior to completion of the proceedings by the City and before the issuance of any building permit(s).

#### SEC. 10.20 DESIGN REVIEW GUIDELINES

- A. *Applicability*
- A. The Design Guidelines apply to the B-1, B-1A, I-1 and I-2 District.
  - B. The Design Guidelines shall apply to all new buildings, additions and exterior renovations.

- C. All proposed façade changes including painting shall be subject to approval from the City of Hanover, including all required permitting. Painting or staining the exterior materials of a building in the same color as exists on the building shall be considered maintenance and not subject to approval.
  - D. The Design Guidelines for Stormwater Management apply to all Districts.
    - 1. No building permit or permit to allow land disturbing activities shall be issued until approval of the requirements set forth in City Code: Chapter 9 Water, Sanitary Sewer, and Storm Water. The Erosion and Sediment Control (ESC) Plans and Stormwater Management Plans (SWMP) shall be consistent with NPDES permit requirements, and the filing or approval requirements of other regulatory bodies.
- B. *Design Guidelines Criteria*
- A. The exterior of non-residential and multi-family residential structures shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure to create an architecturally balanced appearance.
- B. General Requirements.**
- 1. Exterior Materials.
    - a. All structures shall have an exterior finish consisting of the following permitted materials:
      - (1) Brick.
      - (2). Stone (natural or artificial).
      - (3) Integral colored spit face (rock face) concrete block.
      - (4) Wood, natural or engineered, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood or cypress.
      - (5) Stucco (natural or artificial), including exterior insulated finishing systems (EIFS).
      - (6) Fiber cement board.
      - (7) Precast concrete.
      - (8) Metal may be used as an exterior material for architectural trim.
    - b. Building foundations not exceeding two (2) feet and other such portions of a building’s façade need not comply with the requirements for the primary façade treatment or materials.
- C. Special Design and Performance Standards in B-1 District.** The following special design and performance standards shall be observed in the B-1 District:
- 1. Areas adjacent to the Crow River should be retained as open space with walking trails, and passive recreation amenities including benches, picnic areas, view corridors, and natural open space.

2. Where possible, building designs should take advantage of view from public streets as well as from the Crow River and treat both as building frontages for architectural design.
3. An awning, canopy, or marquee suspended from a building may extend over the public right-of-way ten (10) feet and not closer than five (5) feet to the curb line extended. The lowest point of such structures shall be not less than eight (8) feet from the sidewalk or ground grade line, and the owner of such structure shall be responsible for its structural safety.
4. Flat roof or a false front or parapet (false front) wall covering a sloped roof is desired.
5. Building fronts should contain multiple windows, excluding skylights, tinted windows and ribbon windows.
6. Divided Windowpanes with mullions are encouraged except for storefront windows.
7. Multi-panel exterior doors are encouraged.
8. Desirable Design Elements.
  - a. Storefront canopies or window canopies.
  - b. Hanging signs.
  - c. One or more accent colors.
  - d. Planters and landscaped areas.
  - e. Benches.
  - f. Decorative lighting.
9. Parking.
  - a. Site parking is to be located to the side or rear of buildings where possible.
  - b. A reduction of up to ten (10) percent in the number of required offstreet parking spaces may be approved by the Zoning Administrator in the case of shared parking areas between abutting uses.
10. Loading.
  - a. Loading areas and docks shall be located to the rear or side of the principal building where possible.
  - b. Special landscape, screening or building design measures shall be required to minimize and limit the visual impact of loading docks and areas from view from adjacent properties, right-of-way and the Crow River.
11. Pedestrian Circulation.
  - a. Each property shall be responsible for the installation and maintenance of a sidewalk pursuant to City standards from the front lot line to the main entrance of the principal structure.
  - b. Each property shall provide a designated pedestrian circulation system (i.e. sidewalk) through and from off-street parking areas to the main entrance of the principal structure.
  - c. Each property shall provide sidewalk access at property edges and to adjacent lots and said access shall be coordinated with existing development to provide circulation patterns between

developments. Buildings, landscaping, fences and other improvements shall be located so as not to preclude eventual site-to-site connections.

C. *Design Guidelines for Stormwater Management Criteria*

- A. **Erosion and Sediment Control.** Unless otherwise exempted by other City Codes, Applicants are required to develop an Erosion and Sediment Control (ESC) Plan and follow the Erosion and Sediment Control requirements of Chapter 9 of the City Code and are encouraged to incorporate the Stormwater Management requirements of the same code, for all proposed land disturbing activities within the City that meet any or all of the following:
1. Disturbs a total land surface area of 5,000 square feet or more; or
  2. Involves excavation or filling, or a combination of excavation and filling, in excess of 100 cubic yards of materials; or
  3. Is a land disturbing activity, regardless of size that the City determines is likely to cause an adverse impact to an environmentally sensitive area or other property, or may violate any other erosion and sediment control standard set forth in this ordinance.
- B. **Stormwater Management.** Unless otherwise exempted by other City Codes, Applicants are required to develop a Stormwater Management Plan that meets the requirements of Chapter 9 of the City Code, for all proposed land disturbing activities within the City that meet any or all of the following:
1. Any land disturbing activity that may ultimately result in the addition of 1.0 acre or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development that may be constructed at different times; or
  2. All new single-family subdivisions greater than 3 lots that rely on common drainage facilities for stormwater management, multiple family residential, commercial, mixed-use and industrial developments; or
  3. Any land disturbing activity, regardless of size that the City determines is likely to cause an adverse impact to an environmentally sensitive area or other property.

SEC. 10.21 SITE AND BUILDING PLAN REVIEW

- A. *Purpose:* The purpose of this Section is to establish a collaborative formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Chapter.
- B. *Exceptions to Review:* Except in those cases specifically cited

within this Chapter, the following shall be excepted from the foregoing requirements of this Section:

1. Agricultural Uses.
2. Single-family detached dwellings.
3. Two-family attached dwellings if in a group of four (4) or less dwelling units.
4. Residential accessory structures

C. *Sketch Plan:*

1. Prior to the formulation of a site plan and to filing of a formal application, applicants may present a sketch plan to the Administrator. The sketch plan shall be conceptual but shall be drawn to scale with topography of a contour interval not greater than two (2) feet and may include the following:
  - a. The proposed site with reference to existing development, topography, and drainage conditions on adjacent properties, at least to within two hundred (200) feet.
  - b. Natural features.
  - c. General location of existing and proposed structures including signs.
  - d. Tentative access, circulation and street arrangements.
  - e. Amenities to be provided such as recreational areas, open space, walkways, landscaping, etc.
  - f. General location of parking areas.
  - g. Proposed public sanitary sewer, water and storm drainage.
  - h. A statement showing the proposed density of the project with the method of calculating said density also shown.
  - i. Extent of and any proposed modifications to land within the special Environmental Protection Districts as established by the Shoreland Management Overlay District, Floodplain Overlay District, Greenway Corridor Overlay District and/or Wetland Overlay District of this Chapter.

- j. Other items as may be deemed necessary by City staff.
  2. The Administrator shall have the authority to refer the sketch plan to the Planning Commission and/or City Council for discussion, review, and informal comment. Any opinions or comments provided to the applicant by the Administrator, Planning Commission, and/or City Council shall be considered advisory only and shall not constitute a binding decision on the request.
- D. *Procedure:* An application for site and building plan review is to be processed in accordance with the provisions of this Chapter.
- E. *Criteria:* The Planning Commission and City Council shall evaluate the proposed site plan based upon compliance with the City Comprehensive Plan, provisions of this Chapter, and other applicable chapters of the City Code.
- F. *Site Plan Information Requirement:* The information required for all site plan applications generally consists of the following items, and shall be submitted unless waived by the Administrator.
1. Site boundaries, buildings, structures and other improvements shall be identified on-site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
    - a. Scale of plan (engineering scale only, at one (1) inch equals fifty (50) feet (1" = 50') or less.
    - b. North point indication.
    - c. Existing boundaries with lot dimension and area.
    - d. Existing site improvements.
    - e. All encroachments.
    - f. Easements of record.
    - g. Legal description of the property.
    - h. Ponds, lakes, springs, rivers or other waterways bordering on or running through the subject property.
  2. A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:

- a. Name and address of developer/owner.
- b. Name and address of architect/designer.
- c. Date of plan preparation.
- d. Dates and description of all revisions.
- e. Name of project or development.
- f. All proposed improvements, including:
  - 1) Required and proposed setbacks.
  - 2) Location, setback and dimensions of all proposed buildings and structures.
  - 3) Location of all adjacent buildings located within one hundred (100) feet of the exterior boundaries of the property in question.
  - 4) Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.
  - 5) Location, number, and dimensions of proposed loading spaces.
  - 6) Location, width, and setbacks of all curb cuts and driveways.
  - 7) Vehicular circulation.
  - 8) Sidewalks, walkways, trails.
  - 9) Location and type of all proposed lighting, including details of all proposed fixtures.
  - 10) Location of recreation and service areas.
  11. Location of rooftop equipment and proposed screening.
  12. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.

13. Location, sizing, and type of water and sewer system mains and proposed service connections.
3. Grading, stormwater pollution prevention plan, and drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:
    - a. Existing contours at two (2) foot intervals (may be from LIDAR if verified by surveyor).
    - b. Proposed grade elevations at two (2) foot maximum intervals.
    - c. Drainage plan, including the configuration of drainage areas and calculations.
    - d. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
    - e. Spot elevations (prepared by a Minnesota licensed surveyor).
    - f. Proposed driveway grades.
    - g. Surface water ponding and treatment areas.
    - h. Erosion control measures as required by Chapter 9 of the City Code.
    - i. Requirements in of Storm Water Pollution Control Regulations in City Code.
  4. Landscaping plan, utilizing a copy of the site plan as a base for the site in question, depicting the following:
    - a. Planting schedule (table) containing:
      - 1) Symbols.
      - 2) Quantities.
      - 3) Common names.
      - 4) Botanical names.
      - 5) Sizes of plant material.

- 6) Root specification (bare root, balled and burlapped, potted, etc.).
    - 7) Special planting instructions.
  - b. Location, type and size of all existing significant trees to be removed or preserved.
  - c. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).
  - d. Typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.
  - e. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials used.
  - f. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.
  - g. Delineation of both sodded and seeded areas with respective areas in square feet.
  - h. Coverage plan for underground irrigation system, if any.
  - i. Where landscape or manmade materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevation.
  - j. Other existing or proposed conditions which could be expected to affect landscaping.
5. Other plans and information as required by the Administrator including, but not limited to:
  - a. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
  - b. Floor plan drawn to scale with a summary of square footage for each use or activity.
  - c. Fire protection plan.
  - d. Extent of and any proposed modifications to land within the Environmental Protection Districts, as established by Shoreland

Management Overlay District, Floodplain Overlay District, Greenway Corridor Overlay District and/or Wetland Overlay District of this Chapter.

- e. Type, location and size (area and height) of all signs to be erected upon the property in question.
  - f. Vicinity map showing the subject property in reference to nearby highways or major street intersections.
  - g. Sound source control plan.
  - h. Lighting plan including a photometric plan.
- G. *Site Plan Modifications:* An amended site plan shall be applied for and administered in a manner similar to that required for a new site plan.
- H. *Site Plan Agreements:* All site and construction plans officially submitted to the City shall be treated as a formal agreement between the applicant and the City. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard, or specifications without prior submission of a plan modification request to the Administrator for review and approval. Within the flood plain, the applicant shall be required to submit certification by a registered professional engineer or land surveyor that the finished fill and finished floor elevations were accomplished in compliance with the provisions of this Chapter.
- I. *Building Codes:* The review and approval of site improvements pursuant to the requirements of City adopted building and fire codes shall be in addition to the site plan review process established under this Article. The site plan approval process does not imply compliance with the requirements of building and fire codes.

SEC. 10.22 ZONING DISTRICTS AND THE MAP

(a) For the purpose of this chapter, the city is hereby divided into the following zoning districts.

Symbol	District Name
RA	Residential-Agricultural
R-1	Neighborhood Residential
R-1A	Single-Family Residential
R-2	Multifamily Residential

B-1	Downtown River Commercial District
B-1A	Downtown River District
B-2	Highway Commercial District
I-1	Limited Industrial District
I-2	General Industrial District
I-3	Industrial Park District
CD	Conservation Design Overlay District
EC	Ecological Corridor Overlay District
PUD	Planned Unit Development Overlay District

- (b) The location and boundaries of the districts and overlay districts established by this chapter is set forth on the zoning map which is hereby incorporated as part of this chapter. It shall be the responsibility of the Administrator to maintain and update this map and the amendments to such map shall be recorded on such map within 30 days after official adoption of zoning amendments.

SEC. 10.23 ANNEXED TERRITORY

Annexed territory shall be placed in the RA zoning district until such time as a detailed study determining its proper use district is undertaken.

SEC. 10.24 ZONING DISTRICTS/PURPOSES

- (a) The zoning districts (primary and overlay) are so designed as to assist in carrying out the intents and purposes of the comprehensive plan.
- (b) The zoning districts are based upon the comprehensive plan which has the purpose of protecting the public health, safety, convenience and general welfare.

SEC. 10.25 RESIDENTIAL DISTRICT USE CHART

ALLOWABLE LAND USES WITHIN RESIDENTIAL DISTRICTS

The uses permitted or authorized with a conditional use permit are listed below:

RESIDENTIAL USES AND ZONING DISTRICTS

P= Permitted Use

A=Accessory Use

CUP=Conditional Use

PUD = Planned Unit Development

Blank space indicates Not Permitted

Type of Land Use	Qualifier	RA	R-1	R-1A	R-2
Accessory buildings (garages, tool houses, storage sheds, recreational buildings and similar buildings for storage of domestic supplies and non-commercial recreation equipment)	Clearly incidental to main use	A	A	A	A
Accessory Apartment		A			
Agriculture, farming, including farm dwellings and agricultural related buildings and structures subject to Minnesota Pollution Control Standards, but not including commercial feedlots or other commercial operations		P			
Bed and breakfast establishments		C			
Boarding or renting of rooms	Not more than two (2) persons per dwelling (four (4) persons in RA district)	A	A	A	A
Daycare facilities, state licensed	Serving 12 or fewer persons	P	P	P	P
Daycare facilities, state licensed	Serving 13 or more persons	C	C	C	C
Facilities for flood and erosion control		A	A	A	A

Type of Land Use	Qualifier	RA	R-1	R-1A	R-2
Fences		A	A	A	A
Garages	For residential use	A	A	A	A
Golf courses/golf clubhouses, commercial outdoor recreational areas, public swimming pools and similar facilities		C	C	C	C
Government Facility		C	C	C	C
Home occupations	Clearly incidental to main use	P	P	P	P
Keeping of “one animal unit equivalent”	One per 3.5 productive acres, and one additional for every acre thereafter; waste material must be at least 75 feet from property line; not permitted in SD, FW, or FF overlay districts	P			
Land filling and excavation/grading operations 50-250 cubic yards (not minimum)		P	P	P	P
Multiple family dwelling structures, containing two (2)-eight (8) dwelling units	No more than six (6) units if in a row; No more than eight (8) units per structure				P
Multiple family dwelling structures, containing nine (9) or more dwelling units					C

Type of Land Use	Qualifier	RA	R-1	R-1A	R-2
Nurseries and greenhouses (non-commercial)	200 square feet or less in area	A	A	A	
Commercial nurseries and greenhouses, commercial	For growing plants only	P			
Parking and loading – off street	For multifamily dwellings				A
Parking lots for five or more vehicles	For multifamily dwellings				A
Parking of one commercial motor vehicle of not over 3 tons per axle weight and 26 feet in length		A			
Parking of one passenger vehicle for sale		A	A	A	
Personal wireless service antennas	Not located on a public structure or existing tower	C			
Pet enclosures	If screened and located in side or rear yard 10 feet from property line	A	A	A	
Private swimming pools, tennis courts, sports courts and other recreational facilities	Clearly incidental to main use	A	A	A	A
Radio and television receiving antennas including single satellite dish TVROs three (3) meters or less in diameter, short wave radio dispatching		A			

Type of Land Use	Qualifier	RA	R-1	R-1A	R-2
antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers.					
Public Parks and Facilities		P	P	P	P
Residential care facilities as regulated and licensed by the State, per Minn. Stat. § 462.357, as amended		C	C	C	C
Riding stables, dog kennels and similar uses (commercial)	At least 10 acres of land	I			
Senior housing complex	80% of units occupied by one person 50 or older/20% open space		C	C	C
Single detached family dwellings		P	P	P	
Tennis courts, private		A	A		A
Two unit dwellings					P

SEC. 10.26 RESIDENTIAL USE PERFORMANCE STANDARDS CHART

LAND USES DIMENSIONAL REQUIREMENTS AND PERFORMANCE STANDARDS  
RESIDENTIAL DISTRICTS:

Performance Standard	R-A	R-1	R1-A	R-2
Minimum Lot Area	2.5 acres (1.5 buildable)	20,000 sq. ft.	Interior: 12,000 sq. ft Corner: 15,000 sq. ft.	Two Family Dwellings: 15,000 sq. ft  Multiple Family Dwellings: 15,000 sq. ft plus 2,000 sq. ft for each dwelling unit in excess of two (2)
Minimum Lot Width	200 feet	100 feet	80 feet	Two Family Dwellings: 100 feet  Multiple Family Dwellings: 150 feet with 15 feet of separation
Minimum Lot Depth	200 feet		No current regulation – insert requirement	150 feet
Maximum Building Height (except church spires and chimneys)	2.5 stories, or 35 feet, whichever is less	2.5 stories, or 35 feet, whichever is less	2.5 stories, or 35 feet, whichever is less	2.5 stories, or 35 feet, whichever is less
Front yard setback	50 feet	35 feet	30 feet	25 feet
Side yard setback	20 feet	15 feet	10 feet	15 feet
Side yard on Corner lot abutting Street	Same as front yard setback	Same as front yard setback	Same as front yard setback	Same as front yard setback

Performance Standard	R-A	R-1	R1-A	R-2
Rear yard setback	35 feet	35 feet	30 feet	30 feet
Arterial road setback	50 feet	50 feet	50 feet	50 feet
Collector road setback	45 feet	45 feet	45 feet	45 feet
Wetland setback	30 feet	30 feet	30 feet	30 feet
Bluff setback (from top of bluff)	30 feet	30 feet	30 feet	30 feet
GD and RD waters setback	75 feet	75 feet	75 feet	75 feet
NE waters setback	200 feet	200 feet	200 feet	200 feet
Impervious coverage in shoreland area	25%	25%	25%	30%
Minimum garage size	576 sq. ft.	576 sq. ft.	576 sq. ft.	

SEC. 10.27 NON-RESIDENTIAL DISTRICT USE CHART

ALLOWABLE LAND USES WITHIN NON-RESIDENTIAL DISTRICTS

The uses permitted or authorized with a conditional use permit are listed below:

P = Permitted Use                      A = Accessory Use                      CUP =Conditional Use Blank space indicates Not Permitted							
Type of Land Use	Qualifier	B-1	B-1A	B-2	I-1	I-2	I-3
Apartment dwellings	Fewer than 9 units	PUD	PUD	PUD			
Apartment dwellings	Greater than 9 units	PUD	PUD	PUD			
Art, photographic,	For	P	P	P			

P = Permitted Use                      A = Accessory Use                      CUP =Conditional Use Blank space indicates Not Permitted							
Type of Land Use	Qualifier	B-1	B-1A	B-2	I-1	I-2	I-3
music and dance studios	instructional purposes						
Auction houses (excluding livestock)				C	C	C	C
Automobile sales				P			
Automobile repair and tire and battery shops	Within building			C			
Bakeries, retail		P	P	P	C	C	
Bakeries, wholesale					P	P	P
Banks		P	P	P			
Bed and breakfasts	Licensed	C	C	C			
Blacksmith shops						P	P
Bottling establishments					P	P	P
Building material sales and showrooms	Interior storage only			P	P	P	P
Business, commercial or trade schools				PUD	PUD		
Cabinet, carpenter, upholstery or furniture repair shops	Employs four persons or less per shift	P	P	P	P	P	P
Canning factories						P	
Canopies		A	A	A	A	A	A

P = Permitted Use                      A = Accessory Use                      CUP =Conditional Use Blank space indicates Not Permitted							
Type of Land Use	Qualifier	B-1	B-1A	B-2	I-1	I-2	I-3
Car wash				C			
Cartage businesses						P	P
Conference center/ Reception Hall		C	C	P			
Contractor’s offices, shops, yards					P	P	P
Contractor’s operation	Enclosed within building			P	P	P	P
Contractor’s operation	Located outside					P	P
Convenience stores with motor fuel station				C			
Creameries						P	P
Daycare Facility		C	C	C			
Drive-thru lanes		C	C	C			
Drive-thru restaurants				C			
Dry cleaning, retail		P	P	P	P	P	P
Dry Cleaning, processing					P	P	P
Fences		A	A	A	A	A	A
Freight terminals						P	P
Funeral homes/properties				C			

P = Permitted Use                      A = Accessory Use                      CUP =Conditional Use Blank space indicates Not Permitted							
Type of Land Use	Qualifier	B-1	B-1A	B-2	I-1	I-2	I-3
Garden stores				P	P	P	
Government or public buildings, utilities and/or structures necessary for the health, safety and general welfare of the City	Public Schools and City use	P	P	P	P	P	P
Grocery, fruit, vegetable , candy stores	Not drive-in	P	P	P			
Health Club		P	P	P			
Highway maintenance shops							P
Hospitals				C			
Indoor Commercial Recreation		P	P	P	P	P	P
Laboratories/ clinics	Medical or dental, employing four persons or less per shift	P	P	P	P		
Laundromats		C	C	C			
Light Industrial					P	P	P
Liquor stores –off-on sale		P	P	P	P		
Long term care facilities (nursing home)		C	C	C	C		

P = Permitted Use                      A = Accessory Use                      CUP =Conditional Use Blank space indicates Not Permitted							
Type of Land Use	Qualifier	B-1	B-1A	B-2	I-1	I-2	I-3
Lumber yards	If enclosed by fence					P	P
Manufacturing/assembly		C	C	C	P	P	P
Marine and boat sales and services				C			
Meat market	Not processing for locker	P	P	P			
Mechanic shops				P	P	P	P
Medical Services		P	P	P			
Millworking					P	P	P
Mini storage	No explosives or hazardous materials				P	P	P
Miniature golf courses		C	C	P	P		
Mixed Use	Consisting of blend of residential/retail	PUD	PUD	PUD			
Monument sales					P	P	P
Motels, hotels				P	P		
Newsstands		A	A	A			
Office and professional buildings and services		P	P	P	P	P	P

P = Permitted Use                      A = Accessory Use                      CUP =Conditional Use Blank space indicates Not Permitted							
Type of Land Use	Qualifier	B-1	B-1A	B-2	I-1	I-2	I-3
Off-street loading		A	A	A	A	A	A
Other business, retail		P	P	P			
Outdoor dining		A	A	A	A	A	A
Open and outdoor storage	Fenced and screening from neighboring residential and public right-of-way, storage area is paved or surfaced to control dust or erosion, does not take up parking space as required.			C	C	P	P
Parking lots		A	A	A	A	A	A
Parking ramps		C	C	C	C	C	C
Plumbing, heating, air conditioning shops	Material and vehicles stored indoors			P	P	P	P
Printing and publishing shops		P	P	P	P	P	P
Radio, TV transmitting stations studios					P	P	P
Research laboratories					P	P	P
Restaurants, tea rooms, coffee shops	Not drive-in	P	P	P			

P = Permitted Use                      A = Accessory Use                      CUP =Conditional Use Blank space indicates Not Permitted							
Type of Land Use	Qualifier	B-1	B-1A	B-2	I-1	I-2	I-3
Restaurants, tea rooms, coffee shops	Drive-through			P			
Retail		P	P	P			
Retail sales of products assembled/manufactured on site				A	A	A	A
Service businesses		P	P	P	P	P	P
Sexually-oriented businesses							C
Theatres		PUD	PUD	P			
Veterinary Clinics		C	C	C	C		
Video rentals		P	P	P			
Warehousing					P	P	P
Wholesale businesses	Not more than 25% of building area used for office/administration			P	P	P	P
Wholesale showrooms				P	P	P	P

SEC. 10.28 NON-RESIDENTIAL DISTRICT PERFORMANCE STANDARD CHART

**LAND USES DIMENSIONAL REQUIREMENTS AND PERFORMANCE  
STANDARDS  
BUSINESS INDUSTRIAL DISTRICTS**

Performance Standard	B-1	B1A	B-2	I-1	I-2	I-3
Minimum Lot Area	12,000 sq. ft.	12,000 sq.ft./ 15,000 ft. residential plus 2,000 sq. ft for each dwelling in excess of 2	20,000 sq. ft.	1 acre	32,670 sq. ft.	32,670 sq. ft.
Minimum Lot Width	50 ft.	50 ft./	100 ft.	100 ft.	100 ft.	
Minimum Lot Depth						
Maximum building height (except permitted by CUP)	2 ½ stories or 35 ft.	2 ½ stories or 35 ft.	2 ½ stories or 35 ft.	2 ½ stories or 35 ft.	2 ½ stories or 35 ft.	3 stories or 45 ft.
Front yard setback and Corner Side Setback	30 ft. (20 ft. on River Road and Main Street)	30 ft. (20 ft. on River Road and Main Street)	30 ft. (20 ft. on River Road and Main Street)	30 ft. (20 ft. on River Road and Main Street)	30 ft. (100 ft if across from residential)	30 ft. (100 ft if across from residential)

Performance Standard	B-1	B1A	B-2	I-1	I-2	I-3
Side yard setback	None (50 ft. where adjacent to residential district)	None (50 ft. where adjacent to residential district); Residential structures 15 ft.	Ten Feet (10) (50 ft. where adjacent to residential district)	None (50 ft. where adjacent to residential district)	20 ft. (100 ft. where adjacent to residential district)	20 ft. (100 ft. where adjacent to residential district)
Rear yard setback	None except no building shall be located within twenty (20) feet of a rear lot line abutting any residential district.	None except no building shall be located within twenty (20) feet of a rear lot line abutting any residential district.	20 ft. (50 ft. where adjacent to residential district)	20 ft. (50 ft. where adjacent to residential district)	20 ft. (50 ft. where adjacent to residential district)	20 ft. (50 ft. where adjacent to residential district)
Wetland setback	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
Bluff setback	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.	30 ft.
GD and RD waters setback	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.
NE waters setback	200 ft.	200 ft.	200 ft.	200 ft.	200 ft.	200 ft.
Impervious coverage	75% (30% in shoreland area)	75% (30% in shoreland area)	75% (30% in shoreland area)	75% (30% in shoreland area)	75% (30% in shoreland area)	75% (30% in shoreland area; 25% of lot must be green space)

SEC. 10.29 CONSERVATION DESIGN OVERLAY DISTRICT

- A. The Conservation Design Overlay District is established for the purposes of regulating development consistent with the city Comprehensive Plan and Surface Water Management Plan. The Conservation Design Overlay District is intended:
1. To maintain the City's rural character by protecting and enhancing important landscape elements, including woodlands, hedgerows, drainage corridors, wetlands, floodplains, shorelands, meadows, pastures, steep slopes and viewsheds as described in the city's conservation design guidance document.
  2. To conserve land for the purpose of creating ecological corridors (contiguous managed landscapes) to protect existing wildlife habitat and to connect patches of wildlife habitat to support greater biodiversity and maintain ecosystem processes.
  3. To create a system of interconnected ecological and trail corridors throughout the community for the benefit of current and future residents.
  4. To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.
  5. Conserve existing landscape character by minimizing views of new development from existing roads, thereby reducing perceived density.
  6. Provide development flexibility for landowners to reflect their varying circumstances and individual characteristics of their properties.
  7. Provide greater efficiency in the siting of services and infrastructure, including the opportunity to reduce road length and width, utility runs, and the impervious cover required for residential development.
  8. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences.
  9. Protect water quality and reduce erosion and sedimentation by retaining existing vegetation and minimizing development on steep slopes
  10. To reduce traffic speeds and pedestrian safety.
  11. To cluster houses and roads in less environmentally sensitive areas and on soils less conducive to infiltration.

12. Incorporate stormwater management practices that reduce runoff and treat runoff through disperse treatment facilities located close to the source of runoff.

All development with the Conservation Design Overlay District shall be by planned unit development according to: 1) the platting procedures as established in the Subdivision Ordinance (Chapter 11); 2) the planned unit development procedures established in Section 10.31 of this Chapter; and 3) the provisions found in this article.

#### B. APPLICABILITY

1. The Conservation Design Overlay District, further defined herein, is hereby established as a part of this chapter. The Conservation Design Overlay District shall be an overlay district such that any parcel lying in the overlay district shall also lie within one or more of the underlying zoning districts. Regulations and procedures set forth in underlying zoning districts shall apply unless specifically addressed in Section 10.31 of this chapter, or this article, or if determined by the City Council to be inconsistent with the purpose and intent outlined in Section 10.03 of this Chapter, approved by the City Council as part of the final planned unit development plans.
2. For purposes of determining the application of this article, the boundaries of the Conservation Design Overlay District shall be established and shown on the official zoning map of the city, on file in the office of the city clerk and Administrator.
3. Structures existing on or before the effective date hereof shall be exempt from the standards set forth with the Conservation Design Overlay District until such time as the parcel is subdivided.
4. Parcels lying in the Conservation Design Overlay District may be developed according to the regulations of the underlying or base zoning district or according to the regulations of this article.

#### C. GENERAL DESIGN STANDARDS

1. All development under this article shall be pursuant to an approved final PUD plan. The procedures and regulations set forth in Section 10.31 (PUD) apply unless specifically addressed in this section. If a final PUD plan is approved by the City Council, the underlying zoning for the subject property shall be rezoned to the PUD zoning district though the overlay district shall remain the conservation design overlay district. The permitted uses and all other regulations governing uses on the subject land shall then be those found in the PUD zoning district and documented by the PUD plans and agreement. The following subsections are requirements

for all PUDs in the Conservation Design Overlay District unless exceptions, as part of a PUD, are otherwise approved by the City Council. The City Council must determine that the exceptions are consistent with the goals, policies, and plans of the Comprehensive Plan and the Surface Water Management Plan; the exceptions are generally compatible and would not be materially injurious to existing or future uses of surrounding properties; and the exceptions do not have an undue adverse impact on existing or planned city facilities and services, including streets, utilities, parks, police and fire and the reasonable ability of the city to provide such service in an orderly, timely manner.

- 2. Ownership: the tract of land may be held in single and separate ownership or in multiple ownerships. However, when a tract is held in multiple ownerships, it shall be planned as a single entity with common authority and common responsibility as demonstrated through all property owners being signatories on the PUD application.
- 3. Density and calculation of allowed dwelling units.
  - a. The maximum net density is 1.6 dwelling units per net buildable acre.
  - b. The number of dwelling units permitted on a site shall be based on net buildable area (NBA) using the following method:

From the gross acreage of the site, subtract the unbuildable areas:

Gross Acreage of Site: \_\_\_\_\_ acres

Unbuildable Area:

Land within existing road right of way: \_\_\_\_\_ acres

Land within existing utility<sup>1</sup> and  
railroad right of way \_\_\_\_\_ acres

Land within the 100-year floodplain \_\_\_\_\_ acres

Land within wetlands, ponds and \_\_\_\_\_ acres

Land having a slope of 18 percent  
or greater \_\_\_\_\_ acres

Total unbuildable area \_\_\_\_\_ acres

<sup>1</sup> Power and fuel pipeline easements are considered unbuildable areas. Existing drainage and sewer water utility easements are not considered unbuildable.

Net buildable Area (NBA) \_\_\_\_\_acres

Where two or more categories overlap, the overlapping area shall be counted only once.

To determine the number of dwelling units permitted, the net buildable area shall be multiplied by the maximum net density, rounding to the nearest whole number.

\_\_\_\_Acres NBA multiple by \_\_\_\_ (max. net density) = permitted dwelling units

- 4. Allowed Residential Uses: PUD developments in the conservation design overlay district are allowed to have a mixture of housing types, provided that the provisions of this article are met. The total number and location of housing units and housing types for each PUD shall be established by the City Council at the time of final PUD plan approval for the specific property.
- 5. Dimensional standards: there are no minimum standards for:
  - 1. Lot size
  - 2. Lot width (flag and butt lots permitted)
  - 3. Lot frontage
  - 4. Lot depth
  - 5. Structure size (square feet):
  - 6. Structure width
  - 7. Structure setbacks (except as specified in Subsection 7 below).
- 6. In no instance may a building (principal or accessory) lie within an area of the lot encumbered by an easement.
- 7. Separation Distances.

The property lines of all lots shall conform to the following setbacks in order to allow for buffer screening or to minimize conflicts:

- a. Existing or proposed arterial street rights-of-way: 50 feet.
- b. Existing or proposed collector street rights-of-way: 45 feet
- c. Subdivision perimeter boundaries: 25 feet.
- d. Cropland or pasture land: 50 feet.

- e. Buildings or barnyards housing livestock: 100 feet.
  - f. Wetlands: 30 feet from the ordinary high water mark (if public wetland) or delineated wetland edge.
8. Open Space
- a. Required Open Space. The City Council may require that up to 50% of the total area of each PUD shall be designated as open space. The required amount of open space is in addition to any land that would be used to satisfy the public park dedication requirements found in the subdivision chapter.
  - b. Open Space Priorities. Open space shall generally be located and designed to incorporate the following areas listed in order of priority:
    - 1) Existing high and medium quality ecological resources identified in the city's comprehensive plan ecological resources map.
    - 2) Land within ecological corridors identified in the comprehensive plan ecological resources map. Corridors shall be designed according to the standards herein.
    - 3) Slopes over 12 percent, particularly those adjoining rivers, streams wetlands, and drainage areas, due to the potential for soil disturbance leading to erosion that is detrimental to water quality.
    - 4) Natural drainageways.
  - c. Other Open Space Areas. Depending on the individual parcel and its location, these areas may also be important areas for open space designation.
    - 1) Other healthy woodlands, particularly those performing important ecological functions such as soil stabilization and protection of streams, wetlands and wildlife habitats.
    - 2) Areas where precipitation and stormwater treatment are most likely to recharge local groundwater resources because of topographic and soil conditions affording high rates of infiltration and percolation.

- 3) Hedgerows, groups of trees, specimen trees, and other unique or significant vegetation features.
  - 4) Historic or culturally important structures and sites. i.e. Visually prominent topographic features such as knolls, hilltops and ridges, and scenic views as seen from public roads.
- d. Open Space Design Standards. The following open space design standards shall also be considered in designing the PUD:
- 1) Open space should be interconnected wherever possible to provide a continuous network of open space land within the PUD and throughout the City. It should coordinate and maximize boundaries with open space on adjacent tracts.
  - 2) The four-step design process described in the comprehensive plan shall be used to designate and lay out the open space area.
  - 3) Incorporate public trails and/or public open space designated in the comprehensive plan. Active recreation facilities may contribute to applicable park dedication requirements.
  - 4) Designated public access trails shall be protected by an access easement owned by the city.
  - 5) Open space uses may include: natural/passive and active recreation areas, agriculture, stormwater management facilities, neighborhood greens, trail links, boulevards (e.g. with infiltration facilities), and cul-de-sac islands.
  - 6) Open space should be distributed throughout the development to serve and enhance as many dwelling units as possible. Non-adjointing lots shall be provided with convenient access to the open space through access strips at least 30 feet wide. Access to open space used for agriculture may be restricted or prohibited for public safety and to prevent interference with agricultural operations.
  - 7) Use of single loaded roads (e.g. parcels on one side only) shall be minimized.
  - 8) Views of new dwellings from exterior roads and abutting properties should be minimized by the use of changes in

topography, existing vegetation, or additional landscaping. Ridge and hilltops should be contained within open space areas wherever possible. Trees should not be removed from ridge and hilltops.

- 9) The entire area set aside as open space shall be maintained in perpetuity. This restriction shall run with the land and be binding on successors and assigns of the landowner.
  - 10) The boundaries of designated open space areas shall be clearly delineated and labeled on PUD plans. These areas shall be delineated in the field with signage or other measures approved by the city.
  - 11) Agricultural open space uses should use conservation practices consistent with those described in the “National Handbook of Conservation Practices,” published by the United States Department of Agriculture Natural Resources Conservation Service, or “Alternative Stormwater Best Management Practices Guidebook” published by the Valley Branch Watershed District.
- e. Landscape Design Standards.
- 1) Street trees may be planted, but are not required, along internal streets passing through common open space.
  - 2) Irregular spacing encouraged for street trees, to avoid the urban appearance that regular spacing may invoke.
  - 3) The selection of vegetation should be guided by the “ecological system summaries and class factsheets” for native plant communities published by the Minnesota Department of Natural Resources. Selected factsheets representing desired native plant communities are available from the City.
  - 4) A planted buffer area at least 25 feet in width shall be established within all separation areas between exterior arterial or major collector roads and property lines.
  - 5) Planted buffers between clusters of residential lots are encouraged to enhance privacy and a rural appearance between lots.

- 6) Buffers consisting of an informal arrangement of native plant species combined with infrequent mowing are strongly encouraged, to create a low-maintenance, natural landscape. Planted buffers are also encouraged along natural drainage areas to minimize erosion.
  - 7) Mass grading for open space and other common landscaped areas and stormwater management areas shall be avoided to reduce compaction and impacting water infiltration rates. Soil testing and decompaction may be required if site construction activities negatively impact soil permeability.
9. Low Impact Design Standards
- a. Low impact development (LID) site design and stormwater management techniques shall be incorporated into all proposed developments. The primary goal of LID is to reduce the amount of stormwater runoff and to mimic the pre-settlement site hydrology through storage, infiltration, evaporation, and maintenance of natural drainage patterns.
    - 1) Site Planning and design methods include:
      - a) Disconnecting impervious surfaces
      - b) Treatment of water close to the source
      - c) Avoiding mass grading and soil compaction
      - d) Reducing road widths. Road edges shall have concrete edge.
      - e) Use of joint/shared parking facilities/driveways
      - f) Reducing the length and width of driveways
      - g) Preserving areas with highly permeable soils for infiltration
      - h) Reduced parking spaces
      - i) One-way boulevards with infiltration swales.
      - j) Use alternatives to the traditional cul de sac as appropriate depending on site conditions and public safety needs.

- k) Avoidance of environmentally sensitive features.
- 2) Stormwater management techniques include
- a. Reduce volume through use of infiltration practices such as bioinfiltration (raingardens), vegetated swales, permeable pavement, infiltration basins and trenches.
  - b. Reduce volume through on-site storage for reuse (irrigation, gray water)
  - c. Make stormwater treatment facilities visible and attractive site amenities.
  - d. Use flat or slotted curbing to convey water into the stormwater system.
- 3) Better Site Design/Low Impact Development practices as identified in the Minnesota Stormwater Manual published by the Minnesota Pollution Control Agency and the Alternative Stormwater Best management Practices Guidebook published by the Valley Branch Watershed District shall be used to design sites and meet the performance standards

### SEC. 10.30 ECOLOGICAL CORRIDOR OVERLAY DISTRICT

#### A. PURPOSE AND INTENT

1. The Ecological Corridor Overlay District is established to implement the natural environmental and open space goals of the comprehensive plan. It is intended:
- a. To preserve and create natural corridors that can connect existing high and medium quality ecological resources to support wildlife habitat movement, greater biodiversity and ecosystem processes.
  - b. To create a system of interconnected trail corridors throughout the community for the benefit of current and future residents.
  - c. Conserve existing landscape character by minimizing views of new development from existing roads, thereby reducing perceived density.

**B. GENERAL DESIGN STANDARDS**

1. Ecological corridors shall be located within the broad corridor zones shown on the Future Land Use Map and the Ecological Resources Map in the city's comprehensive plan. Areas designated as ecological corridors contribute towards the open space requirements of Section 10.29 – Conservation Design Overlay District.
2. Siting the location of specific ecological corridors should be aligned with natural drainage ways, floodplains, wetlands, existing woodlands/hedgerows, and/or hydric soils where they exist.
3. The corridor width will be at least 100 feet, and may be more, depending on topography, natural features, and the purposes of the specific corridor segment.
4. The selection of corridor vegetation should be guided by the “ecological system summaries and class factsheets” for native plant communities published by the Minnesota Department of Natural Resources. Selected factsheets representing desired native plant communities for ecological corridor development are available from the City.
5. Invasive species shall be removed from the designated corridor and practices implemented for long-term management of the corridor to control for invasive species.
6. Establishment of corridor vegetation may be through a combination of successional growth management (from existing remnant patches where they exist) and planting of appropriate native plant communities as guided by the ecological system summaries and class factsheets).
7. The corridor should be buffered on both sides to the greatest extent possible with compatible open space uses. In order of compatibility these uses are: old successional fields (meadows), pasture, row crops, community gardens, lawn.
8. Recreational trails should be placed at the edge of ecological corridors or in the adjacent compatible open space buffer in order to reduce human disturbance within the core area of the corridor and conflicts with wildlife. Where the comprehensive plan indicates the location of a trail within the corridor, the trail corridor should be at least 10 feet wide and covered by an access easement dedicated to the city.
9. Alignments for corridor sections that intersect with existing and future arterial roads should be selected where topography presents opportunities

for grade separation where movement under the road can be accommodated.

C. ECOLOGICAL CORRIDOR OWNERSHIP AND MANAGEMENT

1. Ecological corridors are a special type of open space and shall be owned and managed consistent with the provisions of this Chapter.
2. If ecological corridors lie within a parcel developed as a conservation design subdivision under Sec. 10.29 hereof, the open space within an ecological corridor shall not be counted towards applicable park dedication requirements.
3. If ecological corridors lie within a parcel developed consistent with underlying zoning district standards, the open space within the ecological corridor shall be counted towards park dedication requirements.
4. No building permit may be issued for a structure that would conflict with or be located in an ecological corridor.

D. ECOLOGICAL CORRIDOR MAINTENANCE

1. A land stewardship plan describing the long-term use, management, and insurance of all open areas or common facilities, including provisions for funding, shall be submitted with the preliminary plan or plat. Such plan shall be consistent with the provisions of this chapter.

SEC. 10.31 PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

A. PURPOSE AND INTENT

This article is intended to:

1. Provide the means for greater creativity and flexibility in environmental design and efficient land development than is proposed under the strict application of this chapter and chapter 30 (subdivision ordinance) while at the same time preserving the health, safety, order, convenience, prosperity and general welfare of the city and its inhabitants.
2. Recognize the economic and cultural advantages that will accrue to the residents of a planned community.

3. Encourage better overall development through a process of collaboration and partnership with landowners and developers as described in the city's collaboration guidance document.
4. Encourage the preservation and enhancement of desirable site characteristics and open space.
5. Encourage a development pattern in harmony with land use density, transportation facilities and community facilities, and objectives of the comprehensive plan.
6. Encourage a high standard of site and building design for residential, commercial and industrial uses that integrate well into the community.

#### B. APPLICABILITY

The provisions of this article shall be applied in accordance with the following:

1. Planned unit developments may be excluded from certain requirements of this Chapter and Chapter 11 when specifically approved as part of the planned unit development. Such exclusions shall only be granted for the purpose of creating better overall design, environmental protection, and an improved living environment and not solely for the economic advantage of the developer. All provisions of this chapter or Chapter 11 not specifically excluded in the preliminary and/or final plan shall apply to the PUD.
2. If a final PUD plan is approved by the City Council, it shall be implemented by the adoption of a planned unit development ordinance and the underlying zoning for the subject property shall be rezoned to the PUD zoning district. Such ordinance shall have precedence over this chapter. The permitted uses and all other regulations governing uses on the subject land shall then be those found in the PUD zoning district ordinance and documented by the PUD plans and agreements.
3. All approved final developments shall be so designated on the city zoning map, as it is revised from time to time. The map shall refer by number or other means to an approved final development plan of a PUD on file with the city. Said plans shall be available for the general public to review.
4. Except as provided in herein of this article, no building permit shall be issued for any building on land for which a plan for which a planned unit development has been approved which does not conform to the approved final plan. No grading, development or construction on the site may occur unless it conforms with the approved final development plan.

5. Except as provided in herein of this article, development of land for which a planned unit development has been approved which does not conform to the approved final plan shall only be allowed after one of the following:
  - a. Amendment to the approved final plan of the planned unit development by the City Council in the same manner as required for approval of a planned unit development.
  - b. Vacation of the approved planned unit development by the City Council after notice and public hearing in the same manner as required for approval of the planned unit development. The council may further condition the vacation of a planned unit development in order to better protect the public health, safety and welfare.
6. If a planned unit development is not completed within the required time period, the planned unit development district classification shall automatically terminate as to that portion of the district, which has not been developed. The requirements and provisions of the underlying zoning classification in its entirety shall thereafter apply to the undeveloped area. Any factual disputes arising under this section shall be presented to and determined by a majority vote of the City Council.

#### C. RELATIONSHIP OF PUD TO ADJACENT AREAS

1. The design of a PUD shall take into account the relationship of the site to the surrounding areas. The perimeter of the PUD shall be so designed to minimize undesirable impact of the development on adjacent properties and, conversely, to minimize undesirable impact of adjacent land use and development characteristics on the PUD.

#### D. ALLOWED USES

1. Uses approved and permitted under a planned unit development shall only include permitted, conditional and accessory uses allowed in residential districts in the city and those business, industry and institutional uses specifically approved as a part of the PUD and in accordance with standards herein provided.
2. A PUD may provide for a variety of housing types in any one of the basic residential zoning districts.

#### E. RESIDENTIAL UNIT DENSITIES

1. The total number of dwelling units allowed in a development shall be determined by either:

- a. The standards of the applicable base zoning or overlay district in which the proposed development is to be located; or
- b. The density specified by the City Council consistent with the intent of the comprehensive plan. A plan may provide for a greater number of dwelling units per acre than would otherwise be permitted by the regulations otherwise applicable to the site; however, the applicant shall show that such excess will not have an undue and adverse impact on existing public facilities and on the reasonable enjoyment of neighboring property. The council, in determining the reasonableness of the increase in the authorized dwelling units per acre, shall recognize that increase density may be compensated for by additional private amenities and by increase efficiency in public facilities and services to be achieved by:
  - 1) The location, amount and proposed use of common open space;
  - 2) The location, design and type of dwelling units; and
  - 3) The physical characteristics of the site.

#### F. SETBACK REQUIREMENTS

1. The structure setbacks of every lot in a PUD abutting the perimeter shall conform to the setback requirements of the underlying district.

#### G. OPEN SPACE OWNERSHIP & MANAGEMENT

1. Any land and improvements in areas designated as open space in a PUD shall be established, managed and maintained in accordance with the following guidelines:
  - a. Designated open space shall be surveyed and subdivided as separate parcels or outlots.
  - b. Designated open space must be restricted from further development by a permanent conservation easement running with the land. The conservation easement must be submitted with the preliminary site plan and approved by the City Attorney.
    - 1) The permanent conservation easement may be held by any combination of the following entities, but in no case may the holder of the conservation easement be the same as the owner of the underlying fee:

- a) The City of Hanover, or other governmental agency
  - b) A private nonprofit organization that has been designated by the Internal Revenue Service as qualifying under section 501 (c) (3) of the Internal Revenue Code.
  - c) A common ownership association, which owns open and non-open space land within the subdivision and in which membership in the association by all property owners in the subdivision shall be mandatory.
- 2) The permanent conservation easement must specify:
- a) The entity that will maintain the designated open space.
  - b) The purposes of the conservation easement and the conservation values of the property.
  - c) The legal description of the land under the easement.
  - d) The restrictions on the use of the land (e.g. who may use and in what manner). Conservation easements shall not prohibit drainage and utility easements.
  - e) To what standards the open space will be maintained (reference to an approved land stewardship plan).
  - f) Who will have access to the open space.
- c. Ownership of the underlying fee of each designated open space parcel may be held by any combination of the following entities:
- 1) A common ownership association, subject to the following provisions:
    - a) The applicant shall provide a description of the organization, including its bylaws, and all documents governing maintenance requirements

and use restrictions for common facilities. Such documents shall be approved by the City Attorney.

- b) The association must be established prior to any sale.
  - c) Membership must be mandatory for each owner and any successive buyer.
  - d) The association shall be responsible for maintenance and insurance of common facilities.
  - e) Common facilities shall be held in common ownership as undivided proportionate interests by the member of the association.
  - f) A method of assessment of the common facilities shall be established which will allocate to each tax parcel in the development a share of the total assessment for such common facilities.
  - g) Landowners must pay their pro rata share of the cost and the assessment levied by the association that can become a lien of the property in accordance with Minnesota statutes.
  - h) The association must be able to adjust the assessment to meet changing needs.
- 2) An individual who will use the land in accordance with the permanent conservation easement.
  - 3) The City of Hanover or other government agency.
  - 4) A private nonprofit organization that has been designated by the Internal Revenue Service as qualifying under section 501 (c) (3) of the Internal Revenue Code.

#### H. LAND STEWARDSHIP PLAN

1. Where a PUD has designated open spaces, a plan and narrative for the development, and the long-term use, maintenance, and insurance of all open areas or common facilities, including provisions for funding, shall be submitted with the preliminary plan. Such plan shall:

- a. Define ownership and other methods of land protection. If ownership is to be held by a Homeowner's Association, then proposed association documents shall also be submitted which obligate the Association for maintenance of the open spaces.
- b. Establish necessary regular and periodic operation and maintenance responsibilities.
- c. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
- d. A draft Land Stewardship Plan shall be submitted with a preliminary plan, and a final Stewardship Plan shall be submitted with the final plan. The Land Stewardship Plan shall include a narrative, based on the Resource Inventory, describing:
  - 1) Existing conditions, including all natural, cultural, historic, and scenic elements in the landscape;
  - 2) Objectives for each open space area, including:
    - a) The proposed end state for the area and the measures proposed for achieving the end state.
    - b) Proposed restoration measures, including:
      - i. Measures for correcting increasingly destructive conditions, such as erosion.
      - ii. Measures for restoring historic features (if applicable).
    - c) A maintenance and operations plan identifying activities needed to maintain the stability of the resources, including mowing and burning schedules, weed control measures, planting schedules, and clearing and cleanup measures and schedules.
    - d) An estimate of the annual on-going (post vegetation establishment) operating and maintenance costs.

- e. At the discretion of the City, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to two years.
  - f. Documents suitable to provide for the permanent protection of the open space shall be recorded. Said documents shall be provided for the review and approval of the City prior to recording. Suitable documents may include Homeowner’s Association documents, easements, or other documents that serve to permanently protect the open space as determined suitable in the sole opinion of the City.
2. In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the City may serve written notice upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the association, or any successor organization, shall be considered in violation of this Ordinance, in which case the City shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the City shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

#### I. PROCEDURE

1. PUD Procedures. The processing steps for a PUD are intended to encourage the development of a unique collaborative process specific to each project. The following process outlines the general steps within which a project specific collaborative process can be developed. These procedures supplement those in Chapter 30 (Subdivision Ordinance).
  - a. Collaborative process and project goal setting
  - b. Concept Plan submission and review
  - c. Preliminary Plan submission and review.
  - d. Final Plan submission and review.
2. Collaborative process and project goal setting
  - a. Purpose: The purpose of this step is to assess the opportunities for collaborating. If the city and prospective developer determine that

opportunities exist, then project goals are developed and specific collaborative principles and a project schedule are negotiated and agreed to. These agreements are documented in a project guidance document and guide the remaining process. This step is detailed in the City's collaborative process guidance document.

3. Concept Plan

- a. Purpose: The concept plan provides both applicant and the City with an opportunity to assess a conceptual design for alignment with the project vision, goals and expectations determined in the prior step before significant design, engineering and review funds are expended. The Concept Plan is particularly critical for projects that incorporate ecological corridors to insure that the long-term vision for ecological corridors is implemented.
- b. Procedure:
  - 1) Application made and fees paid. Submission of a concept plan application does not constitute formal filing of a plan with the city and shall not commence the statutory review period as required by Minnesota Law.
  - 2) Planning commission reviews plan and holds a public hearing.
  - 3) Planning commission makes a recommendation to the City Council
  - 4) City Council reviews recommendation and approves or denies concept plan as presented or amended.

4. Preliminary Plan

- a. Purpose: The preliminary plan provides specific plans on which the planning commission will base its recommendation to the City Council and with which substantial compliance is necessary for the preparation of the final plan. Submission of the preliminary plan is concurrent with an application for a preliminary plat.
- b. Procedure:
  - 1) Application made and fees paid within one year of an approved concept plan. Submission of a preliminary plan application constitutes a formal filing of a plan with the city

and shall commence the statutory review period as required by Minnesota Law.

- 2) Planning commission reviews plan and a holds public hearing
  - 3) Planning commission makes a recommendation to the City Council.
  - 4) City Council reviews recommendation and approves or denies preliminary plan as presented or amended.
- c. The approved PUD will expire within one year. The developer may request and the council may extend the approval period at its discretion for up to three years with annual reviews.
5. Final Plan
- a. Purpose: The final plan serves as a complete and permanent public record of the PUD and the manner in which it is to be developed. Submission of the final plan is concurrent with an application for a final plat.
  - b. Procedure:
    - 1) Application made and fees paid within one year of an approved preliminary plan. Submission of a final plan constitutes a formal filing of a plan with the city and shall commence the statutory review period as required by Minnesota Law.
    - 2) City Council reviews and approves or denies final plan as presented or amended.
    - 3) Recording of final plan with the county within 60 days of council approval.
  - c. The terms of the PUD as approved by the City Council shall be embodied in a PUD District ordinance, and through an Agreement and/or development contract to be filled with the county at the expense of the applicant.

J. SUBMITTAL REQUIREMENTS

1. Pre-application meeting

- a. Resource Inventory. The resource inventory documents the location of many of the natural resources on and near the subject site and is an essential tool for guiding design that address city development goals. The inventory is assembled from resources available from public resources and the city and generally includes:
  - 1) Aerial photo of site and surrounding area
  - 2) Location of existing property lines
  - 3) Topography with 10 foot contours, 2 foot if available.
  - 4) Approximate location of slopes over 12 percent.
  - 5) Location of all surface water resources, 100 year floodplains, and natural drainageways.
  - 6) Existing high and medium quality ecological resources
  - 7) Soil types (e.g. A, B, C, D)
2. Concept Plan
  - a. Resource Inventory
  - b. Narrative
    - 1) Describing how the concept addresses the project vision and goals.
    - 2) Number and type of units and proposed net density
  - c. Concept drawing showing
    - 1) The general location of different uses and approximate area for each
    - 2) Circulation elements.
    - 3) Location of key resources from resource inventory.
    - 4) Development staging (if applicable)
3. Preliminary Plan

- a. All information required for a preliminary plat.
- b. A general development plan indicating:
  - 1) The proposed site and existing development and adjacent properties
  - 2) The proposed use of all areas of the site.
  - 3) The proposed density, type, size and location of all dwelling units
  - 4) The general size, location and use of proposed business, industrial or institutional buildings.
  - 5) Public streets, entrance and exit drives, and trail and walkways.
  - 6) Parking areas and stall arrangement
  - 7) Landscaping
  - 8) Park and open space lands
  - 9) Dimensions
  - 10) Proposed drainage and utility systems
- c. A summary sheet indicating:
  - 1) Area of land in each use or each separate intensity of use
  - 2) Number of residential dwelling units proposed in each area.
  - 3) Impervious surface amount
  - 4) Number of acres of common open space
  - 5) Modifications to any provisions of this chapter or chapter 30.
- d. A grading and stormwater management plan
- e. An erosion control plan
- f. A land stewardship plan

- g. A landscape plan showing the location, species and size of all plant materials
  - h. A staging plan indicating the spatial sequence and timing of development of the plan or portions thereof, including the date of beginning and completion of each stage. The staging plan shall also include the number of dwelling units, commercial structure, public streets, utilities and recreation areas.
  - i. A detailed plan of first phase of development indicating buildings, parking areas, driveways and similar detail on the site plan and including architectural elevation drawings of all buildings.
  - j. A preliminary plat may be required by the city for those areas where development is imminent, and a concept plan shall be required for the remaining areas.
  - k. A written narrative stating how the proposed PUD conforms to the state objectives and purposes of this article and why the proposal is in the public interest.
4. Final Plan
- a. All information require for a final plat.
  - b. Legal description of the total property.
  - c. A final site plat adopted in accordance with the requirements of Chapter 30 of this code, except as otherwise specifically provided in this article.
  - d. A final site plan showing the locations of all structures, including placement, size and type, as well as streets, parking areas, walkways, trails and open space and similar detail areas on a scaled and dimensional drawing.
  - e. A landscape plan showing the location, specifies and size of all plant materials. Landscape information shall be located on the grading plan.
  - f. A utility plan showing the location and size of all utilities and easements. The utility plan shall include sanitary sewer, water, storm sewer and drainage, and electrical
  - g. Conservation easements, deed restrictions, covenants, agreements, bylaws or proposed ownership association documents or contracts

controlling the use or maintenance of property. Where such information is lacking, the council may require a bond or similar guarantee to ensure that areas held in common will be developed and maintained.

- h. Proposed zoning changes with legal descriptions of any district boundary changes.
- i. A final staging plan indicating the spatial sequence and timing of development of the plan or portions thereof, including the date of beginning and completion of each stage.
- j. Private stormwater facilities maintenance Agreement
- k. Any other information necessary to fully represent the intentions of the preliminary plan.

#### K. STANDARDS AND CRITERIA FOR PLANNING COMMISSION AND COUNCIL ACTION

The planning commission may recommend and the council may act to approve, approve with conditions, or deny a preliminary or final plan for a PUD. The planning commission, in making a recommendation, and the council, in acting upon a plan, shall consider the following factors:

1. The consistency of the proposed PUD with the comprehensive plan.
2. The extent to which the proposed PUD is designed to form a desirable and unified environment within its own boundaries in terms of relationship of structure and open space, circulation patterns, visual character and sufficiency of drainage and utilities.
3. The extent to which the proposed uses will be compatible with present and planned uses in the surround area.
4. That any exceptions to this article are justified by the design or the development.
5. The sufficiency of each planned unit development phase's size, composition, and arrangement in order that its construction, and operation is feasible without dependence upon subsequent phases.
6. The burden or impact created by the PUD on parks, schools, streets, and other public facilities and utilities.

7. The impact of the PUD on environmental quality and on the reasonable enjoyment of the surrounding properties.

#### SEC. 10.32 FLOODPLAIN OVERLAY DISTRICT

- A. **STATUTORY AUTHORIZATION:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapters 103F and 462 as may be amended, supplemented or replaced from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Hanover, Minnesota does ordain as follows:
  1. The flood hazard areas of the City of Hanover, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
  2. **Methods Used to Analyze Flood Hazards.** This Article is based upon a reasonable method of analyzing flood hazards consistent with the standards established by the Minnesota Department of Natural Resources.
  3. **National Flood Insurance Program Compliance.** This Article is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- B. **FINDINGS OF FACT:**
  1. The flood hazard areas of the City of Hanover, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
  2. **Methods Used to Analyze Flood Hazards.** This Article is based upon a reasonable method of analyzing flood hazards consistent with the standards established by the Minnesota Department of Natural Resources.
  3. **National Flood Insurance Program Compliance.** This Article is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- C. **STATEMENT OF PURPOSE.** It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize those losses described herein (Floodplain Overlay District – Findings of Fact) by provisions contained herein.
- D. **GENERAL PROVISIONS:**
  1. **Lands to which this Article Applies.** This Article shall apply to all lands within the jurisdiction of the City of Hanover shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway District, Flood Fringe District or General Flood Plain District.

2. Establishment of Official Zoning Map. The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Article. The attached material shall include the Flood Insurance Study, Volume 1 of 2 and Volume 2 of 2, Hennepin County, Minnesota, All Jurisdictions and the Flood Insurance Rate Map panels numbered 27053C0012 E, 27053C0014 E, 27053C0016 E, 27053C0017 E, 27053C0018 E, 27053C0019 E, for the City of Hanover, dated September 2, 2004, as developed by the Federal Emergency Management Agency. The Official Zoning Map shall be on file at Hanover City Hall.
  3. Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than two (2) feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- E. INTERPRETATION:
1. The provisions of this Section shall be interpreted and applied to be minimum requirements and shall be liberally construed in favor of the City of Hanover and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
  2. The boundaries of the zoning district shall be determined by scaling distances on the Official City of Hanover Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official City of Hanover Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Administrator, the Board of Adjustments and Appeals shall make the necessary interpretation. All decisions will be based on elevations on the regional one hundred (100) year flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustments and Appeals and to submit technical evidence.
- F. 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 ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only. If the provisions of this Section conflict with other Section of this Chapter, the more restrictive provisions shall apply.

- G. **WARNING AND DISCLAIMER OF LIABILITY:** This Section does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding of flood damages. This Section shall not create liability on the part of the City of Hanover or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.
- H. **SEVERABILITY:** If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this Section unconstitutional or invalid, the remainder of this Section shall not be affected thereby.
- I. **COMPLIANCE:** No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in the Floodplain Zoning District shall be prohibited. In addition, a caution is provided here that:
1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Chapter;
  2. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Article and specifically Section 10.15 (Non-Conforming Uses); and
  3. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Section.
- J. **ESTABLISHMENT OF ZONING DISTRICTS:**
1. Districts.
    - a. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted hereunder.
    - b. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted hereunder.

- c. General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A or Zones AE, Zone A0, or Zone AH without a floodway on the Flood Insurance Rate Map adopted hereunder.

K. FLOODWAY DISTRICT (FW)

1. Permitted Uses.

- a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- b. Industrial-commercial loading areas, and parking areas.
- c. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, and single or multiple purpose recreational trails.
- d. Residential lawns, gardens, parking areas, and play areas.

2. Standards for Floodway Permitted Uses.

- a. The use shall have a low flood damage potential.
- b. The use shall be permissible in the underlying zoning district if one exists.
- c. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

3. Conditional Uses.

- a. Structures accessory to the uses listed in Section 10.32 (K) (1) (Floodway District Permitted Uses) above and the uses listed in Section 10.32 (K) (3) (b-h) below.
- b. Extraction and storage of sand, gravel, and other materials.
- c. Marinas, boat rentals, docks, piers, wharves, and water control structures.
- d. Railroads, streets, bridges, utility transmission lines, and pipelines.

- e. Storage yards for equipment, machinery, or materials.
  - f. Placement of fill or construction of fences.
  - g. Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 10.32 (P) (Floodplain Overlay District – Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles) of this Chapter.
  - h. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.
4. Standards for Floodway Conditional Uses.
- a. All uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the one hundred (100) year or regional flood or cause an increase in flood damages in the reach or reaches affected.
  - b. All floodway conditional uses shall be subject to the procedures and standards contained in Section 10.11(Conditional Use Permits) and Section 10.32 (S) (Conditional Use Permits).
  - c. The conditional use shall be permissible in the underlying Zoning District.
  - d. Fill.
    - 1) Fill, dredge spoils, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
    - 2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

- 3) As an alternate to the standards for Floodway Conditional Uses immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the one hundred (100) year or regional flood but only after the City of Hanover has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the Hennepin or Wright County Recorder, as applicable.
5. Accessory Structures.
- a. Accessory structures shall not be designed for human habitation.
  - b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
    - 1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
    - 2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
  - c. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:
    - 1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

- 2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed; and
  - 3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
6. Storage of Materials and Equipment.
    - a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
    - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City of Hanover.
  7. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes Chapter 103G as may be amended, supplemented or replaced from time to time. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the Floodway District.
  8. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the one hundred (100) year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- L. FLOOD FRINGE DISTRICT (FF):
1. Permitted Uses. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning district(s). All permitted uses shall comply with the standards listed in Section 10.32 (L) (2) (Standards for Flood Fringe Permitted Uses) and the standards listed in Section 10.32 (L) (5) (Standards for all Flood Fringe Uses).

2. Standards for Flood Fringe Permitted Uses.
  - a. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than two (2) feet above the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
  - b. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally flood proofed in accordance with Section 10.32 (K) (4) (Accessory Structures).
  - c. The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 10.32 (L) (2)(Standards for Flood Fringe Permitted Uses) of this Chapter.
  - d. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
  - e. The provisions of Section 10.32 (L) (5) (Standards for all Flood Fringe Uses) of this Article shall apply.
3. Conditional Uses. Any structure that is not elevated on fill or flood proofed in accordance with Sections 10.32 (L) (2) (Standards for Flood Fringe Permitted Uses) or any use of land that does not comply with the standards in Sections 10.32 (L) (2) (Standards for Flood Fringe Permitted Uses) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 10.32 (L) (4) (Standards for Flood Fringe Conditional Uses), Section 10.32 (L) (5) (Standards for All Flood Fringe Uses) and Section 10.11(Conditional Use Permits) of this Chapter and Section 10.32 (S) (Conditional Use Permits).
4. Standards for Flood Fringe Conditional Uses.
  - a. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include

the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

- 1) the enclosed area is above-grade on at least one side of the structure;
- 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) is used solely for parking vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
  - a) *Design and Certification.* The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
  - b) *Specific Standards for Above-grade, Enclosed Areas.* Above grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
    - i. The minimum areas of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or

devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and,

- ii. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
- b. Basements, as defined by this Chapter, shall be subject to the following:
- 1) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
  - 2) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Section 10.32 (L) (4) (Standards for Flood Fringe Conditional Uses) of this Chapter.
- c. All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classifications shall not be permitted.
- d. When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved Shoreland Management Ordinance. In the absence of a state approved Shoreland Management Ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event. The plan must be prepared and certified by a registered

professional engineer or other qualified individual acceptable to the City of Hanover. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

- e. Storage of Materials and Equipment.
    - 1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
    - 2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City of Hanover.
  - f. The provisions of Section 10.32 (L) (5) (Standards for all Flood Fringe Uses) of this Article shall also apply.
5. Standards for all Flood Fringe Uses.
- a. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustments and Appeals must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
  - b. Commercial Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
  - c. Manufacturing and Industrial Uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood duration's. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 10.32 (L) (5) (b). In considering permit applications, due consideration shall be

given to needs of an industry whose business requires that it be located in flood plain areas.

- d. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the one hundred (100) year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- e. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the City of Hanover Official Zoning Map.
- f. Standards for recreational vehicles are contained in Section 10.32 (P) (Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles).
- g. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

#### M. GENERAL FLOOD PLAIN DISTRICT

1. Permissible Uses.
  - a. The uses listed in this Section 1032 of this Ordinance shall be allowable uses.
  - b. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 10.32 (M) (2) below. Section 10.32 (K) shall apply if the proposed use is in the Floodway District and Section 10.32 (L) shall apply if the proposed use is in the Flood Fringe District.

2. Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.
  - a. Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.
    - 1) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
    - 2) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
    - 3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
    - 4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.
  - b. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
    - 1) Estimate the peak discharge of the regional flood.
    - 2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

- 3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result.

An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

- c. The Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Hanover City Council. The Hanover City Council must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Hanover City Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the Hanover City Council shall refer the matter back to the Administrator who shall process the permit application consistent with the applicable provisions of this Chapter.

N. **REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION:** The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the one hundred (100) year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multilot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

O. **PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES**

1. **Public Utilities.** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.
2. **Public Transportation Facilities.** Railroad tracks roads and bridges to be located within the flood plain shall comply with Sections 10.32 (K) (Floodway District) and 10.31 (L) (Flood Fringe District) of this Section. Elevation to the Regulatory Flood Protection Elevation shall be provided

where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

3. On-Site Sewage Treatment and Water Supply Systems. Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood water into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during the times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

P. **MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES**

1. New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by Chapter 11.
2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with of the requirements of this Chapter. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with the standards for All Flood Fringe Uses as set forth herein, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the City of Hanover.
  - a. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
3. Recreational vehicles that do not meet the exemption criteria specified in Section 10.32 (P) (3) (a-c) (Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles) below shall be

subject to the provisions of this Section and as specifically spelled out below.

- a. Exemption. Recreational vehicles are exempt from the provisions of this Article if they are placed in any of the areas listed in Section 10.32 (P) (3) (b) below and further they meet the following criteria:
  - 1) Have current licenses required for highway use.
  - 2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
  - 3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
- b. Areas exempted for placement of travel/recreation vehicles.
  - 1) Individual lots or parcels of record.
  - 2) Existing commercial recreational vehicle parks and campgrounds.
  - 3) Existing condominium type associations.
- c. Recreational vehicles exempted in Section 10.32 (P) (3) (a) (above, lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the recreational vehicle or an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 10.32 (K) (Floodway District) and 10.32 (L) (Flood Fringe District) of this Chapter. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
- d. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

- 1) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 10.32 (L) (5) Standards for All Flood Fringe Uses) of this Chapter. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.
- 2) All new or replacement recreational vehicles not meeting the criteria of Section 10.32 (P) (3) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of 10.32 (S) (Conditional Use Permits) of this Chapter. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the one hundred (100) year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation and shall demonstrate the provisions of Section 10.32 (P) (3) of this Chapter will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with On-Site Sewage Treatment and Water Supply Systems requirements of this Chapter.

Q. ADMINISTRATION: The Administrator shall administer and enforce this Article. If the Administrator finds a violation of the provisions of this Article the Administrator shall notify the person responsible for such violation in accordance with the procedures stated in this Chapter.

1. Permit Requirements.

- a. Permit Required. A permit issued by the Administrator in conformity with the provisions of this Article shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a non-conforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and

- prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- b. **Application for Permit.** Application for a permit shall be made in duplicate to the Administrator on forms furnished by the Administrator and shall include the following where applicable: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
  - c. **State and Federal Permits.** Prior to granting a permit or processing an application for a conditional use permit or variance, the Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
  - d. **Certificate of Zoning Compliance for New, Altered, or Non-conforming Use.** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Administrator stating that the use of the building or land conforms to the requirements of this Article.
  - e. **Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance.** Permits, conditional use permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Chapter, and punishable as provided in this Chapter.
  - f. **Certification.** The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Article. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
  - g. **Record of First Floor Elevation.** The Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing

structures in the floodplain. The Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

- h. Notifications for Watercourse Alterations. The Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- i. Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

#### R. BOARD OF ADJUSTMENTS AND APPEALS

1. Rules. The Board of Adjustments and Appeals shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by State Law.
2. Administrative Review. The Board of Adjustments and Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Article.
3. Variances. The Board of Adjustments and Appeals may authorize upon appeal in specific cases such relief or variance from the terms of this Section as will not be contrary to the public interest and only for those circumstances as described in Section 10.13 hereof. In the granting of such variance, the Board of Adjustments and Appeals shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Article, this Chapter, and the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State Law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- a. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - b. Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Hearings. The hearing process shall be as identified in Section 10.13 of this Chapter. The Board of Adjustments and Appeals shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
5. Decisions. In passing upon an appeal, the Board of Adjustments and Appeals may, so long as such action is in conformity with the provisions of this Chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustments and Appeals may prescribe appropriate conditions and safeguards which are in conformity with the purposes of this Chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Chapter. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
6. Appeals. Appeals from any decision of the Board of Adjustments and Appeals may be made, and as specified by Minnesota Statutes.
7. Flood Insurance Notice and Record Keeping. The Administrator shall notify the applicant for a variance that: (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the one

hundred (100) year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

- S. **CONDITIONAL USE PERMITS:** Applications for conditional uses shall be submitted to the Administrator in accordance with Section 10.11 (Conditional Use Permits) of this Chapter.
1. **Hearings.** Upon receipt of a completed application for a conditional use permit, the Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
  2. **Decisions.** The City Council shall make all decisions regarding conditional use permits. In granting a conditional use permit, the City Council shall prescribe appropriate conditions and safeguards which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Chapter. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
  3. **Procedures to be followed by the City Council in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.**
    - a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Administrator for determining the suitability of the particular site for the proposed use:
      - 1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel; and
      - 2) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

- b. Transmit one (1) copy of the application materials and information to a designated engineer or other expert person or agency for technical assistance, when necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
    - c. Based upon the technical evaluation of the designated engineer or expert, the City Council or Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
  4. Factors upon which the decision of the City Council shall be based. In passing upon conditional use permit applications, the City Council shall consider the following in addition to all relevant factors specified in Section 10.11 of this Chapter:
    - a. The danger of life and property due to increased flood heights or velocities caused by encroachments.
    - b. The danger that materials may be swept onto other lands or downstream to the injury of others or that they may block bridges, culverts or other hydraulic structures.
    - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
    - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
    - e. The importance of the services provided by the proposed facility to the community.
    - f. The requirements of the facility for a waterfront location.
    - g. The availability of alternative locations not subjects to flooding for the proposed use.
    - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
    - i. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area.

- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
  - l. Such other factors which are relevant to the purposes of this Article.
5. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Article, the City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Article. Such conditions may include, but are not limited to, the following:
- a. Modification of waste treatment and water supply facilities.
  - b. Limitations on period of use, occupancy, and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.
  - d. Requirements for construction of channel modifications, compensatory storage, dike levees, and other protective measures.
  - e. Flood proofing measures in accordance with the State Building Code and this Article. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.
- T. NON-CONFORMING USES: A structure or the use of a structure or premises which was lawful before the passage or amendment of this Section but which is not in conformity with the provisions of this Section may be continued subject to the following conditions.
1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its non-conformity.
  2. Any alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood-proofing techniques (i.e., FP-1 through FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted below.

3. The cost of any structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the current market value of the structure, then the structure must meet the standards of Section 10.32 (K) (Floodway District) or 10.31 (L) (Flood Fringe District) of this Article for new structures depending upon whether the structure is in the Floodway District or Flood Fringe District, respectively.
4. If any non-conforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Section. The Assessor shall notify the Administrator in writing of instances of nonconforming uses that have been discontinued for a period of twelve (12) months.
5. If any nonconforming use or structure is substantially damaged, as defined in this Chapter it shall not be reconstructed except in conformity with the provisions of this Section. The applicable provisions for establishing new uses or new structures in Section 10.32 (K) (Floodway District) or Section 10.32 (L) (Flood Fringe District) will apply depending upon whether the use or structure is in the Floodway District, Flood Fringe District or General Flood Plain District respectively.
6. If a substantial improvement occurs, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Sections 10.32 (K) (Floodway District) or 10.32 (L) (Flood Fringe District) of this Section for new structures, depending upon whether the structure is in the Floodway District or Flood Fringe District, respectively.

U. PENALTIES FOR VIOLATION:

1. Violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safe-guards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

2. Nothing herein contained shall prevent the City of Hanover from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
  - a. In responding to a suspected violation, the Administrator and City of Hanover may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability for the guilty party. The community must act in good faith to enforce these official controls and to correct violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
  - b. When a violation is either discovered by or brought to the attention of the Administrator, the Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.
  - c. The Administrator shall notify the suspected party of the requirements of this Article and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use are under construction or development, the Administrator may order the construction or development immediately halted until a proper permit or the community grants approval. If the construction or development is already completed, then the Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.
  - d. If the responsible party does not appropriately respond to the Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Article and shall be prosecuted accordingly. The Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition, which existed prior to the violation of this Article.

V. **AMENDMENTS:** The floodplain designation on the Official City of Hanover Zoning Map shall not be removed from the floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the Regulatory Flood Protection Elevation and is contiguous to lands outside the floodplain. The Commissioner of Natural Resources may permit special exceptions to this rule if s/he determines that, through other measures, lands are adequately protected for the intended use. All amendments to this Article, including amendments to the Official City of Hanover Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official City of Hanover Zoning Map must meet the Federal Emergency Management Agency (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Article and said notice shall include a draft of the amendment or technical study under consideration.

SEC. 10.33 SHORELAND MANAGEMENT OVERLAY DISTRICT

- A. **PURPOSE:** The intent of the SD, Shoreland Management Overlay District is to guide the wise development and utilization of Shorelands of public waters for the preservation of water quality, natural characteristics, economic values, and the general health, safety and welfare of all public waters in the City. The provisions of the SD, Shoreland Management Overlay District shall, in effect, be applied as an "overlay" to other Districts, except for the FP Floodplain Overlay District.
- B. **PUBLIC WATERS CLASSIFICATION:** The Public Waters Classification for City of Hanover, as approved by the Commissioner of Natural Resources, are listed and described herein:

<u>Lake or Stream No.</u>	<u>Lake or Stream Name</u>	<u>Classification</u>
	Crow River	General Development
86-24	Unnamed Wetland	Natural Environment

- C. **PERMITTED USES:** The following uses are permitted within the SD, Shoreland Management Overlay District provided the use is permitted in the underlying Zoning District.
  1. Agricultural uses such as pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, and wild crop harvesting.
  2. Parks and wayside, which do not maintain overnight camping facilities.
  3. Nature areas, hiking and riding trails, wildlife preserves, and designated official wetland areas.

- 4. Designated historical sites.
- 5. Permitted uses allowed in the following zoning districts:

- RA Residential / Agricultural District
- R-1 Neighborhood Residential District
- R-1A A Single Family Residential District
- R-2 Multiple Family Residential District
- B-1 Downtown River Commercial District
- B-2 Highway Business District
- I-1 Limited Industrial District
- I-2 General Industrial District
- I-3 Industrial Park
- INS Institutional District
- CD Conservation Design Overlay
- FP Floodplain Overlay District
- FW Floodway District
- FF Flood Fringe District
- PUD Planned Unit Development Overlay District
- SD Shoreland Management Overlay District
- W Wetlands Overlay District

D. **CONDITIONAL USES:** The following uses are permitted by conditional use permit within the SD; Shoreland Management Overlay District provided the use is permitted as a conditional use in the underlying zoning district

- 1. All approved aerial or underground utility line crossings such as electrical, telephone, telegraph or gas lines that cannot be reasonably located in other than an SD, Shoreland Management Overlay District.
- 2. Non-residential structures used solely in conjunction with raising wild animals or fish provided the structures are of a design approved by the Commissioner and City as being compatible with other general allowable uses of the district.
- 3. Other uses of the same general character as listed in Section 10.33(C) (Shoreland Management Overlay District – Permitted Uses) of this Article.
- 4. Conditional uses allowed in the following zoning districts:

- RA Residential / Agricultural District
- R-1 Neighborhood Residential District
- R-1A A Single Family Residential District
- R-2 Multiple Family Residential District
- B-1 Downtown River Commercial District

- B-2 Highway Business District
- I-1 Limited Industrial District
- I-2 General Industrial District
- I-3 Industrial Park
- INS Institutional District
- CD Conservation Design Overlay
- FP Floodplain Overlay District
- FW Floodway District
- FF Flood Fringe District
- PUD Planned Unit Development Overlay District
- SD Shoreland Management Overlay District
- W Wetlands Overlay District

- 5. Signs permitted by conditional use identified in Section 10.67 (Signs) of this Chapter
- 6. Organized group camps.
- 7. Water supply buildings, reservoirs, wells, elevated tanks, regional pipe lines and power lines, public sewage treatment facilities, sanitary landfill operation and similar essential public utility and service structures.
- 8. Public swimming pool, private swimming pools serving more than one family.

E. ACCESSORY USES: The following uses shall be permitted accessory uses within the SD, Shoreland Management Overlay District:

- 1. Private garage.
- 2. Park structures, including shelter, toilets, storage buildings, garages, observation towers or buildings, caretakers living quarters, parking, etc.
- 3. Other accessory uses customarily incidental to the uses permitted in Section 10.32(C) (Shoreland Management Overlay District - Permitted Uses) and Section 10.32 (D) (Shoreland Management Overlay District - Conditional Uses) of this Article.
- 4. Boathouses, docks and piers.

F. HEIGHT, YARD AND LOT REGULATIONS: The height, yard and lot regulations shall be:

- 1. RA – Shoreland Management Overlay District Requirements:
  - a. Lot Area: 2.5 acres (all uses)

2. R-1 – Shoreland Management Overlay District Requirements:
  - a. Lot Area: 20,000 sq. ft. for all uses (General Development Waters)
  - b. Lot Area: 80,000 sq. ft. for all uses (Natural Environment Water)
  - c. Lot Width at Building Line: 200 feet (Natural Environment Water)
  
3. R-1A – Shoreland Management Overlay District Requirements:
  - a. Lot Area: 12,000 sq. ft. for all uses (General Development Waters)
  - b. Lot Area: 15,000 sq. ft. for all uses (Natural Environment Water)
  - c. Lot Width at Building Line: 100 feet (Natural Environment Water)
  
4. R-2 – Shoreland Management Overlay District Requirements:
  - a. Lot Area: 20,000 sq. ft. for multiple residences (General Development Water)
  - b. Lot Area: 80,000 sq. ft. for multiple residences (Natural Environment Water)
  - c. Lot Width at Building Line: 200 feet (Natural Environment Water)
  
5. Commercial, Industrial or Institutional Structures - Shoreland Management Overlay District Requirements:
  - a. Lot Area: 20,000 sq. ft. (General Development Water)
  - b. Lot Width at Building Line: 100 feet (General Development Water)
  - c. Lot Area: 80,000 sq. ft. (Natural Environment Water)
  - d. Lot Width at Building Line: 200 feet (Natural Environment Water)
  
6. Shoreland Setback Requirements.
  - a. General Development Waters: 75 feet from ordinary high-water mark
  - b. Natural Environment Waters: 200 feet from ordinary high water mark

- c. Industrial and permitted open space uses requiring location on public waters may be allowed by conditional use permit closer to the public waters than identified in items 1 and 2 above.
  - d. Boathouses foundations shall be located a minimum of ten (10) feet landward from the ordinary high water mark further provided that said boathouses are not used for habitation and do not contain sanitary facilities.
7. Building Coverage Regulations. Not more than thirty (30) percent of the lot shall be occupied by buildings.
8. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
9. Impervious Surface Coverage. The total area of all impervious surfaces on a lot shall not exceed thirty (30) percent of the total lot area.
- a. Exceptions.
    - 1) Boathouses may be located landward of the ordinary high water mark by conditional use permit provided they are not used for habitation and they do not contain sanitary facilities.
    - 2) Location of piers and docks shall be controlled by applicable state and local regulations.
    - 3) Where development exists on both sides of a proposed building site, structural setbacks may be altered to take setbacks of existing structures into account.
11. Floor Elevation Regulations. The elevation of the lowest floor of all structures except boathouses, docks, and piers shall be at least four (4) feet above the highest known water level.

**G. GENERAL REGULATIONS:**

1. Front Yard Street and Shoreland Setback Adjustments. When more than seventy-five (75) percent of the frontage along a shoreline development or on a side of a street or between intersections is occupied by structures having setbacks from street centerlines or shorelines of a greater or lesser amount than herein required, the average setback of all existing buildings between street intersections or the shoreline development boundaries shall be maintained by all new or relocated principal structures even though

such average setback may be different from the setback requirements stipulated in this Article.

2. Substandard Lots. Lots of record in the office of the County Register of Deeds on June 16, 2003, the date of enactment of the Article governing the SD, Shoreland Management Overlay District, which do not meet the requirements of that Chapter, may be allowed as building sites provided such use is permitted in the zoning district, the lot is in separate ownership from abutting lands and sanitary and dimensional requirements of the SD, Shoreland Management Overlay District provisions are complied with insofar as practicable. The City Council will, consistent with these standards and criteria, set a minimum size for substandard lots or impose other restrictions on the development of substandard lots, including the prohibition of development until the substandard lot(s) are served by public sewer and water.
3. Shoreland Alterations.
  - a. Natural vegetation in shoreland areas shall be preserved insofar as practical and reasonable in order to retard surface runoff and soil erosion, and to utilize excess nutrients. The removal of natural vegetation shall be controlled in accordance with the following criteria:
    - 1) Clear cutting shall be prohibited, except as necessary for placing public roads, utilities, structures, and parking areas.
    - 2) Natural vegetation shall be restored insofar as feasible after any construction project.
    - 3) Selective cutting of trees and underbrush shall be allowed as long as sufficient cover is left to screen motor vehicles and structures when viewed from the water.
  - b. Grading and filling in Shoreland areas or any other substantial alteration of the natural topography shall be controlled by the following criteria:
    - 1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
    - 2) Temporary ground cover, such as mulch, shall be used and permanent vegetation cover, such as sod, shall be provided.
    - 3) Methods to prevent erosion and trap sediment shall be employed.

- 4) Fill shall be stabilized to accepted engineering standards.
- c. Alterations of Beds of Public Waters.
- 1) Any work that will change or diminish the course, current, or cross section of any public water shall be approved by the Commissioner before the work is begun. This includes construction of channels and ditches, lagooning, dredging of lakes or stream bottom for removal of muck, silt or weeds, and filling in the lake or stream bed. Approval shall be construed to mean the issuance by the Commissioner of a permit under the procedures of Minnesota Statutes Section 105.42 and other related statutes, as may be amended, supplemented or replaced from time to time.
  - 2) Excavations on shorelands where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall be controlled by this Article. Permission for such excavations may be given only after the Commissioner has approved the proposed connection to public waters. Approval shall be given only if the proposed work is consistent with applicable state regulations for work in beds of public waters.

#### H. PARKING REGULATIONS, PLACEMENT OF ROADS AND PARKING AREAS:

1. In granting permits as allowed in Section 10.33 (Shoreland Management Overlay District - Permitted Uses) of this Chapter, the parking regulations of the underlying zoning district shall apply.
2. The placement of roads and parking areas shall be controlled in order to retard the runoff of surface waters and excess nutrients. The placement of roads and parking areas shall be controlled in accordance with the following criteria:
  - a. No impervious road or parking surface shall be placed within fifty (50) feet of the ordinary high water mark.
  - b. Where feasible and practical, all roads and parking areas shall meet the setback requirements established for structures in this Chapter.
  - c. Natural vegetation or other natural materials shall be used in order to screen parking areas when viewed from the water.

## I. SANITARY PROVISIONS:

1. Water Supply.
  - a. Any public or private supply of water for domestic purposes shall conform to the laws and regulations of the State of Minnesota.
2. Sewage and Waste Disposal.
  - a. Any premises used for human occupancy shall be provided with an adequate method of sewage disposal to be maintained in accordance with City standards and Minnesota Rule 7080 as may be amended, supplemented or replaced from time to time. Municipal collection and treatment facilities used where available or feasible.
  - c. Public sewage disposal and commercial solid waste, and industrial waste disposal shall be subject to the standards, criteria, rules, and regulations of the Minnesota Pollution Control Agency.

SEC. 10.34 WETLANDS OVERLAY DISTRICT

## A. FINDINGS, INTENT AND INCORPORATION BY REFERENCE:

1. The City of Hanover has determined that wetlands serve to maintain water quality by filtering water that is discharged into ground water aquifers and by retaining inorganic sediments, toxicants, and nutrients. They also retain and reduce the discharge of phosphorous and transform nutrients from their inorganic to organic forms, thereby protecting streams and water bodies from eutrophication and contamination. Wetlands also store runoff and reduce the velocity of and magnitude of flood peaks. In addition, some wetlands receive the upward discharge of ground water. These wetlands tend to support more stable biological communities since their water temperatures and water levels tend to be more stable.
2. Wetland vegetation also reduces the energy of waves, currents, and other erosive forces and serves to prevent the erosion of shoreline areas. In addition, aquatic vegetation provides food, shelter, and special habitat for wildlife. All of these wetland characteristics provide valuable recreation and education resources.
3. The City of Hanover has also found that wetlands vary significantly in the degree that they have been altered. Wetlands within the City of Hanover exhibit great variations in their floral diversity, quality of wildlife and fishery habitat, degree of fluctuation in response to storms, the extent to

which their shorelines have been altered or eroded, and their relative value in protecting water quality. Therefore, the City of Hanover has found that it is in the best interest of the general health and welfare of the City of Hanover to achieve no net loss of wetlands within the community.

4. The City recognizes that a substantial amount of wetland degradation results from sedimentation and nutrient loading related to construction projects. Therefore, the City finds it necessary to require extraordinary measures to prevent such construction related degradation.
5. In addition to having regulations that affect the physical impacts within wetland areas, the City also finds it is necessary to regulate the use of lands surrounding wetlands. Buffer strips, as defined by Section 10.01 (Rules and Definitions), are necessary and beneficial to maintaining the health of wetlands. Buffer strips surrounding wetlands protect their shorelines from erosion, while serving to filter sediment, chemicals and other nutrients before storm water discharges into the wetland. Buffer strips are also beneficial in providing habitat for wildlife.
6. This Article hereby incorporates by reference the Wetland Conservation Act of 1991 (Minnesota Statutes 103G.221 et. seq. adopted by the Legislature, as amended, supplemented or replaced from time to time (hereinafter referred to as the WCA)). Any activities exempted from the provisions of the WCA are also exempted from the requirements of this Article, insofar as they relate to the WCA. All wetlands, as defined in Section 10.01 (Rules and Definitions) of this Chapter, including those governed by the Department of Natural Resources, are covered by the other provisions of this Article. Also, there are circumstances under which the strict enforcement of these regulations may be unreasonable and in circumstances that meet the criteria established in Article 20-18-0 (Variances) of this Chapter, departures from the strict application of these standards may be permitted.
7. It is the intent of this Article to avoid the alteration and destruction of wetlands. When wetlands are altered or destroyed, mitigation must be provided to recreate the functions and values of the lost wetland.

**B. PURPOSE AND IMPLEMENTATION:**

1. Through the adoption and enforcement of this Article, the City shall promote the general health, safety and welfare of its residents by both conserving and protecting wetlands and requiring sound management practices and mitigation as provided for in the WCA when development occurs in the vicinity of wetlands. Through the implementation of this Article, the City seeks to accomplish the following purposes:

- a. To satisfy the requirements of the WCA as it may be amended, supplemented or replaced from time to time thereby achieving no net loss of wetlands within the City.
  - b. To balance the needs to preserve and protect natural resources and systems with both the rights of private property owners and the need to support the efficient use of developable land within the City.
  - c. To preserve the natural character of the landscape through the maintenance of wetland ecosystems.
  - d. To promote water quality by maintaining the ability of wetlands to recharge ground water and receive the discharge of ground water, to retain sediment and toxicants and filter and strip nutrients from surface water runoff before it discharges into community lakes and streams, thus avoiding the contamination and eutrophication of these water features.
  - e. To provide wildlife habitat and thereby support the maintenance of diversity of both plant and animal species within the City.
2. To accomplish these purposes, the City will:
- a. Maintain a comprehensive set of official maps identifying the location and classification of all wetlands designated on the National Wetlands Inventory within the City.
  - b. Establish wetland regulations that are coordinated with Floodplain Overlay District and Shoreland Management Overlay District protection regulations.
  - c. Require sound management practices to protect, conserve, maintain, enhance, and improve the quality of wetlands within the community.
  - d. Enforce standards for the alteration of wetlands when alteration is allowed, including standards and procedures for the mitigation of the loss of wetland areas and their functions and values, when alteration or destruction occurs.
  - e. Obtain protective easements over or acquire fee title to wetlands as appropriate.

**C. GENERAL PROVISIONS:**

1. Identification and Delineation of Wetlands.
  - a. This Article shall apply to all land containing wetlands and land within the setback and buffer areas required by this Article. Wetlands shall be subject to the requirements established herein, as well as restrictions and requirements established by other applicable Federal, State, and City ordinances and regulations. These wetland protection regulations shall not be construed to allow anything otherwise prohibited in the zoning district where the wetland area is located.
  - b. A wetland is land that meets the definition of “wetlands” set forth in Section 10.01 (Rules and Definitions) of this Chapter. The presence or absence of a wetland on the National Wetlands Inventory Map does not represent a definitive determination as to whether a wetland covered by this Article is or is not present. Wetlands that are identified during site specific delineation activities but do not appear on the official National Wetlands Inventory Map are still subject to the provisions of this Article. It will be the responsibility of an applicant to delineate the exact wetland boundary or to determine that no wetland exists on a subject property. All delineations must be reviewed and approved by the City. If an applicant questions whether a wetland exists or disputes its classification, the applicant shall have the burden to supply detailed information for review supporting the applicant’s assertion, including but not limited to, topographic, hydrologic, floristic and/or soil data deemed necessary by the City to determine the jurisdictional status of the wetland, its exact boundary and its classification. Wetland delineations supplied by applicants shall be certified by a qualified wetland delineator. Wetland delineators must satisfy any certification requirements that may be established by the U.S. Army Corps of Engineers or the Minnesota Board of Water and Soil Resources.
  - c. Only that portion of a property within the boundaries of a wetland shall be subject to the provisions of this Article.

**D. GENERAL STANDARDS:** The following standards apply to all lands within and/or abutting a wetland:

1. Septic and soil absorption systems must be set back a minimum of fifty (50) feet from the City approved boundary of the wetland.

2. The lowest ground floor elevation shall be two (2) feet above the 100-year flood elevation or four (4) feet above the ordinary high water mark of public waters regulated by Section 10.33 (Shoreland Management Overlay District) of this Chapter, whichever is greater.
  3. Structures intended to provide access across a wetland shall be prohibited unless a permit is obtained in conformance with State regulations. D. The MPCA's Best Management Practices shall be followed to avoid erosion and sedimentation during the construction process.
  4. City inspection schedules and fines for erosion control will double on projects abutting wetlands.
  5. Before the City issues a building permit for a lot with a required wetland buffer, the lot owner shall:
    - a. Record a notice of the wetland buffer requirement against the title to the lot with the office of the Wright or Hennepin County Recorder or Registrar of Titles, and
    - b. Install the wetland monuments required by Section 10.34 (G) (Wetlands Overlay District - Monument Required).
- E. WETLAND BUFFER STRIPS AND SETBACKS:
1. For lots of record created after June 16, 2003, a buffer strip shall be maintained abutting all wetlands. The setback and buffer provisions of this Article shall not apply to lots of record created prior to June 16, 2003. The City does however strongly encourage the use of a wetland buffer and setback on all lots in the City.
  2. Thirty (30) foot wetland buffer strips and structure setbacks shall apply to all parcels of land whether or not the wetland is on the same parcel as a proposed development.
  3. Buffer strip vegetation shall be established and maintained in accordance with the requirements found in this Article. During the first two (2) years, any buffer vegetation that does not survive must be replanted. After two (2) years, if the condition of the buffer area changes through natural processes not caused by the property owner, the owner shall not be required to re-establish the buffer area to meet the standards contained in Section 10.34 (H) (Wetlands Overlay District - Buffer Strip Vegetation Performance Standards) of this Article. Buffer strips shall be identified within each lot by permanent monuments approved by the City.

4. For roadways that must be aligned either adjacent to or across wetlands and are subject to WCA replacement requirements, additional wetland filling to create a buffer strip shall not be required. Trails that are intended to serve an interpretive function may also be exempted from the buffer requirement.
  5. The use of a meandering buffer strip to maintain a natural appearance is encouraged but not required in areas of flat topography.
  6. The thirty (30) foot buffer width and setback shall apply to structures, roadways and trails in all zoning districts.
  7. Wetland buffer strips not required by this Article may be voluntarily created in conformance with the requirements of this Article and upon approval of an administrative permit.
  8. Example of Buffer and Setback Applied to a Wetland.
- F. **ALTERNATIVE WETLAND BUFFER STRIPS AND SETBACKS WITH EXTRAORDINARY MANAGEMENT MEASURES:**
1. Recognizing that there are instances where because of the unique physical characteristics of a specific parcel of land, narrower buffer strips may be necessary to allow for the reasonable use of the land, the City has developed alternative buffer strip standards that may be applied in these instances.
  2. The City Council may approve alternative standards, based on an assessment of the following:
    - a. Size of the parcel.
    - b. Existing roads and utilities.
    - c. Percentage of parcel impacted by wetlands.
    - d. Configuration of wetlands on the parcel.
    - e. Quality of the affected wetland(s).
  3. The City Council will evaluate the appropriateness of using the alternative standards as part of its review of a sketch plan. An applicant must receive Council approval through either of these review processes prior to submitting a preliminary plan or plat application that applies the alternative buffer strip standards.

4. In instances where the City Council approves alternative buffer standards, an applicant will be required to apply extraordinary management measures to control erosion, sedimentation and nutrient loading during and for two years and after construction. The applicant must demonstrate that the proposed measures will limit dissolved phosphorous concentration to one (1) milligram per liter (mg/l) or less.
  5. Extraordinary management measures that may be permitted in conjunction with and up-slope from the above buffer strip and setback requirement include, but are not limited to measures that add redundant protections to normal required Best Management Practices.
  6. The applicant shall be responsible to submit all of the necessary information to document that the proposed extraordinary construction and stormwater management practices (hereinafter referred to as “Extraordinary Management Practices”) will at least duplicate the performance of the required buffers and setbacks, if not exceed it. The applicant shall also have the burden of proving that the purpose and objectives of the Article will be met through the use of these Extraordinary Management Practices.
- G. **MONUMENT REQUIRED:** A monument is required at each lot line where it crosses a wetland buffer with a maximum spacing of two hundred (200) feet of wetland edge.
- H. **BUFFER STRIP VEGETATION PERFORMANCE STANDARDS.**
1. Where acceptable natural vegetation exists in buffer strip areas, the retention of such vegetation in an undisturbed state is preferred. A buffer strip has acceptable natural vegetation if it:
    - a. Has a continuous, dense layer of perennial grasses that have been uncultivated or unbroken for at least ten (10) consecutive years; or
    - b. Has an over story of trees and/or shrubs with at least eighty (80) percent canopy closure that have been uncultivated or unbroken for at least ten (10) consecutive years; or
    - c. Contains a mixture of the plant communities described in this Section, that have been uncultivated or unbroken for at least ten (10) consecutive years.
  2. Notwithstanding the above performance standards, the City may determine existing buffer vegetation to be unacceptable if:

- a. It is composed of undesirable plant species (including, but not limited to reed canary grass, common buckthorn, purple loosestrife, leafy spurge and noxious weeds); or
  - b. It is lacking a layer of organic thatch or duff; or
  - c. Has topography that tends to channelize the flow of surface runoff; or
  - d. For some other reason it is unlikely to retain nutrients and sediment.
3. Where buffer areas, or a portion thereof, are not vegetated or have been cultivated or otherwise disturbed within ten (10) years of the permit application, such areas shall be re-planted and maintained according to each of the following standards:
- a. Buffer zones shall be planted with a seed mix containing one hundred (100) percent perennial native plant species, except for a one-time planting of an annual nurse or cover crop such as oats or rye.
  - b. The seed mix to be used shall consist of at least twelve (12) pounds pure live seed (PLS) per acre of native prairie grass seed and five (5) pounds PLS per acre of native forbs. Native prairie grass and native forb mixes shall contain no fewer than four (4) and five (5) species respectively.
  - c. The annual nurse or cover crop shall be applied at a rate of twenty (20) pounds per acre.
  - d. Native shrubs may be substituted for forbs. Such shrubs may be bare root seedlings and shall be planted at a rate of sixty (60) plants per acre. Shrubs shall be distributed so as to provide a natural appearance and shall not be planted in rows.
  - e. Any ground cover or shrub plantings installed in buffer areas are independent of landscaping requirements set forth elsewhere in the City Code and City policy.
  - f. Native prairie grasses and forbs shall be planted by a qualified contractor using a drill designed for native prairie grass seedlings, such as a Truax or Nesbitt Native Grass Drill or a John Deere 1550 Power-Till Seeder.

- g. No fertilizer shall be used in establishing new buffer zones, except on highly disturbed sites where deemed necessary to establish acceptable buffer vegetation and then limited to amounts indicated by an accredited soil testing laboratory.
  - h. All seeded areas shall be mulched immediately with a mulch material approved by the City Engineer. Mulch shall be anchored with a disk or tackifier.
  - i. Buffer zones (both natural and created) shall be protected by silt fence during construction and the fence shall remain in place until the area crop is established.
  - j. Applicants may obtain from the City a set of standard seeding and planting specifications for buffer zones that meet all the City requirements.
4. During the first two (2) years, the developer shall replant any buffer vegetation that does not survive. After two (2) years, if the condition of the buffer area changes through natural processes not caused by the property owner, the owner shall not be required to re-establish the buffer area to meet the standards established in this Article.

#### SEC. 10.35 PERFORMANCE STANDARDS/PURPOSE

- A. The performance standards established in this chapter are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight. All future development in all districts shall be required to meet these standards. The standards shall also apply to existing development where so stated. The city shall be responsible for enforcing the standards.
- B. Before any building permit is approved, the Administrator shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include description of equipment to be used, hours of operation, method of refuse disposal and type and location of exterior storage.

#### SEC. 10.36 EXTERIOR STORAGE; APPLICABILITY

The following standards are applicable to all property within the City:

- A. *Personal property.* Except as provided herein, in all agricultural and residential districts, all personal property shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following: construction and landscaping materials and equipment being currently used (within a period of six months) on the premises on which they are located, off-street parking of licensed passenger automobiles and pickup trucks and the parking of such other vehicles as may be permitted by this code , pertaining to parking.
- B. *Storage on lot with no permanent dwelling.* No personal property, vehicles, campers, travel trailers, recreational vehicles, equipment, lumber or building materials (except during the process of construction of a structure) shall be kept or maintained on any lot or property on which a permanent dwelling is not located.
- C. *Recreational equipment.* The exterior storage of no more than three items of recreational equipment is permitted, provided that any such side yard storage shall not be adjacent to a street and all setbacks are met. Additional recreational equipment must be stored inside a building. Recreational equipment shall include: snowmobiles; boats and canoes; all-terrain vehicles; campers; trailers for the transportation of boats, canoes, all-terrain vehicles, snowmobiles, and automobiles; all travel trailers or motor vehicles designed, constructed, or used to provide temporary, movable living quarters for recreational use, or similar transportation devices. The maximum length of recreational equipment to be stored in the front yard shall be limited to the back half of the front yard. Recreational vehicles shall not be located in the front half of the front yard; or that half of the front yard closest to the street. All recreational vehicles shall be located on a paved or dustless surface and shall not be located on a drainage or utility easement. Paved surfaces will be bituminous, concrete or concrete pavers. A dustless surface must consist of compacted bituminous millings or crushed rock. The crushed rock must all be similar in size with no fines. Aggregate material similar state DOT class 5 is not permitted. All other recreational equipment shall be stored off-site or within a completely enclosed building or garage that meets all other City Codes requirements.
- D. *Use of camper, travel trailer, etc., as a dwelling.* Campers, travel trailers and motor vehicles designed or used to provide temporary, movable living quarters for recreational use shall not, while parked, be used as a human dwelling place, living abode or living quarters, except that such a vehicle owned by a nonresident guest or visitor may be parked or occupied by said guest or visitor on property on which a permanent dwelling is located, for a period not to exceed 30 days per year while visiting the resident of said property. The recreational vehicle or trailer shall have self-contained sanitary facilities or standard on-site facilities as required by the building official. Campers, travel trailers and motor vehicles designed or used to provide temporary living quarters shall not be permanently stored on commercial or industrial properties, except for those properties whose intended purpose is the storage of these types of vehicles.

- E. *Nonresidential areas.* In the commercial and industrial districts, exterior storage of useable personal property may be permitted by conditional use permit provided any such property is so stored for purposes relating to a use of the property permitted by this development code and will not be contrary to the intent and purpose of this development code. In all districts, a conditional use permit may be required should the Administrator determine the outdoor storage is a hazard to the public health, safety, convenience, morals, or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a threat to living amenities.
- F *Exemptions.* The following items are exempt from these guidelines for residential properties:
1. Compost bins with sealed covers.
  2. Clothes lines.
  3. Firewood, up two cords.
  4. Other similar uses as determined by the Administrator.

#### SEC. 10.37 REFUSE

In all districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse. Existing uses shall comply with this provision within six months following enactment of the ordinance from which this chapter is derived.

#### SEC. 10.38 GLARE

In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure shall be arranged so as to deflect light away from the adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

#### SEC. 10.39 PARKING

- A. *Surface and drainage.* Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all

surface water accumulation within the parking area. Durable and dustless surfaces shall utilize asphalt, concrete or a reasonable substitute surface as approved by the city engineer. All surfacing must be completed prior to occupancy of the structure unless other arrangements have been made with the city.

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

1. Spaces accessory to one-family and two-family dwellings shall be on the same lot as the principal use served.
2. Spaces accessory to multiple-family dwellings shall be on the same lot as the principal use served. Parking as required by the Americans with Disabilities Act (ADA) for the disabled shall be provided.
3. Spaces accessory to uses located in the commercial and industrial districts shall be on the same lot as the principal building. Parking as required by the Americans with Disabilities Act (ADA) for the handicapped shall be provided.
4. Spaces accessory to multiple-family dwellings or commercial or industrial uses shall be set back ten feet from any street right-of-way or any property line.

C. *General provisions.*

1. Existing off-street parking spaces and loading spaces upon the effective date of the ordinance from which this development code is derived shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar use.
2. Ninety-degree parking spaces shall not be less than nine feet wide and 18 feet in length exclusive of an adequately designed system of access drives. Parking lots that separate vehicles based on size may be designed with parking spaces less than or greater than nine feet wide and 18 feet in length depending upon the size of the vehicle, as long as adequate space is provided for easy and safe ingress and egress for the vehicle. Proposed reductions in or additions to the parking space size must be submitted in a dimensioned site plan with size of vehicle to use parking spaces indicated for review and approval. Signs specifying the vehicle size to use the parking space shall be required. Parking spaces for the handicapped shall be in accordance with the Americans with Disabilities Act (ADA). Parallel parking spaces shall be at least eight feet wide, and a minimum length of 20 feet in length. Forty-five-degree parking shall be a minimum of nine feet in width and 19 feet in length.

3. Off-street parking facilities for a combination of mixed buildings, structures or uses may be provided collectively in any district (except residential districts) in which separate parking facilities for each separate building, structure or use would be required, provided that the total number of spaces provided shall equal the sum of the separate requirements of each use during any peak hour parking period.
4. When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the county requiring the owner and his heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.
5. Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles that are inoperable, for sale or for rent.
6. For every 12 parking spaces in a row, a landscape island or infiltration basin shall be provided. Each required landscape island is to contain at least one tree; and is required to be a minimum size of nine feet by 18 feet. Additional landscaping may be provided, but each required island shall be at least nine feet by 18 feet in size. No interference between on-site utilities and landscaping is permitted, including, but not be limited to, fire equipment or on-site lighting. Requests for modifications to this requirement shall be approved by City Council.
7. Off-street parking spaces required shall be as follows:

Single-family detached and duplex dwellings	Two spaces per dwelling unit. The first two spaces of a home shall be fully enclosed; either detached or attached to the principal structure. Additional parking spaces are not required to be enclosed.
Multiple-dwelling units	Two spaces per dwelling unit. At least one-half of the required spaces shall be enclosed.
Place of worship and other places of assembly	One space for each three seats or for each five feet of pew length. Based on maximum design capacity.
Offices	One space for each 200 square feet of gross floor space.
Hotel, motel	One space per unit, plus one space per employee.
Schools, preschool or daycare centers	One space for each 450 square feet of floor area.
Schools, elementary and	Three spaces for each classroom.

junior high	
Schools, high school through college	One space for each four students based on design capacity plus three additional spaces for each classroom.
Community residence/assisted living center	One space for each bed plus one space for each three employees other than doctors.
Health and/or fitness club	One space for each 200 square feet of floor area.
Bowling alley	Six spaces for each alley, plus additional spaces as may be required for related uses such as a restaurant.
Motor vehicle service station	Two spaces plus three spaces for each service stall.
Motor vehicle sales	One space for each 450 square feet of floor area.
Convenience store	One space for each 200 square feet of gross floor area.
Retail store	Five spaces for each 1,000 square feet of gross floor area.
Small animal hospital or clinic	One space for each 300 square feet of floor area.
Medical or dental clinic	Six spaces per doctor or dentist at maximum build out of the facility; but limited to the maximum number of doctors or dentists able to work on a single shift.
Drive-in or drive-through restaurant	At least one parking space for each 15 square feet of gross floor space in building allocated to drive-in operation.
Restaurants (sit down), cafes, bars, taverns or nightclubs	One space for each 2 1/2 seats, based on capacity design.
Funeral homes	Eight spaces for each chapel plus one space for each funeral vehicle maintained on the premises. Aisle space shall also be provided off the street for making funeral procession.
Furniture store, wholesale, auto sales, repair shops	Three spaces for each 1,000 square feet of gross floor area. Open sales lots shall provide two spaces for each 5,000 square feet of lot area, but not less than three spaces.
Manufacturing	One space for each 1,000 square feet of floor area for buildings under or equal to 10,000 square feet of floor area, One space per 1,500 square feet of floor area for those buildings larger than 10,000 square feet.
Industrial, warehouse, storage, handling of bulk goods	One space for each two employees on maximum shift or one for each 2,000 square feet of gross floor area, whichever is greater.

Uses not specifically noted	As determined by the Administrator.
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- a. Parking spaces for uses outlined above may be reduced if a detailed parking analysis is provided and approved by the Administrator.
- b. When one building is planned to contain multiple uses, the minimum required parking shall be determined by calculating the separate floor area for each use.

D. *Design and maintenance of off-street parking areas in all commercial and industrial districts.*

- 1. Parking areas shall be designed so as to provide adequate means of access to a public street. Such driveway access widths shall be in accordance with the state highway department standards, but in no case shall they exceed 32 feet in width or less than 24 feet in width. Driveway access shall be so located as to cause the least interference with traffic movement.
- 2. When the calculation of the number of off-street parking spaces required results in a fraction, such fraction shall require a full space.
- 3. All lighting used to illuminate an off-street parking area shall be in accordance with the requirements of this Code. In addition, all parking lot lighting shall be full cut off and downward facing. Lighting plans shall be submitted showing a light loss factor of 1.0, and shall have no light spillage onto adjacent properties.
- 4. All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than ten feet from the property line.
- 5. When a required off-street parking space for six or more cars is located adjacent to a residential district, a fence or screening not less than four feet in height shall be erected along the residential district property line.
- 6. All off-street parking spaces shall have access from driveways and not directly from the public street.
- 7. No parking space shall be closer than ten feet to any building.
- 8. Fire access lanes shall be provided as required by the building or fire code.
- 9. Maintenance of off-street parking space. It shall be the joint and several responsibility of the operator and owner of the principal use, uses and/or

building to maintain, in a neat and adequate manner, the parking space, access ways, landscaping and required fences.

10. Handicap accessible parking shall be provided in accordance with all requirements of the Americans with Disabilities Act (ADA).
11. No vehicles for display or sale shall be located in a parking lot where the intended purpose of the lot is not vehicle sales.
12. Campers, trailers and similar recreational living quarters shall not be permitted as residences within commercial and industrial zoning districts unless these areas are depicted on the approved site plan submitted for a project.

E. *Design and maintenance of off-street parking areas in all residential districts.*

1. Motor vehicles over one ton capacity bearing a commercial license and commercially licensed trailers shall not be parked or stored on residential properties except when loading, unloading, or rendering service.

SEC. 10.40 TRAFFIC CONTROL

The traffic control generated by any use shall be channelized and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure the safe and orderly flow. Traffic into and out of business areas shall in all cases flow. Traffic into and out of business areas shall in all cases be forward moving with no backing into street. On corner lots, (including rural areas) nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of 2.5 feet and ten feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting streets from a distance of 50 feet from the intersection of the right-of-way lines.

SEC. 10.41 TREE AND WOODLAND PRESERVATION

The following restrictions shall apply to all new and existing residential development occurring in wooded areas:

- A. Structures shall be located in such a manner that the maximum number of trees shall be preserved.
- B. Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the clear-cutting of trees on the site and that if trees are cut, the person will restore the

density of trees to that which existed before development but in no case shall the person be compelled to raise the density above ten trees per acre.

- C. Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.
- D. Trees Lost Prior to Annexation or Development. Property owners and developers are discouraged from reducing significant trees and forested areas on their property in advance of development or annexation to the city. In the event that the city determines that significant tree loss has occurred in the three years prior to a petition for annexation or application for development, or anytime after environmental review has commenced for a subject property, the city may take measures at its discretion including but not limited to:
1. Tree replacement as a condition of annexation or site plan approval
  2. Denial of the annexation request.
  3. Denial of site plan, if applicable.

In making the determination that significant tree loss has occurred, the city may utilize available data to make estimates of the loss and is not required to rely upon a tree survey.

#### SEC. 10.42 FENCE AND LANDSCAPE MAINTENANCE

In all districts, all structures requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

#### SEC. 10.43 SOIL EROSION AND SEDIMENT CONTROL

The following general standards shall apply to all development and activity that necessitates the grading, stripping, cutting, filling or exposure of soils:

- A. The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.
- B. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to the development when necessary to control erosion.

- C. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
- D. The drainage system shall be constructed and operational as quickly as possible during construction.
- E. Whenever possible, natural vegetations shall be retained and protected.

#### SEC. 10.44 EXPLOSIVES

No activities involving the storage, utilization or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted unless permitted as an Interim Use Permit by the City Council.

#### SEC. 10.45 DRIVE-IN AND DRIVE-THROUGH ESTABLISHMENT BUSINESS DEVELOPMENT STANDARDS

- A. The entire area of any drive-in or drive-through business shall have a drainage system approved by the city engineer.
- B. The entire area other than that occupied by structures or planting shall be surfaced with a hard surface material which will control dust and drainage.
- C. General requirements.
  - 1. Any drive-in or drive-through business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service seating area.
  - 2. The hours of operation shall be set forth as a condition of any Conditional Use Permit for drive-in or drive-through business.
  - 3. Each food or beverage drive-in or drive-through business shall place refuse receptacles at all exits, as well as one refuse receptacles per ten vehicle parking spaces within the parking area.
- E. Locations.
  - 1. No drive-in or drive-through business shall be located within 400 feet of a public or parochial school, church, public recreation area or any residential zoning district or use.

2. No drive-in or drive-through business shall be located such that it may increase traffic volumes on nearby residential streets.
  3. No drive-in or drive-through business shall be located on any street other than one designated as a thoroughfare or business service road in the Comprehensive Plan.
- F. Site plan.
1. The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.
  2. A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.
  3. Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.
  4. The design of any structure shall be compatible with other structures in the surrounding area.
  5. Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within 400 feet of any residentially zoned or used property, nor within 50 feet of any adjacent lot regardless of use or zoning district.
  6. No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structures.
  7. No permanent or temporary signs visible from the public street shall be erected without specific approval in the permit.
  8. No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within 50 feet of intersecting street curblines.
  9. In the case of a drive-in theater, a solid fence not less than eight feet in height and extending at least to within two feet of the ground shall be constructed around the property.
  10. The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use.

SEC. 10.46 AUTO SERVICE STATIONS

The following shall be applicable to auto and truck service stations in all districts:

- A. A drainage system, subject to approval by the city engineer, shall be installed. The entire site, other than that taken up by a structure or planting, shall be surfaced with concrete or other material approved by the City Council. Pump islands shall not be placed in the required yards. The area around the pump island to a distance of eight feet on each side shall be concrete. A box curb not less than six inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than 50 feet from the intersection of two street right-of-way lines. Each service station shall have at least two driveways with a minimum distance of 170 feet between centerlines when located on the same street.
- B. No vehicles shall be parked on the premises other than those utilized by employees or waiting service. No vehicle shall be parked or be waiting service longer than 15 days. Existing service stations shall comply with this requirement within 45 days of the effective date of the ordinance from which this chapter is derived.
- C. Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump island; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as racks, metal trays, and similar structures designed to display merchandise. Existing service stations shall comply with the requirement within three months of the effective date of the ordinance from which this chapter is derived.
- D. All areas utilized for the storage, disposal, or burning of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean, and safe manner. Existing service stations shall comply with this requirement within nine months of the effective date of the ordinance from which this chapter is derived.
- E. Business activities not listed in the definition of service stations in the ordinance from which this chapter is derived are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include, but are not limited to, the following:
  - 1. Automatic car and truck wash;
  - 2. Rental of vehicles, equipment, or trailers; and
  - 3. General retail sales.

SEC. 10.47 BULK STORAGE (LIQUID)

All underground storage tanks (USTs) and aboveground storage tank (AST) systems shall remain in compliance at all times with all applicable statutes and rules as amended from time to time including but not limited to the State Fire Code and the Minnesota Pollution Control Agency Regulations.

SEC. 10.48 ACCESSORY BUILDINGS AND STRUCTURES

A. *Residential districts.* In residential districts:

1. No accessory buildings installed on slab or with footings may be located within ten feet of the side lot lines nor within ten feet of the rear lot lines or within a drainage and utility easement; and provided that if the accessory building is moveable, in such event, the side and rear setbacks shall not be less than five feet.
2. No detached accessory storage type building (excluding garages) shall be located in any yard other than a rear yard. For properties located in the Residential Agriculture District (RA) accessory buildings may be allowed in the side yard upon receiving a Conditional Use Permit (CUP).
3. No accessory building shall exceed the height of the principal building. For properties located in the Residential Agriculture District (RA) accessory buildings may be allowed to exceed the height of the principal building upon receiving a Conditional Use Permit (CUP).
4. An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered, enclosed passageway built on a slab or other suitable foundation. If detached, it shall not be located closer than six feet from the principal structure.
5. One-family and two-family dwellings constructed after November 1, 1989, are required to have two enclosed spaces per unit attached to the dwelling.
6. A site plan shall be submitted with all requests for an accessory detached building permit in all residential districts, and shall include the following information (and other information required by zoning officials):
  - a. Existing buildings and their relationship to property lines.
  - b. Indication of location for well, septic system and driveways.
  - c. Any easements.

- d. Property lines and setback requirements.
- 8. All detached accessory buildings shall be both designed and constructed to meet minimum standards as required for residential accessory structures under the state building code and shall be compatible with the principal building and general neighborhood environments, including, but not limited to, exterior finish, materials, overhangs, soffits and fascia. Properties located in the RA District are allowed to construct accessory structures with steel siding as long as it is compatible with the principal structure color. Prefabricated sheds not exceeding 120 square feet are allowed in all districts.
- 9. All accessory buildings shall be constructed to comply with the following side wall height, eaves and overhang restrictions:

Side Wall Heights (feet)	Eaves (inches)	Overhang (inches)
10 or less	12	12
12 or less	12	18
RA District only: 20	12	18

(A sidewall height greater than 12 feet in any zoning district except RA, and greater than 20 feet in the RA zoning district, shall not be constructed except after obtaining a conditional use permit authorizing the same.)

- 10. In all districts except the RA District, an accessory building shall not be a pole barn nor of pole barn type construction. As used in this subsection, pole barn is defined as a structure, the basic support and framework of which is provided by wooden poles inserted vertically into the ground similar to telephone poles. A permitted accessory building exceeding 120 square feet in size shall be an on-site custom-made stick-built structure, and is to mean a building which is wholly constructed on the lot. A building shall be deemed constructed on the lot if 90 percent of the value of the building is constructed on the lot from individual block, board, plywood, siding, roofing, finishing and other individual construction materials. Value shall be measured on the basis of the cost of the materials used in the construction of the building.
- 11. The combination of all accessory structures, including detached garages, shall not exceed the following area limitations:

Parcel Size	Maximum Floor Area (sq. ft.)
Smaller than ¼ acre	1,000 *
¾ - 2.49 acres	1,500 *
2.5 – 5 acres	3,000 *
Greater than 5 acres	Up to the floor area of the principal structure, but may exceed the floor area of the principal structure if a Conditional Use Permit is obtained.

- \*Provided that the total maximum floor area of all accessory structures is not greater than the floor area of the principal structure. The total maximum floor area of all accessory structure may exceed the floor area of the principal structure if approved by Conditional Use Permit, but the Conditional Use Permit may not permit a total maximum floor area for accessory structures that is greater than that allowed for the parcel size as shown in the table above.

12. An accessory building constructed on Farms, for the exclusive use of sheltering agricultural machinery and storage of agricultural products shall be exempt from building permit requirements. Description of the proposed use must be submitted in writing, and signed by the property owner. Administrative review of the site plan is required.

13. An accessory building constructed for the use of a shelter or stabling facility shall provide a minimum of one hundred (100) square feet of enclosure per “Animal Unit Equivalent” and shall be located a minimum of seventy-five (75) feet from any adjacent lot. This type of building shall be exempt from building permit fees and agricultural standards. Administrative review of the application and site plan are required.

B. *Interpretation; abrogation and greater restrictions.* It is not the intention of this section to interfere with, advocate or annul any covenant or any other agreement between any parties; provided, however, where this section imposes a greater restriction upon the use of the premises for detached accessory buildings than are imposed or required by other ordinances, rules or regulations or permits, or by covenants or agreements, the provisions of this ordinance shall govern.

C. *In commercial and industrial districts.*

1. No accessory building shall exceed the height of the principal building except by conditional use permit.
2. Accessory buildings may be located any place to the rear of the principal building subject to the building code and the fire zone regulations.

D. *In all districts.*

1. No accessory building or use shall be constructed or developed on a lot prior to construction of the principal building.
2. Accessory structures located on properties subject to the Section 10.33 related to the shoreland district may be located between the public road and the principal structure provided it is clearly demonstrated that physical conditions require such a location. In no event, however, shall the structure be located closer than 20 feet to the public road right-of-way.
3. An accessory building may be located within the rear yard setback provided that the lot is not a through lot and said accessory building does not occupy more than the allowed maximum floor area for the lot size.
4. No accessory building may be used as a dwelling unit except as may be permitted in the RA District.

#### SEC. 10.49 DWELLING UNITS PROHIBITED

No basement, garage, tent, trailer, or accessory building shall at any time be used as a dwelling. The basement portion of finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the building inspector.

#### SEC. 10.50 VACATED STREETS

Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.

#### SEC. 10.51 PLATTING

All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features or proper subdivision and land planning.

#### SEC. 10.52 ACCESS DRIVES AND ACCESS

- A. Access drives may not be placed closer than five feet to any side or rear lot line. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

- B. Access drives onto county roads shall require a review by the county engineer. The county engineer shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- C. Access drives to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Administrator shall review all access drives (driveways) for compliance with accepted community access drive standards.
- D. Driveway standards. All driveways shall have a minimum width of ten (10) feet and a maximum width of twenty-eight (28) feet in the area located between the curb cut and the property line.
- E. All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the City Council.
- F. The number of access points to a residential lot shall be restricted to one driveway, unless the following conditions are met. If the following conditions are met, no more than two access points shall be allowed.
  - 1. The lot is within the RA, R1, or R1A District.
  - 2. The lot has a minimum of two hundred and fifty (250) feet of road frontage.
  - 3. If the property has two street frontages, the driveways must be on separate frontages. If the property has only one street frontage, then the driveways must be located not less than 50 feet apart.
  - 4. If the driveway is proposed to connect from a County road, the applicant must first obtain a permit from the County.
  - 5. All other driveway requirements of Section 10.52 are met.

#### SEC. 10.53 HOUSING PERFORMANCE STANDARDS

- A. *Intent.* Housing performance standards are hereby established for the purpose of promoting residential energy conservation, preserving and protecting desired architectural and aesthetic characteristics of housing in the community, and protecting the health, safety and welfare of residents of the community.
- B. *Residential structures.*

1. All residential structures in the community shall be firmly anchored to a concrete foundation.
2. All residential structures shall possess a minimum width of 24 feet
3. All residential structures shall possess wall and ceiling joist construction consisting of framing materials of at least 1 3/4-inch by 3 1/2-inch dimensions, and shall be of sufficient weight to properly withstand damage from high winds and storms.
4. All residential structures, except earth sheltered homes, shall possess pitched roofs, with at least a five percent slope.
5. All residential structures, except earth-sheltered homes, shall possess a minimum height of 14 feet, measured from the top of the foundation to the peak of the roof, excluding any heights attributed to chimneys.
6. All residential structures shall be composed of materials that minimize the risk of hazards to the occupants of the structure.

#### SEC. 10.54 EXTERIOR LIGHTING

- A. Exterior lighting shall be designed and arranged to limit direct illumination and glare upon or into any contiguous parcel. Reflected glare or spill light shall not exceed five-tenths footcandle as measured on the property line when abutting any residential parcel and one footcandle on any abutting commercial or industrial parcel. Streetlights installed in public right-of way shall be excepted from these standards.
- B. Mitigative measures shall be employed to limit glare and spill light to protect neighboring parcels and to maintain traffic safety on public roads. These measures shall include lenses, shields, louvers, prismatic control devices and limitations on the height and type of fixtures. The city may also limit the hours of operation of outdoor lighting if it is deemed necessary to reduce impacts on the surrounding neighborhood.
- C. No flickering or flashing lights shall be permitted.
- D. Direct, off-site views of the light source shall not be permitted except for globe and/or ornamental light fixtures approved in conjunction with a site and building plan. Globe and ornamental fixtures shall only be approved when the developer can demonstrate that off-site impacts stemming from direct views of the bulb are mitigated by the fixture design and/or location.

- E. The City may require submission of a light distribution plan if deemed necessary to ensure compliance with the intent of this section.

SEC. 10.55 NOISE AND VIBRATION

- A. Noises emanating from any use shall be in compliance with and regulated by the standards of the state pollution control agency. Any use established or remodeled after the effective date of the ordinance from which this section is derived shall be so operated as to prevent vibration discernable at any point beyond the lot line of the site on which such use is located. The city may also limit the hours of operation of outdoor noise if it is deemed necessary to reduce impacts on the surrounding neighborhood.
- B. Ground vibration and noise caused by motor vehicles, trains, aircraft operations or temporary construction or demolition shall be exempt from these regulations. However, if deemed appropriate, the City may establish limits on the hours of operation of temporary construction or demolition operation to limit off-site impacts.

SEC.10.56 SMOKE AND PARTICULATE MATTER

No use shall produce or emit smoke, dust or particulate matter exceeding applicable regulations established by the state pollution control agency.

SEC. 10.57 ODOR

No use shall produce unreasonable or disturbing odors beyond the property line exceeding applicable regulations established by the state pollution control agency. Any use creating periodic odors, such as what may be created from incinerators and chemical processes, shall be prohibited if such odors are perceptible beyond the lot line of the site on which the use is located.

SEC. 10.58 TOXIC OR NOXIOUS MATTER

No use or operation shall emit a concentration of toxic or noxious matter across the property line which exceeds applicable regulations of the state pollution control agency.

SEC. 10.59 RADIATION

No operation shall be conducted which exceeds the standards established by applicable regulations of the state department of health.

SEC. 10.60 HEAT AND HUMIDITY

No use shall produce any unreasonable, disturbing or unnecessary emissions of heat or humidity beyond the property line which cause material distress, discomfort or injury to persons of ordinary sensitivity.

SEC. 10.61 ELECTROMAGNETIC INTERFERENCE

No use shall produce electromagnetic interference with normal radio or television reception in any residential district, or exceed applicable standards established by any applicable federal or state regulations.

SEC. 10.62 FIRE AND EXPLOSIVE HAZARDS

All uses shall be subject to the fire prevention code of the city.

SEC. 10.63 LIQUID OR SOLID WASTE

All uses shall be subject to applicable regulations of the city and the Minnesota Pollution Control Agency governing discharge into a public storm or sanitary sewer, waterway or stream.

SEC. 10.64 SCREENING

- A. Where any nonresidential use (i.e., structure, parking or storage) abuts property zoned for residential use, the nonresidential use shall provide screening along its boundary with the residential property. Screening shall also be provided where the nonresidential use is across the street from a residential use, but not on the side of a nonresidential use considered to be the front (as determined by the Administrator). All the fencing and screening specifically required by this subdivision shall be subject to the provisions of this subdivision, and shall consist of either a fence or a green belt planting strip. A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual buffer.

- B. All storage shall be screened. The exceptions are as follows:
1. Merchandise being displayed for sale;
  2. Materials and equipment presently being used for construction on the premises; and
  3. Merchandise located on service station pump islands.
- C. Screening may be required in cases where commercial or industrial uses are adjacent to or across the street from property zoned or developed for residential or public use. Screening may also be required in residential districts for any off-street parking area containing more than six parking spaces.
- D. Except where fencing is specifically required or erected, screening required in subsections (a) through (c) of this section may consist of a fence or a greenbelt planting strip not less than five feet high but shall not extend within 15 feet of any street or driveway. Alternatively, earth mounding or berms may be used to achieve all or a part of the buffer.
- E. The screening shall be placed along the property lines, or in case of screening along a street, 15 feet from the street right-of-way with landscaping between the screening and pavement. The screening shall be designed to provide complete visual screening. The City Council may also require plantings or shrubs or trees in association with required fencing provided for in this division.
- F. There shall be no restrictions on natural hedges or plantings utilized as fences in any residential zoning district, except that no such hedges or plantings shall be located within the Traffic Visibility Triangle as set forth in Section 10.01

#### SEC. 10.65 SWIMMING POOLS

- A. *Required permits; application.*
1. A building permit shall be obtained prior to construction or installation of any swimming pool.
  2. An application for a building permit shall include a site plan showing the type and size of pool, location of pool, location of house, garage, fencing and other improvements on the lot, location of structures on all adjacent lots, location of filter unit, pump and writing indicating the type of such units, location of back-flush and drainage outlets, grading plan, finished elevations and final treatment (decking, landscaping, etc.) around the pool, location of existing overhead and underground wiring, utility easements, trees and similar features, and location of any water heating units.

B. *Performance standards.*

1. Pools shall not be located within 20 feet of any septic tank/drainfield nor within six feet of any principal structure or frost footing. Pools shall not be located within any required front- or side-yard setbacks.
2. Pools shall not be located beneath overhead utility lines nor over underground utility lines of any types.
3. Pools shall not be located within any private or public utility, walkway, drainage or other easement.
4. In the case of in-ground pools, necessary precautions shall be taken during the construction to avoid damage, hazards or inconvenience to adjacent or nearby property and assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property.
5. All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.
6. All back-flush water or pool drainage water shall be directed onto the property of the owner, or onto approved drainage ways. No pool water shall be drained into the City's sanitary sewer. Drainage onto public streets or other drainage ways shall require the permission of the City. The person who drains a swimming pool must regulate the volume and rate of the discharge to prevent damage to public or private property.
7. The filter unit, pump, heating unit and any other noise-making mechanical equipment shall be located at least 35 feet from any adjacent or neighboring residential structure and not closer than ten feet to any lot line.
8. Lighting for the pool shall be directed toward the pool and not toward adjacent property. Any lighting on poles shall be downward facing and full cut off. There shall be no light spillage onto adjacent properties.
9. A structure or safety fence at least four feet in height, but not greater than eight feet in height shall completely enclose the pool. As an alternative to a safety fence, an automatic pool cover may be utilized if it meets the standards of F1346-91 (Reapproved 1996) of the American Society of Testing and Materials (ASTM), as such standards may be revised, modified, superseded or replaced by other pertinent ASTM standards.

10. Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection by the local health officer.
11. All wiring, installation of heating units, grading, installation of pipes and all other installations and construction shall be subject to inspection.
12. All access gates for pool enclosures shall contain self-closing and self-latching hardware in accordance with the adopted building code. Spacing between the bottom of the access gate and the ground shall not exceed 2.5 inches.
13. Pools shall have safety fences installed prior to filling with water.
14. Should a property have a fence in the backyard that meets the height provisions as stated above, then an additional fence shall not be required around the pool. Such a fence shall be required to have a self-latching mechanism on the interior side of the fence.
15. All requirements of the state building code shall be met. A building permit shall be issued by the building inspector that verifies state code requirements have been met.
16. All swimming pools with removable ladders shall have the ladder removed when the pool is not in use.

#### SEC. 10.66 FENCES

- A. Permit required. Except as otherwise provided herein, no person shall erect, alter or relocate any fence within the City without first having been issued a permit therefor.
- B. Permit fee. A fee as set forth by resolution of the City Council shall be charged for a permit under this subdivision for new fences, as well as the replacement of fences in the same location.
- C. Application procedures.
  1. Residential, single-family and two-family. Each application for a permit under this subdivision shall be submitted to the Administrator or his designee on forms provided for by the city. Each application shall include a site plan drawn to scale showing the location of the houses, garages and other structures on the lot and location of the fencing to be erected, altered or relocated. Fences six (6) feet tall and higher shall be processed as a

building permit. Fences less than six (6) feet tall shall be processed as an administrative permit.

2. Commercial, Industrial, and Residential, other than single-family and two-family. Commercial and industrial uses. Request for fencing shall be processed as part of and according to the procedures of site plan review.
  3. Agricultural Properties. Fences constructed on properties used for agricultural purposes are exempt from the provisions of this Section 10.66.
- D. Intent of fence regulations. The purpose of this section is to enact minimum restrictions on fencing necessary to ensure orderly and attractive development, to enhance "curb appeal" from city streets, to protect the health and welfare of the citizens, to allow a free flow of air, to prohibit unreasonable restrictions of you while allowing each property owner to protect his property in privacy.
- E. General requirements.
1. New construction, maintenance, and design requirements.
    - a. Fencing shall be constructed and maintained so as not to endanger life or property. Any fence which through lack of repair, type of construction, or which otherwise imperils health, life, property, or the aesthetic quality of a neighborhood shall be deemed a public nuisance.
    - b. The side of the fence considered to be the face shall face abutting property. The face shall be defined as the finished side of the fence rather than the side with structural supports.
    - c. If fencing is built away from a property line, property on both sides of the fence must be maintained so as not to create a public nuisance.
  2. Fence location requirements.
    - a. All fences shall be located entirely upon the private property of the person constructing the fence.
    - b. When driveway, trail, access, or walkway easements are located on private property, fences shall not be constructed on the easement. No fence shall be constructed which obstructs the flow of water upon a drainage or utility easement or which would cause the City to be unable to access the easement. The City may require that obstructions to easements be removed at the property owner's expense.

3. Traffic visibility requirements. On any corner lot, no fence shall be erected in the triangle formed by the front lot line, side street lot line, and a third straight line joining points on such property lines 30 feet from their intersection at the corner of the lot when such action would impede vision above a height of 2 1/2 feet above the centerline grades of the adjacent streets.
- F. Requirements for residential areas.
1. General design requirements.
    - a. The use of barbed wire, or of any electrical current is prohibited.
    - b. If a chainlink fence is constructed, it shall have a minimum gauge of 11.
  2. Rear yard boundary fence.
    - a. Height restrictions. A rear yard boundary fence shall not exceed six feet in height.
    - b. Required yard location.
      1. A rear yard boundary fence shall be permitted only within the rear yard, except where rear yard access from the principal building is achieved from an entrance/exit to a side yard. In such instances, a six-foot boundary fence is permitted in the side yard to a distance not greater than three feet beyond the entrance/exit in the direction of the front yard.
      2. Should a corner lot have a rear lot line in common with the side lot line of an abutting lot, the boundary fence shall meet the principal structure's required side yard setback for corner lots, or shall not extend past the front corner of the house on the abutting lot, whichever is less.
      3. Large lots containing structures set back 100 feet or more from a street right-of-way, a rear yard boundary fence shall be permitted within side yards to the front of the structure, or in the case of two adjacent structures, to a line connecting the front of such structures.
  3. Decorative fences.

- a. Height restrictions. A decorative fence shall not exceed four feet in height within the limits of the front and side yards.
  - b. Required yard location.
    - 1) A decorative fence is the only type of fence allowed within the limits of the front yard or side yards, except as indicated in subsection (e)(2)a of this section.
    - 2) A decorative fence erected on a corner lot shall be subject to the additional traffic visibility requirements in subsection (e)(2)b of this section.
  - c. Design requirements. A decorative fence shall have an opacity of no greater than 75 percent.
- G. Requirements for commercial and industrial areas.
- 1. Fences for screening outdoor storage areas.
    - a. Height restrictions. All fences required for the screening of outdoor storage areas shall be at least six but not more than eight feet in height.
    - b. Construction and design requirements.
      - 1. All fences required for screening open storage areas shall have an opacity of at least 90 percent.
      - 2. Screening fences shall be architecturally harmonious with the principal building and shall be compatible with the natural surroundings.
  - 2. Fences for the separation of incompatible land uses.
    - a. Explanation. Fences used for screening may be required at locations where commercial or industrial uses are adjacent to or across the street from property zoned or developed for residential or public use.
    - b. Height restrictions. The screening required shall consist of a continuous fence or wall at least six but not more than eight feet in height.
    - c. Construction and design requirements.

- 1) The screening fence required shall have an opacity of at least 75 percent.
  - 2) A louvered fence shall be considered adequate if it blocks vision from a 90-degree angle to the fence.
  - 3) Plant materials of a type approved by the City Council may also be required in addition to, or in lieu of, fencing.
- d. Required location on property.
- 1) The screening fence shall not extend to within 15 feet of any street or driveway opening onto a street.
  - 2) The fence shall be placed along property lines or, in case of screening along a street, five feet off the property line with landscaping (trees, shrubs, grass, and other plant materials) between the screening fence and the property line.
3. Fences for protection from danger and of valuable private property. It may be necessary for a commercial or industrial use to construct fences specifically to protect people from danger or to guard valuable private property. Such uses may be enclosed with an industrial chainlink fence of at least six feet but not more than eight feet in height topped with three strands of barbed wire, provided they project over the property on the interior side of the fence.

SEC. 10.67 SIGNS

A. PURPOSE AND FINDINGS.

1. Purpose: The purpose of this Chapter is to create a comprehensive and balanced system of signs which will facilitate communication. It is the intent of the Section to authorize the use of signs which:
  - a. Encourage a desirable character.
  - b. Preserve and improve the appearance of the city as a place to live, work and visit.
  - c. Work to eliminate confusing, distracting, or dangerous sign displays which interfere with vehicular traffic.
  - d. Promote commerce.

- e. Provide for fair and equal treatment of sign users.
- f. Promote efficient administration of the sign ordinance through a complete and understandable sign ordinance.
- g. Provide for eventual elimination of pre-existing non-conforming signs on a fair and equitable basis.

2. Findings:

- a. Signs are an essential element of any community. Their location, number, size, design and relationship to each other and to other structures have a significant influence upon a community's appearance and welfare, and a resultant effect upon a viewer's perception of the community. Signs serve a useful purpose in communicating a message, whether commercial or otherwise.
- b. Where signs are not properly regulated, they contribute to visual clutter, confusion, aesthetic blight, and create an unpleasant impression. They may cause traffic hazards and impede rather than enhance commerce. In such situations, signs may fail to achieve their original objective of communication. Failure to appropriately regulate signs may adversely affect the public health, safety and welfare.
- c. Property and facilities located within the public right-of-way, such as utility poles, benches, hydrants, bridges, sidewalks, traffic sign posts, and similar structures are not by tradition or designation a forum for communication by the general public. The city wishes to preserve these structures for their intended purpose, which is the safe, efficient and pleasant movement of vehicular and pedestrian traffic, and the safe operation of utility systems.
- d. The regulations and prohibitions of the chapter are necessary to preserve items and structures located within the public right-of-way for their intended purposes, and to prevent the visual clutter, blight, and traffic hazards caused by signs.

B. SCOPE OF REGULATIONS.

- 1. It shall be unlawful for any person to erect, construct, enlarge, move, alter or convert any sign or cause the same to be done within the City except in accordance with the provisions of this Section.

2. Any sign provided for in any zoning district may contain non-commercial messages. To the extent any conflict arises between this provision and any other language found in this Section, this provision shall control.

For purposes of this Section, a “non-commercial message” or “non-commercial speech” shall mean any message or speech that does not meet the definition of “Commercial Message or Commercial Speech” as set forth in this Section. Nothing herein shall be construed to permit display of any message which is obscene, illegal or speech which is otherwise unprotected under the First Amendment of the United States Constitution. Nothing herein shall be construed to prohibit a prosecution for violation of a criminal statute by the City or other duly constituted government authority or a civil action by the City or other private person or entity.

C. GENERAL PROVISIONS:

1. Diagrams: The inclusion of diagrams is for illustrative purposes only. Where a diagram conflicts with text, the text shall control.
2. Prohibited Signs: The following signs are prohibited in all zoning districts: Any sign not specifically allowed by this Ordinance is strictly prohibited in all zoning districts, including flashing signs, roof signs, rotating signs, painted signs, and billboard signs. The following signs are permitted in residential districts for non-commercial purposes only: Banner signs, balloons, pennants, spinners, windsocks, streamers, ribbons, whirling devices, or light bulb strings.
3. Signs Conflicting With Traffic Signals: No sign shall be erected that, by reason of position, shape or color, would interfere in any way with the proper functioning or purpose of a traffic sign or signal. All displays shall be shielded to prevent light from being directed at oncoming traffic in such brilliance as to impair the vision of any driver. This includes indoor signs which are visible from public streets.
4. Dilapidated or neglected signs. A sign will be dilapidated or neglected if it does not present a neat and orderly appearance, which may be manifested by the following: rust or holes on or in the sign or structures holding the sign, or broken, missing, loose or bent parts, faded or flaking paint, non-operative or partially non-operative illuminating or mechanical devices or missing letters in sign Copy.
5. Placement of Signs: Signs are subject to all height requirements listed in Sections 10.26 and 10.28 (charts) of this Chapter and in no case shall a building sign extend above the height of a building to which it is attached or be placed on the roof of a structure. Signs are not allowed within the public right of way, except for signs installed by the responsible governmental authority.

## D. PERMITS:

1. Building permits may be required for signs. **Sign** permits are not required for signage, except that the following types of signs require permission from the City as follows:
  - a. Governmental Signs: Except for traffic related signage, all signs on publicly-owned property must be approved by the City Council.
  - b. Banner signs on ball field fences may be permitted subject to the following:
    - a. Must be approved by the city staff. City staff may bring to Council for final approval at their discretion.
    - b. Signs may be permitted on the outfield fencing only and must face the infield.
    - c. The number, location, and materials for each proposal shall be determined on an individual basis, and shall be based on the park layout, natural surroundings, and potential visual impact to surrounding properties and scenic views.
    - d. To the extent possible, signs shall only be installed for the playing season for which the signs are intended.
    - e. The signs shall be kept in good repair, and the City shall have the right to order signs removed if they are not properly maintained.
    - f. All signs on a given ball field shall be of the same size and dimensions.

## E. Signage Allowed in Any Zoning District

1. The following types of signs are allowed in any zoning district:
  - a. One noncommercial sign no larger than 4 square feet and no higher than 4 feet tall may be displayed on any lot in all zoning districts without obtaining a permit provided the sign is setback at least five (5) feet from the property line.
  - b. Signs including electronic message devices within the interior of buildings, or signs which are not intended to be visible beyond the premises on which the signs are located are not subject to the regulations set forth in this Section.
  - c. Nameplate Signs
  - d. Construction Signs: Construction signs shall be confined to the site of construction, alteration or repair and shall be constructed of high-quality material maintained in good repair. No more than one sign is permitted on each street frontage the project abuts. The sign shall be removed within 180 days of the date of the issuance of a

building permit for the work. A conditional use permit is required for a contractor sign to remain in place longer than allowed by this subsection. Construction signs are allowed in zoning districts in accordance with the following criteria:

<b>ZONING DISTRICT</b>	<b>SIZE</b>	<b>HEIGHT</b>	<b>PLACEMENT/SETBACK</b>
<b>R-1 &amp; R-2</b>	<b>16 sq. ft. (on vacant property) or 4 sq. ft (for existing single-family home</b>	<b>8 foot maximum</b>	<b>5 feet from property line/zero if attached to security fence</b>
<b>All other Districts</b>	<b>32 sq. ft. per street frontage</b>	<b>12 foot maximum</b>	<b>5 feet from property line/zero if attached to security fence</b>

- e. Directional Signs: Directional signs may be incorporated into a development including information such as traffic directions, house numbers, management office location or other information necessary to direct persons to facilities or areas within the development; provided however, that such signs shall not exceed 4 square feet in size and 6 feet in height and are not closer than 1 foot from a public street right of way. They shall not be located within the traffic visibility triangle.
- f. Flags
- g. Temporary Signs: Temporary signs shall be comprised/constructed of durable all-weather materials (such as but not limited to plywood, coreplast (plastic foam-core) alumacore, and polycarbonate (Lexan) mounted to the building wall or be freestanding. Mobile signs are considered temporary signs.
  - i. Not more than four temporary signs are allowed per lot zoned commercial and not more than one temporary sign is allowed in lots with other zoning designations, whether mounted to a building or free-standing.
  - ii. Size: The surface area of any temporary sign shall not exceed 32 square feet. This area shall be in addition to permanent, window or other signage allowed elsewhere in this Chapter.

- iii. Location: Freestanding temporary signs shall be setback at least five feet from the property line and not located within a Traffic Visibility Triangle
- iv. For signs associated with an event, the sign shall not be installed more than thirty (30) days prior to the event, and shall be removed not more than three days following the event.
- h. Signs in compliance with the Fair Campaign Practices Act contained in MINN. STAT. 211.B.045, as amended from time to time
- j. Real estate signs to the extent that the following criteria are met and that are removed no later than seven days following the lease or real estate closing:
  - i. Single and Two-Family Residential Property: For the purpose of selling, renting or leasing any single or two family residential property, a real estate sign not in excess of ten square feet in gross surface area in single and two-family districts may be placed within the front yard or in the public street right of way beyond the front yard. No part of the sign shall be closer than 5 feet from the property line... Only one sign is permitted per street frontage.
  - ii. Business and Industrial Property: For the purpose of selling, renting, and or leasing business/industrial properties, the following shall apply:
    - a) Single tenant buildings shall be allowed a real estate sign not exceeding 32 sq. ft. mounted on the building all or incorporated into an existing freestanding sign.
    - b) Multi-tenant buildings where new signage is requested, said real estate/leasing sign shall be made part of the required Master Sign Plan in this Section.
    - c) In situations where the selling, renting and/or leasing sign is desired on vacant land/property, a freestanding sign not exceeding 32 sq. ft. shall be allowed.
  - iii. New Single-Family Neighborhood: For the purpose of selling or promoting a single- or two-family residential

neighborhood of six or more lots, a sign not to exceed 32 square feet and not more than eight feet in height may be erected upon the subdivision not less than 5 feet from a property line. One sign shall be permitted for each entrance into a neighborhood. Signs shall be removed within two weeks of the last sale closing. In the event the subdivision is platted in multiple phases or additions, all phases that have been final platted shall be treated as one neighborhood under this section for purposes of determining locations of signage, total number of signs permitted, and completion of neighborhood provisions. Only one sign is permitted per development.

- iv. **Multiple-Family Residential Property:** For the purpose of selling or promoting a multiple-family residential property of six or more dwelling units, a sign not to exceed 32 square feet and not more than eight feet in height or a combination of a freestanding sign and wall mounted signs not to exceed 50 square feet may be erected upon the site not less than 5 feet from a property line. Only one sign is permitted per lot.
  - k. **Security System Signs:** Signs identifying the presence of a security or alarm system are allowed not to exceed two square feet.
  - l. **Window Signs:** Signs affixed to or painted on windows or placed within 36 inches of a window to be viewed from the exterior of the building shall not occupy more than 25% of the total window area for each window that contains signage. Under no circumstances shall the total area of window signage exceed ½ the allowable area of wall signage for the affected building.
3. **Master Sign Plan:**
- a. **Purpose.** The purpose of the Master Sign Plan is to establish fair and equitable criteria for complex signage situations that accommodate the need for a well-maintained, safe, and attractive community, and the need for effective communications including business identification.
  - b. **Effect of Master Sign Plan.** Upon approval of a Master Sign Plan, all future signs shall conform to the Master Sign Plan. Modifications to the provisions of the Master Sign Plan may be granted only with the approval of a new Master Sign Plan.
  - c. **Required.** A Master Sign Plan is required for:
    - i. **Building complexes**

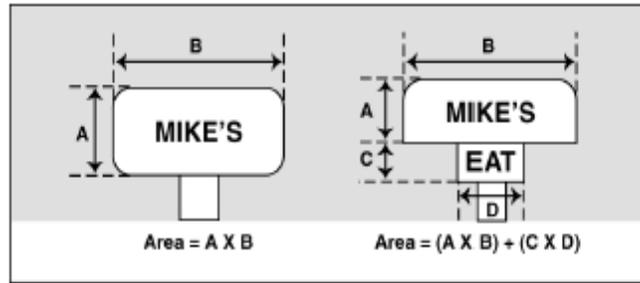
- ii. Multi-tenant structures
  - iii. Covered mall buildings, shopping centers or strip malls
  - iv. Planned unit developments
  - v. Area identification signs
  - vi. Churches/places of worship/institutions/schools
- d. Criteria. The following criteria should be used when developing a Master Sign Plan.
- i. Guideline. If possible, the underlying zoning district regulations should be used as a guideline with minimum variations as needed to meet the intent of this Section.
  - ii. Location. No freestanding sign shall be located closer than five feet to a property line, roadway easement, or other public easement. No freestanding sign shall be erected that, by reason of position, shape or color, would interfere in any way with the proper functioning or purpose of a traffic sign or signal. No freestanding sign shall be located within the Traffic Visibility Triangle. No freestanding sign shall impede/impair traffic.
  - iii. Quality. All signage shall improve the aesthetics or functional use of the site. All freestanding signs shall include materials that complement the architectural design/existing building materials, including but not limited to face brick, natural or cut stone, integrally colored concrete masonry units/rock faced block, glass, pre-finished metal stucco or similar cementation coating, and/or factory finished metal panels. Landscaping may be integrated into any freestanding sign.
  - iv. Type. All types of signs are permitted except those prohibited by Section 10.67 (C) (2).
  - v. Size. The size of all signage (building wall and free standing) shall be limited to 1.5 times the maximum allowed under Section 10.67 (I) (Wall Signage).
  - vi. Height. The height of any free standing sign shall be limited to a height of 40 feet.

- vii. Number. The number of freestanding signs shall be reasonably related to the number of access points to public streets and/or the number of tenants within the multi-tenant structure.
- e. Approval Process: Submittal of a Master Sign Plan application, appropriate/applicable information, and fee (\$250 residential and \$350 commercial/industrial) is required with the City Administrator. The City Administrator shall hold an administrative hearing and take appropriate action on requests for Master Sign Plan approvals. The following shall apply:
  - i. The City Administrator shall schedule an administrative hearing the time and place for which shall be set by the City Administrator, to consider the proposed Master Sign Plan with respect to the criteria in this Section.
  - ii. The applicant and contiguous/effected property owners shall be notified by the City Administrator of such time and place in writing not less than ten days prior to such hearing. The City Administrator may notify additional property owners if a determination is made that such additional notification is merited.
  - iii. The City Administrator shall hold the administrative hearing.
  - iv. The City Administrator shall render a final decision.
  - v. Should the applicant or a contiguous property owner object to the decision on the Master Sign Plan, an appeal may be filed within 10 days following the administrative decision. The appeal shall be made in writing and shall be addressed to the City Council. The City Council shall take up the appeal at a regular board meeting within 45 days on the appeal. The Master Sign Plan appeal shall follow notice requirements and other procedures contained in Section 10.12 of this Ordinance.

#### F. SIGN AREA COMPUTATION

- 1. Computation of Sign Surface Area of Individual Cabinet or Panel Sign: To compute the area for a cabinet or panel sign face: Compute by means of the smallest square, rectangle, circle, triangle, or combination thereof that will encompass the extreme limit of the copy, representation, logo,

emblem, or other display, together with any material or color forming an integral part of the background or the display or used to differentiate the sign from the backdrop or structure against which it is attached or affixed, but not including any support framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the pertinent zoning regulations and is clearly incidental to the display itself.



2. Computation of Sign Surface Area of Awning or Canopy or Wall Sign: To compute the area of an awning or canopy sign: compute by means of the smallest square, rectangle, circle, triangle or combination thereof that will encompass the extreme limits of the copy, representation, logo, emblem or other display, together with any material or color forming an integral part of the background or the display or used to differentiate the sign from the backdrop.

G. RESIDENCE DISTRICT SIGNS

1. Sign Regulations: The following signs are permitted in residence districts (also refer to chart on next page):
  - a. Single-Family, Duplex: Exclusive of house numbers, 1 nameplate sign for each single-family or duplex dwelling unit which shall not exceed three square feet in area per surface and no sign shall be so constructed as to have more than two display surfaces and must be at least ten feet from the street right-of-way line..
  - b. Multiple-Family Units: Exclusive of house numbers, one nameplate sign for each dwelling group of 6 to 12 units which shall not exceed 6 square feet in area per surface. One nameplate sign for each dwelling group of 12 to 24 units which shall not exceed 24 square feet in area per surface. One nameplate sign for each dwelling unit group above 24 units which shall not exceed 1 square foot per unit in the dwelling group to a maximum of 100 square feet in area per surface. Such nameplate signs may be attached to

the wall of a building or may be freestanding. In no case shall more than 1 sign be allowed for each dwelling group. All such signs shall conform to setback requirements of the Code. No sign shall be constructed so as to have more than two display surfaces. Said signs may indicate the names of the buildings, project names, may be a directory for occupants or state any combination of the permitted information.

2. Institutional Uses: Churches, schools and other permitted institutional uses in residence districts may have an illuminated nameplate sign not greater than 50 square feet in gross surface area.

<b>SIGNS ALLOWED IN RESIDENCE DISTRICTS</b>				
<b>RA, R-2, R-1A, R-2 Districts</b>				
<i>Type</i>	<i>Maximum Number Allowed</i>	<i>Maximum Sign Area Allowed</i>	<i>Placement, Location &amp; Height</i>	<i>Restrictions</i>
<b>Home Occupation</b>	1	2 sq. ft.	In front yard. 2 foot maximum height for freestanding sign.	Non-illuminated
<b>Complex “project” Signage</b>	1 per complex or residential development.	50 sq. ft.	5 foot minimum from a property line. 6 foot maximum height.	Can be located on building front or be freestanding.
<b>Institutional Use Signs (school/church)</b>	1 per specified use within the structure or campus.  EXCEPT on corner lot where a Master Sign Plan is required.	50 sq. ft. maximum on a single sided sign or 100 sq. ft. maximum on a double sided sign.	5 foot minimum from a property line. 6 foot maximum height.	Illumination allowed.

H. REGULATIONS FOR COMMERCIAL AND INDUSTRIAL DISTRICTS

1. Within the Business, Shopping Center and Industrial Districts the following requirements pertaining to wall and freestanding signs shall apply:

<b>SIGNS ALLOWED IN BUSINESS, SHOPPING CENTER &amp; INDUSTRIAL DISTRICTS</b>				
	<b>B-1,B-1A, B-2, I-1, I-2,AND I-3 Districts</b>			
<i>Type</i>	<i>Maximum Number Allowed</i>	<i>Maximum Sign Area Allowed</i>	<i>Placement, Location &amp; Height</i>	<i>Restrictions</i>
<b>Wall Sign</b>	Multiple	1 sq. ft. per lineal foot of tenant space or building front (main public entry).	Installed on exterior building wall or facade	Sign area for all sides of building (including fuel canopy) is capped at the Maximum Size Allowed (column 3).
<b>Freestanding Signs</b>	1 on interior lot, 2 on through lot or multiple frontage lot; or as approved w/master sign plan.	75 sq. ft. maximum for single sided sign or 150 sq. ft. maximum on a double sided sign.	5 foot minimum from a property line. 20 foot maximum height	

2. **CHANGEABLE COPYBOARD AND DYNAMIC DISPLAY SIGNS**

Unless specifically prohibited elsewhere in this ordinance, any sign permitted within any Business, Shopping Center and Industrial Districts may contain up to 35% changeable copyboard or dynamic display subject to the following conditions:

- a. Dynamic displays may occupy no more than 35 percent of the actual copy area. The remainder of the sign must not have the capability to have dynamic displays even if not used. Only one, contiguous dynamic display area is allowed on the sign face.
- b. The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.
- c. The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.
- d. Every line or copy and graphics in a dynamic display must be at least seven inches in height on a road with a speed limit of 25 to 34 miles per hour, nine inches on a road with a speed limit of 35 to 44 miles per hour, 12 inches on a road with a speed limit of 45 to 54 miles per hour, and 15 inches on a road with a speed limit of 55 miles per hour or more. If there is insufficient room for copy and graphics of this size in the area allowed under clause 1 above, then no dynamic display is allowed.
- e. Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign Owner must immediately stop the dynamic display when notified by the City that it is not complying with the standards of this ordinance.

#### I. THROUGH AND CORNER LOTS

In the case of through lots and/or corner lots, the square footage of signs shall be allowed for all wall areas facing said street based on the requirements as outlined in Section 10.67 (I), except that one freestanding sign shall be allowed per interior or corner lot and two freestanding signs for through lots or multi-fronted lots.

#### J. NONCONFORMING SIGNS

All nonconforming signs in existence on July 2, 2013 may continue subject to the provisions of Section 10.15 of this Chapter and State Law.

#### Sec. 10.68 HOME OCCUPATIONS

Home Occupations are permitted by this Ordinance but must be established and maintained so as to comply with the provisions of the following standards:

- A. No Home Occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and State fire and police recommendations.
- B. Conduct of the Home Occupation does not generate more noise, vibration, glare, fumes, odors, or electrical interference than normally associated with residential occupancy in the neighborhood.
- C. The Home Occupation is not of a scale requiring the use of a commercial vehicle for the delivery of materials to or from the premises.
- D. The use shall not generate sewage of a nature or rate greater than that normally associated with residential occupancy nor shall it generate hazardous waste or solid waste at a rate greater than that normally associated with residential occupancy.
- E. The Home Occupation may increase vehicular traffic flow and parking by no more than one additional vehicle at a time and any need for parking generated by the conduct of a Home Occupation shall be met off the street, other than in a required front yard, and, if in a driveway, in such a manner that access to the garage is not eliminated.
- F. No more than one person other than those living in the residence may be employed in the Home Occupation.
- G. No outdoor display of goods or outside storage of equipment or materials shall be permitted.
- H. No accessory building may be used for operations, display of goods or the storage of equipment or materials used in the Home Occupation.
- I. No Home Occupation will be allowed that jeopardizes the health and safety of residents of the City.
- J. There shall be no renting of space in a residence for non-residential purposes.
- K. Retail is not a permitted home occupation.
- L. There shall be no exterior display or exterior signs or interior display or interior signs that are visible from outside the dwelling with the exception of one (1) directional or identification/business sign not to exceed two (2) square feet in area.

SEC. 10.69 BEEKEEPING

## A. Purpose of Ordinance.

1. The purpose of this ordinance is to establish certain requirements for beekeeping within the City, to avoid issues which might otherwise be associated with beekeeping in populated areas.
2. Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper's efforts to abate any proven nuisance.
3. Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony violates applicable ordinances regarding public health, but such compliance may be offered as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the State of Minnesota.

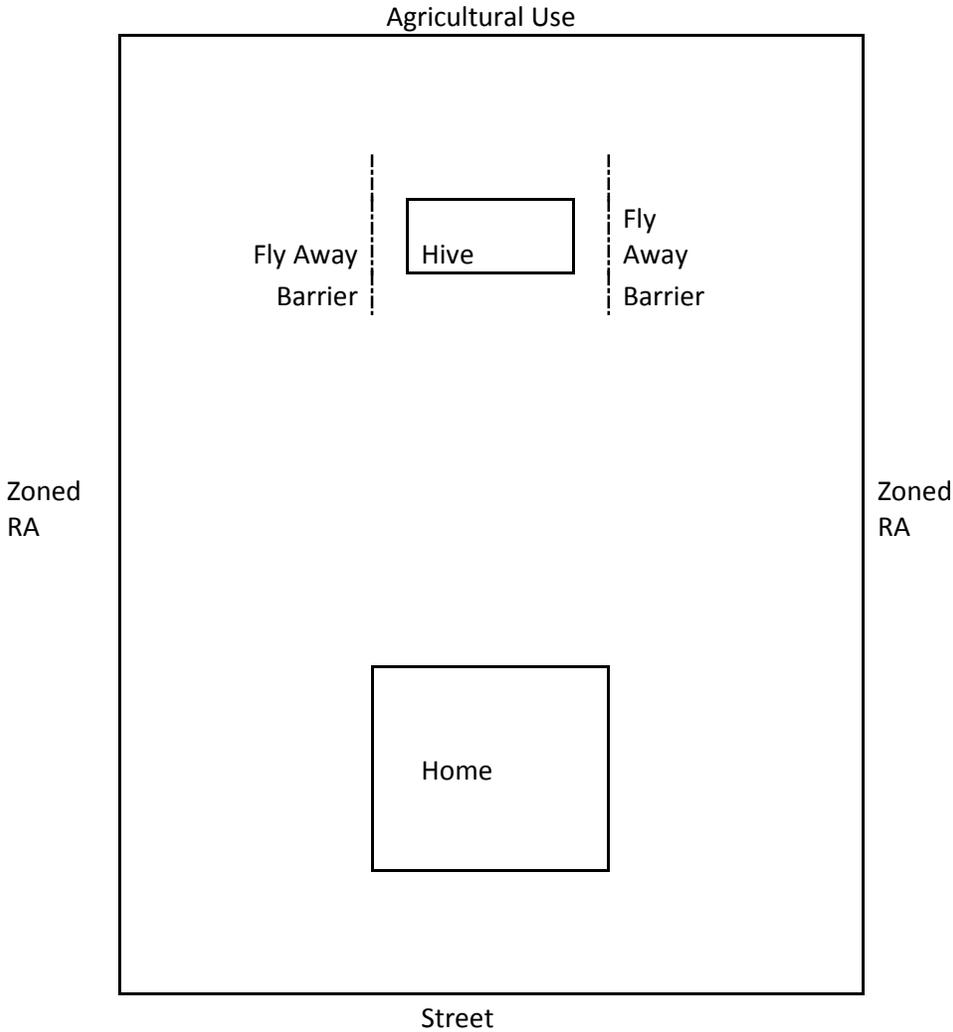
## B. Standards of Practice.

1. Honey bee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition.
2. Each beekeeper shall ensure that a convenient source of water is available to the colony so long as colonies remain active outside of the hive.
3. Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other insect proof container.
4. For each colony permitted to be maintained under this ordinance, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard 9-5/8 inch depth IO-frame hive body with no supers.
5. Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms. It shall not be a defense to this ordinance that a beekeeper's unused equipment attracted a swarm and that the beekeeper is not intentionally keeping bees.

## C. Colony Density.

A colony must be kept not less than 50 feet from the property line of the lot upon which it is located. Except as otherwise provided in this ordinance, the beekeeper shall establish and maintain a flyway barrier at least 6 feet in height. The flyway barrier may consist of a wall, fence, dense vegetation or a combination there of, such that bees will fly over rather

than through the material to reach the colony. If a flyway barrier of dense vegetation is used, the initial planting may be 4 feet in height, so long as the vegetation normally reaches 6 feet in height or higher. The flyway barrier must continue parallel to the apiary lot line for 10 feet in either direction from the hive, or contain the hive or hives in an enclosure at least 6 feet in height. A flyway barrier is not required if the property adjoining the apiary lot line (1) is used for agricultural uses and is not less than twenty acres in size, or (2) is a wildlife management area or naturalistic park land with no horse or foot trails located within 50 feet of the apiary lot line.



1. No person is permitted to keep more than the following numbers of colonies on any lot within the RA Zoning District of the City, based upon the size or configuration of the apiary lot:
 

a. Less than 2.5 acres:	not permitted
b. 2.5 acres but less than 5 acres:	4 colonies
c. 5 acres to less than 10 acres:	8 colonies
d. Larger than 10 acres:	no restriction

2. If the beekeeper serves the community by removing a swarm or swarms of honey bees from locations where they are not desired, the beekeeper shall not be considered in violation the portion of this ordinance limiting the number of colonies if he temporarily houses the swarm on the apiary lot in compliance with the standards of practice set out in this ordinance for no more than 30 days from the date acquired.

D. Inspection.

A designated City official shall have the right to inspect any apiary for the purpose of ensuring compliance with this ordinance between 8 a.m. and 5 p.m. once annually upon prior notice to the owner of the apiary lot, and may inspect without prior notice upon complaint.