

## **TITLE XV: LAND USAGE**

### **Chapter**

- 150. GENERAL PROVISIONS**
- 151. ZONING**
- 152. SUBDIVISION CONTROL**
- 153. ANTI-BLIGHT REGULATIONS**



## CHAPTER 150: GENERAL PROVISIONS

### Section

- 150.01 Minnesota Accessibility Code
- 150.02 Contractor's license required
- 150.03 Manufactured homes
- 150.04 Amateur radio support towers
- 150.05 Location of sexually oriented businesses
- 150.06 Compliance with code

### § 150.01 MINNESOTA ACCESSIBILITY CODE.

(A) The Minnesota Accessibility Code, established pursuant to M.S. §§ 326B.01 - 326B.998, as they may be amended from time to time, and as provided for in Minn. Rules Ch. 1341, as it may be amended from time to time, is adopted as the building code for accessibility in this city. M.S. § 326B.16 provides that a city which has not adopted the Uniform State Building Code is nevertheless responsible for the enforcement of the Minnesota Accessibility Code, and this section is intended to comply with that requirement.

(B) No building subject to the provisions of the Minnesota Accessibility Code shall be constructed, reconstructed or substantially altered, or undergo a change in use within the city unless the building will comply with the Minnesota Accessibility Code after the construction or alteration is completed or the change in use occurs.

(C) Any person who constructs, reconstructs or substantially alters any building subject to the Minnesota Accessibility Code, or changes the use of any such building shall, before construction or alteration begins, certify to the City Clerk that the applicable provisions of the Minnesota Accessibility Code will be complied with.

(D) No person shall be issued a building, zoning or land use permit unless they certify that any structure to be located on the property shall be constructed or reconstructed in compliance with the handicapped accessibility provisions, if they apply to the structure to be constructed, substantially altered or reconstructed.

(E) A violation of this section is a misdemeanor punished as provided for in § 10.99.

**§ 150.02 CONTRACTOR'S LICENSE REQUIRED.**

No residential building contractor, residential remodeler, or other person who is required to be licensed by the state under the provisions of M.S. §§ 326B.805 – 326B.89, as they may be amended from time to time, and no person employing a residential contractor, who is required to be licensed, shall be issued a building, zoning or land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license but who does not have a state license shall be reported to the State Commissioner of Commerce, who may begin an action against the person. Penalty, see § 10.99

**§ 150.03 MANUFACTURED HOMES.**

After the date of the adoption of this code, only manufactured homes which comply with the Manufactured Home Building Code established by M.S. § 327.31 may be located in and used as a dwelling within the city. A mobile home, manufactured home, house trailer or other mobile dwelling which does not comply with the Manufactured Home Building Code and which is used as a residence after the date of the adoption of this code is a nonconforming use as defined by M.S. § 462.357, Subd. 1e, as it may be amended from time to time, and this nonconforming use may be continued, including through repair, maintenance, replacement, restoration or improvement but if the nonconformity or occupancy is discontinued for a period of more than one year, or the nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value and no building permit is applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. Penalty, see § 10.99

**§ 150.04 AMATEUR RADIO SUPPORT TOWERS.**

Amateur radio support structures (towers) shall not exceed a height above ground level of 70 feet, unless a conditional use permit has been granted by the City Council. They shall be mounted on the roof of a dwelling or other building or located in the rear yard unless there is not sufficient space to erect them in those locations. They shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

**§ 150.05 LOCATION OF SEXUALLY ORIENTED BUSINESSES.**

(A) *Findings.* The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendation of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* dated June 6, 1989, a copy of which is adopted by reference and included in Appendix II of Chapter 119 of this code. This § 150.05 shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in Appendix I of Chapter 119 of this code.

(1) Sexually-oriented businesses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other uses.

(2) Residential and commercial neighborhoods located within close proximity to sexually oriented businesses experience the following negative impacts:

(a) Increased crime rates, particularly in sex-related crimes such as rapes, prostitution, indecent exposure and other lewd and lascivious behavior;

(b) Property values which are either diminished or fail to appreciate at the rate of other comparable properties not located in proximity to sexually oriented businesses;

(c) Increased transiency and decreased stability of ownership;

(d) Deteriorated neighborhood appearance from litter and graffiti;

(e) Sex-related harassment of residents and customers by motorists and pedestrians;

(f) A perception that the area is "unsafe;" and

(g) Difficulty in attracting and retaining customers, employees, and desirable tenants.

(3) The adverse impacts which sexually oriented businesses have on surrounding areas diminish as the distance from the sexually oriented business increases.

(4) The adverse impacts of sexually-oriented businesses are exacerbated when the uses are located near each other.

(5) The presence of liquor establishments in the immediate vicinity of sexually oriented businesses also compounds the adverse impacts on the neighborhood.

(6) Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending day care centers or schools, and people using public parks and libraries.

(7) Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area where they are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

(8) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating: other businesses move out of the vicinity and residents flee from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

(9) Land use regulations are appropriate to minimize the detrimental effects that sexually oriented businesses have on adjacent land uses.

(B) If the city has not adopted zoning regulations for sexually oriented businesses, as defined by § 153.03, then a sexually oriented business may locate only in those areas of the city which the City Council determines that the predominant use of the land is for commercial or industrial purposes.

(C) No person may operate a sexually oriented business on property, any part of which is within the area circumscribed by a circle that has a radius of 250 feet from any of the uses listed below. Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the property parcels where the two uses are located. This distance requirement applies to the following uses:

(1) Property used or zoned for residential uses;

(2) A day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution, or other public recreational facility;

(3) Premises licensed under Chapter 112, Liquor Regulations; and

(4) Another sexually-oriented business.

(D) These provisions, along with Ch. 119, are intended to supercede the provisions of M.S. § 617.242, as it may be amended from time to time, and render M.S. § 617.242 inapplicable as authorized by the statute.

## **§ 150.06 COMPLIANCE WITH CODE.**

No person shall erect, alter or replace any structure within the city unless the structure complies with the applicable requirements of this code and the person has obtained a land use permit from the City

Clerk certifying compliance with all of the applicable requirements of this code. No person shall use any structure or premises for any purpose other than as permitted by this code, except that lawful nonconforming uses as of the date of the adoption of this code may continue only as provided in M.S. § 462.357, Subd. 1e, as it may be amended from time to time.





# **CITY OF CANTON ZONING ORDINANCE ORDINANCE 201**

Adopted

2012

*April 4<sup>th</sup>*

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## **SECTION 1**

### **Title**

**101.000** This Ordinance shall be known, cited and referred to as the City of Canton Zoning Ordinance.

## **SECTION 2**

### **Intent and Purpose**

**201.000** This Ordinance is adopted for the purpose of:

- 1) Protecting the public health, safety, comfort, convenience and general welfare;
- 2) Protecting and preserving agricultural land;
- 3) Promoting orderly development of the residential, commercial, industrial, recreational and public areas;
- 4) Conserving the natural and scenic beauty and attractiveness of the city;
- 5) Conserving the natural resources in the city;
- 6) Providing for the compatibility of different land uses and the most appropriate use of land throughout the city;
- 7) Conserving the value of properties; and
- 8) Protecting the environment.

## **SECTION 3**

### **Word Usage and Definitions**

#### **301.000. Word Usage**

**Board of Adjustment:** The “Board of Adjustment” shall mean the City of Canton Board of Adjustment.

**Commission:** The “Commission” shall mean the City of Canton Planning Commission.

**Distances:** Unless otherwise specified, distances shall be measured horizontally.

**Lot:** The word “lot” shall include the words piece, parcel, and plot.

**Masculine and Feminine Gender:** The masculine gender includes the feminine and neuter genders.

**Person:** The word “person” includes a firm, association, organization, partnership, trust, company or Corporation as well as an individual.

**Shall and May:** The word “shall” is mandatory and not discretionary; the word “may” is permissive.

**Singular and Plural:** Words used in the singular shall include the plural and the plural the singular.

**Tenses:** Words used in the present tense shall include the future. In the event of conflicting provisions, the more restrictive provision shall apply. All words not specifically defined herein shall be defined according to common usage.

#### **302.000 Definitions**

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

**AGRICULTURE:** The science of cultivating the soil and activities incidental thereto; the growing of soil crops in the customary manner on open tracts of land; farming. The term shall include incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished outside the public right-of-way.

**ALLEY:** A public or private right-of-way less than 30 feet in width, which affords secondary means of access to abutting property.

**ALTERATION:** As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**APARTMENT:** A room or suite of rooms designed for, intended for, or used as a residence for one family or individual and equipped with cooking facilities.

**APARTMENT BUILDING:** Three or more apartments grouped in one building.

**AUTOMOBILE OR TRAILER SALES AREA:** An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

**AUTOMOBILE REPAIR, MAJOR:** General repair, rebuilding or recondition of engines, motor vehicles, or trailers; collision services including body, frame, or fender straightening or repair; overall painting or paint shop and vehicle steam cleaning. Incidental body or fender work, or other minor repairs, painting and upholstering, replacement of parts and motor service to passenger cars and trucks not exceeding 1½ tons capacity, but not including any operation named under Automobile Repair, Major, or any other similar use, thereto.

**AUTOMOBILE SERVICE STATION or FILLING STATION:** A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale and delivered directly into motor vehicles, including greasing and oiling but excluding Automobile Repair, Major and Automobile or Trailer Sales Area.

**BASEMENT:** A story having part but not more than one-half its height below the average level of the adjoining finished grade. A basement is counted as a story for the purpose of height regulations, if subdivided and used for commercial or dwelling purposes.

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

**BOARD:** The Zoning Board of Adjustment.

**BOARDING HOUSE:** A building other than a hotel or motel, where for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three or more persons, but not exceeding ten persons.

**BUFFER:** Open spaces, landscaped areas, fences, walls, berms or any combination thereof, used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

**BUILDABLE AREA:** The area of a lot remaining after the minimum yard or setback requirements of this ordinance has been met.

**BUILDING:** Any structure for the shelter, support or enclosure of persons, animals, chattel, or property of any kind; and when separated by party walls without openings, each portion of the building so separated shall be deemed a separate building.

(1) **BUILDING, ACCESSORY:** A subordinate building or structure on the same lot, or part of the main building, exclusively occupied by or devoted to a use incidental to the main use.

(2) **BUILDING, PRINCIPAL:** A building which is conducted, or which is intended to be conducted, as the main or principal use of the lot on which it is located.

**BUILDING HEIGHT:** The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

**CONVALESCENT OR REST HOME:** A home designed and licensed to provide care for aged or infirm persons requiring or receiving personal care or custodial care complying with the standards established by the State Board of Health.

**COUNCIL:** The City Council of the City of Canton, Minnesota.

**DWELLING:** A building or portion thereof designed or used exclusively for residential occupancy with a continuous frost-free footing, including one-family, two-family, and multiple-family units, but not including hotels, motels, boarding or lodging houses.

(1) **DWELLING, MULTIPLE-FAMILY:** A dwelling containing three or more dwelling units, designed with more than one dwelling unit connecting to a common corridor or entranceway, originally constructed for that purpose; and not including converted dwellings or attached row dwellings (party- wall-type) as defined in this section.

(2) **DWELLING, SINGLE-FAMILY:** A detached dwelling containing accommodations for and occupied by one family only.

(3) **DWELLING, TWO-FAMILY:** A dwelling designed exclusively for occupancy by two families living independently of each other.

**EASEMENT:** A grant of one or more of the property rights by the property owner to and for the use by the public, or corporation, or another individual entity.

**ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipe, conduits, cables, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.



**FRONTAGE:** All the property fronting on one side of a street between the nearest intersecting streets, or between a street and a right-of-way, waterway, or other similar barrier.

**GARAGE, PRIVATE:** An accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory.

**GARAGE, PUBLIC:** Any premises used for the storage or care of motor-driven vehicles except private garages, or premises where any vehicles are equipped for operation, are repaired, or are kept for remuneration, for hire or for sale.

**HOME OCCUPATION:** Any use customarily conducted entirely within a dwelling and carried on by members of a family, residing therein, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Clinics, hospitals, barber shops, mortuaries, beauty parlors, motor vehicle repairing for hire, welding, animal hospitals and kennels shall not be deemed to be home occupations.

**HOTEL:** A building occupied as a temporary abiding place of individuals who are lodged with or without meals, in which there are more than five sleeping rooms, and wherein no provisions are made for cooking in any individual room or apartment.

**JUNK YARD:** Land or buildings where waste, discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled or handled, including, but not limited to scrap metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other machinery.

**KENNEL:** Any structure or premises on which five or more domestic animals over four months of age are kept.

**LAND USE PERMIT:** A document issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this ordinance and for the purpose of carrying out and enforcement its provisions.

**LOT:** Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under this ordinance, and having its principal frontage upon a street or officially approved place.

**LOT AREA:** The land area within the lot lines.

**MANUFACTURED HOME PARK:** Any park, manufactured park, manufactured court, manufactured camp, court, campsite, lot, parcel or tract of land designed, maintained, or intended for the purpose of supplying a long-term location or accommodations for any manufactured home, and upon which any manufactured home, coach, or manufactured home coaches are parked, and shall include all buildings used or intended for use as a part of the equipment thereof, whether or not a change is made for the use of the manufactured home park and its facilities. MANUFACTURED HOME PARKS shall not include automobile or manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection, display, and sale.

**NONCONFORMING BUILDING:** A building or portion thereof lawfully existing at the time of adoption of this ordinance, which was designed, erected, or structurally altered for a use that does not conform to the use regulations of the district in which it is now located.

**NONCONFORMING LOT:** A lot which does not comply with the minimum lot area or frontage requirements of the district in which it is located.

**NONCONFORMING USE:** A use lawfully in existence on the effective date of this ordinance and not conforming to the regulations for the district in which it is situated, except that such a use is not nonconforming if it would be authorized under a conditional use permit where located.

**OBSTRUCTION:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock gravel, refuse, till, structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area, which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**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 normal HIGH WATER MARK is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

**PLANNING COMMISSION:** The Planning Commission of the City of Canton, Minnesota.

**PUBLIC UTILITY:** Any person, firm, corporation, municipal department, or board fully authorized to furnish and furnishing under municipal regulation to the public electricity, gas, steam, communication services, telegraph services, transportation, or water.

**PUBLIC WATERS:** A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of these regulations, any body of water which has the potential to support any type of recreational, pursuit or water supply purpose. A body of water created by a private user where there was no previous shoreline for a designated private use authorized by the Commissioner of Natural Resources shall be exempt.

**RECREATIONAL CAMPING VEHICLE CAMP:** Any area used on a daily, nightly or weekly basis for the accommodation of three or more occupied tents, expandable camp trailers, travel trailers and converted buses or trucks or Recreational Camping Vehicles; whether privately or publicly-owned; and whether use of the accommodations is granted free of charge or for compensation.

**REST HOME or NURSING HOME:** A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such a home does not contain equipment for surgical care or for treatment of disease or injury.

**ROAD:** A public right-of way affording primary access by pedestrian and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane place or however otherwise designated.

**SIGN:** A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution or commercial. Warning signs or public identification signs such as street signs shall be exempt from these regulations when fewer than two square feet in size.



**SIGN, SURFACE AREA:** The entire area within a single continuous perimeter, enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of the sign and not forming an integral part of the display. Only one side of a double-face or V-type structure shall be used in computing total surface area.

**STORY:** That portion of the building included between the surface of the next floor above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.

**STREET:** A public or private right-of-way 40 feet or more in width approved or accepted by the public authority or user, which provides a primary means of public access to abutting property. The term STREET shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. When a structure is divided into separate parts by an unpierced wall, each part shall be deemed a separate structure.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial changes in the roof and exterior walls.

**SUBDIVISION:** A described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than five acres in area and 300 feet in width, for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel land. The term includes resubdivision, and, where it is appropriate to the context, relates either to the process of subdivision or to the land subdivided.

**TOWNHOUSE:** A multiple-family dwelling which maintains private ingress and egress, attached to its own foundation, contains independent dwellings by a common wall.

**USE:** The purpose, for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

(1) **USE, ACCESSORY:** A use subordinate to the main use on the same lot and used for purposes customarily incidental to those of the main use.

(2) **USE, CONDITIONAL:** A use which, because of unique characteristics, cannot be classified as a permitted use in any particular district. After due consideration, in each case, of the impact of the use upon neighboring land, and of the public desirability for the particular use at the particular location, a conditional use permit may or may not be granted. If granted, the Zoning Board of Adjustment may attach conditions and guarantees upon the zoning permit deemed necessary is for the protection of the public interest.

(3) **USE, PERMITTED:** A use which conforms with the purposes, requirements, regulations and performance standards of a particular district.

(4) **USE, PRINCIPAL:** A use which is permitted outright in a district for which a Land Use Permit may be issued by the Zoning Administrator in accordance with the provisions of this ordinance

**VARIANCE:** A modification or variation of the provisions of this code, as applied to a specific piece of property. A VARIANCE from the literal provisions of this code may be granted only in instances where the strict enforcement of these provisions would cause undue hardship because of circumstances unique to the individual property under consideration. VARIANCES shall be granted only when it is demonstrated that the granting of the variance will be in keeping with the spirit and intent of this code. UNDUE HARDSHIP as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, 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 an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship 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 M.S. § 216C.06, Subdivision 2, as it may be amended from time to time, when in harmony with the ordinance. A use that is not permitted under the code for property in the zone where the affected person's land is located shall not be permitted by the granting of a variance. The temporary use of a one-family dwelling as a two-family dwelling may be permitted by a variance. Conditions may be imposed in the granting of variances to insure compliance and to protect adjacent properties.

**YARD:** An open space on the same zoning lot with a building or structure, which yard is unoccupied and unobstructed from its lowest level to the sky.

(1) **YARD, FRONT:** A yard extending across the front of the lot between the side yard lines and lying between the front street line of the lot and the nearest line of the building.

(2) **YARD, REAR:** An open space occupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.

(3) **YARD, SIDE:** An open, unoccupied space on the same lot with a building, between the building and the side line of the lot, and extending from the front lot line to the rear yard.

**ZONING ADMINISTRATOR:** The designated Zoning Administrator of the city or his or her authorized representative.

**ZONING DISTRICT:** An area or areas within the limits of the community for which the regulations and requirements governing use are uniform.

**ZONING MAP:** The map or maps incorporated into this ordinance as a part hereof, designating the zoning districts.

## **SECTION 4 GENERAL PROVISIONS**

### **400.010 SCOPE.**

From and after the effective date of this ordinance, the use of all land and every building and the erection or structural alteration of any building or portion of a building in the city shall be in conformity with the provisions of this ordinance. Any structure or use lawfully existing at the passage of this ordinance, but not in conformity with the regulations of the appropriate zoning district, may be continued, subject to the regulations of this ordinance, Nonconforming Uses.

#### **400.020 INTERPRETATION.**

The provisions of this ordinance shall be interpreted as the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare. Where the provisions of this ordinance impose greater restrictions than those of any statute, other ordinance or regulations, this ordinance shall apply. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this ordinance, those restrictions shall apply.

#### **400.030 USES NOT PROVIDED IN ANY ZONING DISTRICT**

Whenever a use is neither specifically permitted nor denied, the use shall be considered prohibited.

#### **400.040 LAND USE PERMIT.**

A Land Use Permit shall be required in all zoning districts, for all construction activities, including but not limited to new construction, additions, and structural remodeling. Any Land Use Permit issued shall be valid for one year, for completion of the project for which the certificate was issued.

#### **400.050 APPLICATION; FEES.**

- 1) Application for a Land Use Permit, Conditional Use Permit, or a Variance shall be made to the city on blank forms to be furnished by the city. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale, showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications shall contain other information as may be deemed necessary for the proper enforcement of this ordinance or any other ordinance.
- 2) The city shall issue or may direct the Zoning Administrator to issue the Land Use Permit only after determining that the building plans together with the application comply with the terms of this ordinance.
- 3) An application is not complete unless accompanied by all supporting data and a fee as required by the City Council.

#### **400.060 SCHEDULE OF FEES, CHARGES AND EXPENSES.**

- 1) The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure, for all permits, appeals, and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the city administrator, and may be altered or amended only by the City Council.
- 2) No permit, certificate, conditional use permit, or variance shall be issued unless or until any costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Adjustment, unless or until preliminary charges and fees have been paid in full.

#### **400.070 COMPLAINTS REGARDING VIOLATIONS.**

Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis thereof, shall be filed with the City Administrator. He or she shall record properly the complaint, immediately investigate, and take action thereon as provided by this ordinance.



#### **400.080 AMENDMENT; PROCEDURE.**

##### **1) Powers.**

The Council may, on its own motion, or on request of the Planning Commission, or on petition or appeal of the affected property owners, do the following.

- A) Transfer land, or a portion thereof, from the district in which it is situated onto another district, by changing the Zoning Map.
- B) Change any of the regulations of this ordinance as to the use of land in any district, or as to the Restrictions upon buildings or structures herein, by amendment to this ordinance

##### **2) Procedure.**

- A) An applicant shall file a completed application form together with required exhibits with the Zoning Administrator, and shall pay a filing fee as established by the Council.
- B) The Zoning Administrator shall review the application, and within ten commercial days after receiving the application shall notify the applicant in writing if the application is not complete, and shall inform the applicant of what additional information is required.
- C) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall have notices of the hearing published in the legal newspaper and shall notify all property owners within 350 feet of the outer boundaries of the property in question at least once, not less than ten days and not more than 30 days prior to the hearing; however, failure of any property owner to receive notification shall not invalidate the proceedings. Notice of the hearings shall be posted at the City Hall and in one other place at least ten days prior to the public hearing. This notice shall describe the particular amendment, date, time and place of hearing. The County Assessor's current tax records shall be deemed sufficient for the location or certification of ownership of the adjacent properties.
- D) The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may extend the time line for taking action before the end of the initial 60-day period by providing written notice of the extension and its anticipated length, which may not exceed 60 days, unless approved by the applicant in writing. Amendments to the zoning code must be adopted by a 2/3 vote of all of the members of the City Council, as provided by M.S. § 462.357, Subdivision 2, as it may be amended from time to time.
- E) The Planning Commission shall hold the public hearing, and may table the application for further investigation if necessary, or the Commission shall recommend to the Council one of three actions: approval, conditional approval or denial.
- F) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning Commission.
- G) No application of a property owner for an amendment to the text of this ordinance or the zoning map shall be considered by the Planning Commission within the one-year period following a denial of the 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.

## **SECTION 5 ADMINISTRATION AND ENFORCEMENT**

### **500.000 ADMINISTRATION**

In the administration of this ordinance the following shall apply:

#### **1) Permit Required.**

A permit issued by the Zoning Administrator shall be secured prior to the construction, addition, or alteration of any building or structure; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a non-conforming use; and prior to excavation or the placement of an obstruction within the flood plain.

#### **2) State and Federal Permits.**

Prior to granting a permit or processing an application for a variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permit.

#### **3) Certification of Lowest Floor Elevations.**

The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations to existing structures in the flood plain district.

### **500.010 PENALTIES FOR VIOLATION**

Any person who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.

### **501.000 ZONING ADMINISTRATOR.**

A Zoning Administrator for the city shall be appointed or hired by the City Council, and the Zoning Administrator shall have the power and duty to enforce this ordinance and to perform the following duties.

- 1) Examine all applications pertaining to use of land, buildings, or structures, and approve same when the application conforms to the provisions of this ordinance.
- 2) Keep a record of all non-conforming uses.
- 3) Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this ordinance
- 4) Notify, in writing, any person responsible for violating a provision of this ordinance, indicating the nature of the violation and ordering the action necessary to correct it.

- 5) Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions, alterations; order discontinuance of illegal work being done; or take any action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.
- 6) Maintain permanent and current records of the Zoning, including all maps, amendments, conditional use, and variations.
- 7) Maintain a current file of all permits, all certificates, and all copies of notices of violations, discontinuance, or removal for such time as necessary to insure a continuous compliance with the provisions of this ordinance, and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.
- 8) Provide technical assistance to the Planning Commission.

## **502.000 PLANNING COMMISSION.**

### **502.010 Establishment of Planning Commission.**

A Planning Commission for the city is established. The commission shall be the City Planning Commission.

### **502.020 Composition and Terms.**

#### **1) Membership.**

The Planning Commission shall consist of five members appointed by the Mayor with the approval of the City Council. One member may be a Council Member or the City Administrator/Clerk-Treasurer, appointed by the Mayor with Council approval, for a one-year term to expire on December 31 of each year. If no member of the City Council is appointed to the Planning Commission, then one member of the Planning Commission shall attend at least one City Council meeting per month to advise the Council of the Planning Commission activities.

#### **2) Terms and vacancies.**

Of the members of the Planning Commission first appointed, one shall be appointed for the term of one year, two for the term of two years and two for the term of three years. Their successors shall be appointed for the terms of three years, commencing January 1 of the calendar year. Both original and successive appointees shall hold their offices until their successors are appointed by the Mayor and approved by the Council. Vacancies during their term shall be filled for the unexpired portion of the term.

### **502.03 Organization; meetings.**

#### **1) Officers.**

The Commission shall elect a Chairperson from among its appointed members for the term of one year at the beginning of each calendar year. The Commission may create and fill other offices as it may determine.

## **2) Meetings, records, reports.**

The Commission shall hold at least one regular meeting each year or as needed. It shall adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, and findings, which record shall be a public record. The Chairperson or other person designated by the Commission shall submit a report to the City Council of its works during the preceding year. Expenditures of the Commission shall be within amounts appropriated for the purpose by the City Council. Three members shall constitute a quorum. A majority vote is required to approve or disapprove.

### **502.040 Powers and duties of the Commission.**

#### **1) Planning Commission.**

The Planning Commission shall be the planning agency and shall have the powers and duties given such agencies generally by law. The Commission shall also exercise the duties conferred upon it by this ordinance.

#### **2) Zoning.**

No zoning or amendment thereto shall be adopted by the Council until a public hearing has been held thereon by the Planning Commission upon notice, as provided in M.S. § 462.357, Subdivision 3, as it may be amended from time to time.

#### **3) Conditional Uses.**

The Planning Commission shall make recommendations on all requests for a conditional use permit under the terms of this ordinance. The Commission shall report its recommendations to the Council for action.

#### **4) Subdivision/plats; approval.**

Any plat of land shall be referred to the Planning Commission for review and recommendations prior to final approval by the Council. Any plat so referred shall be returned to the Council by the Commission within 30 days. Failure of the Commission to report within that period is deemed to have satisfied the requirements of this subdivision.

### **502.050 Discharge of powers.**

In exercising the aforementioned powers, the Planning Commission may make recommendation to the City Council, so long as the action is in conformity with the terms of this ordinance, reverse or affirm, in whole or in part, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have powers of the administrative official from whom any appeal is taken.

### **502.060 CONDITIONAL USE PERMITS; PROCEDURES**

#### **502.061 APPLICATION.**

- 1) Conditional use permits may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this ordinance.



- 2) An application for a conditional use permit shall be filled with the Zoning Administrator indicating the section of this ordinance under which the conditional use permit is sought, and stating the grounds on which it is requested. The application shall be accompanied by plans and elevations and site plans as prescribed by the Zoning Administrator to the Board.
- 3) The applicant shall submit the completed application to the Zoning Administrator, and shall pay an application fee as established by the Council.
- 4) The Zoning Administrator shall review the application and within ten commercial days after receiving the application, shall notify the applicant in writing if the application is not complete, and advise the applicant of what additional information is required.
- 5) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing, and shall have notices of the hearing published in the legal newspaper, and shall notify all property owners at least once, not less than ten days and not more than 30 days prior to the hearing within the affected zone and within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive notification shall not invalidate the proceedings. Notice of hearings shall be posted at the City Hall and in one other place at least ten days prior to the public hearing. This notice shall describe the particular CUP, date, time and place of hearing. The current County Assessor's current tax records shall be deemed sufficient for the location or certification of ownership of the adjacent properties.
- 6) The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may make a one-time extension of the time for taking action before the end of the initial 60-day period by providing written notice of the extension, the reasons for the extension, and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing. A valid reason for this extension may be that the city needs more time to consider the application. A motion to approve the application which fails to pass because of sufficient votes shall not be deemed to be a denial of an application. The passage of a motion to deny the application is required in order for an application to be denied. Additional extensions beyond the first extension will require the approval by the applicant in writing.
- 7) The Planning Commission shall hold the public hearing, and may table the application for further investigation if necessary, or the Commission shall recommend to the Council one of three actions: approval, conditional approval or denial.

#### **502.062 PUBLIC HEARING; NOTIFICATION.**

Upon receipt in proper form of the application and other requested material, the Planning Commission shall hold at least one public hearing in a location to be prescribed by the Planning Commission. At least ten days in advance of each hearing, a notice of the hearing shall be published in the official newspaper of the city and like notification at least ten days prior to the hearing to the owner or owners of property within 350 feet of the subject property. Notices of hearings shall be posted at the City Hall and in one other public place at least ten days prior to the public hearing. This notice shall describe the particular conditional use, date, time and place of the hearing. The County Assessor's current tax record shall be deemed sufficient for the location or certification of ownership of the adjacent properties.



### **502.063 FINDINGS.**

No conditional use shall be recommended by the City Planning Commission unless the Commission shall find the following:

- 1) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the immediate vicinity.
- 2) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- 3) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- 4) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
- 5) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

### **502.064 CONDITIONS AND SAFEGUARDS.**

- 1) The Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance.
- 2) The Commission shall prescribe a time limit within which the action for which the conditional use is required shall commence or be completed, or both. Failure to commence, or complete, or both within the time limit set, shall void the conditional use permit.

### **503.00 BOARD OF ADJUSTMENT**

#### **503.010 APPEALS FOR VARIANCE. OR ADMINISTRATORS DECISION**

- 1) Application for any Variance permissible under the hardship provision shall be made to the Zoning Administrator in the form of a written application for a permit to use the land or building or both, as set forth in the application. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or other buildings in other districts shall be considered ground for the issuance of a variance. No Use Variance shall be allowed.
- 2) The application shall present a statement and adequate evidence showing the following.
  - A) That there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, building, or uses in the same zoning classification, and that strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration

- B) That the granting of the application is necessary for the preservation and employment of substantial property rights of the petitioner.
- C) That the reasons set forth in the application justify the granting of the variance.
- D) That the variance is the minimum variance that will make possible the reasonable use of land, building or structure.
- E) That the granting of the application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare, or injurious to property or improvements in the neighborhood.
- F) That the special conditions and circumstances do not result from the actions of the applicant.
- G) That granting the application will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

#### **503.020 PUBLIC HEARING; NOTIFICATION.**

- 1) Application for any Variance under the provisions of this ordinance shall be made to the Zoning Administrator. Application for a variance shall be accompanied by payment of a fee as established by the City Council.
- 2) All required information shall be submitted with the application, and the Zoning Administrator shall review the application, and within ten commercial days after receiving the application, he or she shall notify the applicant in writing if the application is not complete, and advise the applicant as to what additional information is required.
- 3) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing, and shall have notices of the hearing published in the legal newspaper, and shall notify all property owners within 350 feet of the outer boundaries of the property in question; not less than ten days and not more than 30 days prior to the hearing. However, failure of any property owner to receive notification shall not invalidate the proceedings. Notice of the hearings shall be posted at the City Hall and in one other place at least ten days prior to the public hearing, in addition to publishing the notice in the official newspaper. This notice shall describe the date, time and place of hearing. The current County Assessor's current tax records shall be deemed sufficient for the location or certification of ownership of the adjacent properties.
- 4) The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may make a one-time extension of the time for taking action before the end of the initial 60-day period by providing written notice of the extension, the reasons for the extension, and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing. A motion to approve the application which fails to pass because of sufficient votes, shall not be deemed to be a denial of an application. The passage of a motion to deny the application is required in order for an application to be denied. Additional extensions beyond the first extension will require the approval by the applicant in writing.

- 5) Any person may appear or be represented by an agency or attorney.
- 6) Within a reasonable time after the hearing, the Planning Commission shall make its order deciding the matter and serve a copy of the order upon the applicant or the petitioner by mail.

#### **503.040 ACTIONS ON APPEAL.**

- 1) It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official, and that recourse from the decisions of the Board of Adjustment shall be to the City Council, then to the courts, as established by M.S. Ordinance 462, as it may be amended from time to time.
- 2) The duties of the City Council in regard to this ordinance shall include hearing and deciding questions of interpretation and enforcement that may arise in any case where the decision of the Board of Adjustment is challenged. The City Council shall also have the duties of considering and adopting or rejecting proposed amendments to the repeal of this ordinance as provided by law, and establishing a schedule of fees and charges.

#### **504.000 NONCONFORMITIES**

##### **504.010 INTERPRETATION.**

- 1) This ordinance and the districts herein, or any later amendments, may create situations where structures, buildings or uses of the land previously permitted may become prohibited, regulated or otherwise restricted. It is the intent of this ordinance to permit the continuance of these nonconforming structures or uses until they are removed, but not to encourage their survival. These uses are declared by this ordinance to be incompatible with the permitted uses in the districts involved.
- 2) An existing building or premises devoted to a use not permitted by this ordinance in the district in which the building or premises is located, shall not be enlarged upon, extended, reconstructed or structurally altered, nor shall it be used as grounds for adding other buildings or structures prohibited elsewhere in the same district, except when required to do so by law or , unless the use is changed to one permitted in the district in which the building or structure or land is located.
- 3) A nonconforming use of a building may be replaced with another nonconforming use, provided no structural alterations are made.
- 4) No change from one nonconforming to another shall be made without first applying to and receiving a permit from the City Council to make the change, except as defined in division (E) below.
- 5) A nonconforming use may be changed to a more conforming use at any time.
- 6) Whenever a nonconforming use has been changed to a conforming use, the use shall not thereafter be changed to a less conforming use.
- 7) The extension or addition of a lawful use to any portion of a nonconforming building or structure or land shall not be deemed as the extension of the nonconforming use.

- 8) Where nonconforming status applies to a building or structure, the removal or destruction of same shall eliminate the nonconforming status of land.
- 9) If a building or structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.
- 10) All uses which lawfully exist on the effective date of this ordinance and are classified as a conditional use by this ordinance for the district in which they are located shall be considered lawful conditional uses.
- 11) Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the provisions of this section shall also apply to any nonconforming uses developing as a result of that action.

#### **504.020 NONCONFORMING LOTS OF RECORD.**

- 1) A single-family dwelling and customary accessory buildings, notwithstanding limitations imposed by other provisions of this ordinance, may be erected in any district in which single-family dwellings are permitted on any single lot of record at the effective date of adoption of or amendment to this ordinance. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located.
- 2) Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

#### **504.030 DISCONTINUANCE.**

When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used.

### **SECTION 6 ZONING DISTRICTS AND MAP**

#### **600.000 ESTABLISHMENT OF DISTRICTS.**

For the purpose of this ordinance, the city is divided into the following districts.

- 1) One and Two-Family Residential District R-1
- 2) Commercial Districts. C-1
- 3) Industrial District. I-1.
- 4) Agricultural District A-1



## **600.010 ZONING MAP.**

- 1) The boundaries of the districts established by this ordinance are delineated on the Zoning Map; the map and all notations, references and data shown thereon are hereby adopted and made part of this ordinance and will be on permanent file and for public inspection in the office of the Zoning Administrator.
- 2) If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, the changes shall be made on the Map within 30 days after official publication of the amendment.
- 3) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of any kind by any person shall be considered a violation of this ordinance.
- 4) The Official Zoning Map on record in the Office of the Zoning Administrator shall be the final authority as the current zoning status of land and water areas, buildings and other structures in the city.
- 5) Any disagreement over the exact location of the District Boundaries shall be decided by a majority vote of the City Council. A decision by the City Council in determining District Boundaries shall be final.

## **601.000 R-1 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT**

### **601.010 PURPOSE.**

The R-1 District is intended for low density residential development in those areas where such development already exists, where municipal utilities are available and in areas which are partially or wholly developed residentially. It is further intended that establishment of this district will accommodate residential development on scattered existing vacant lots, as well as redevelopment in some instances, within previously developed residential areas, using standards previously established.

### **601.020 PERMITTED PRINCIPAL USES.**

- 1) Within an R-1 District, unless otherwise provided by this ordinance, no building or land shall be used except for the following:
  - A) One-family detached dwellings and manufactured homes which are not less than 20 feet in width regardless of construction type.
  - B) Two-family attached dwellings which are not less than 20 feet in width, regardless of construction type.
  - C) Churches, libraries, museums, schools, public buildings, memorial structures, small home base business (beauty salon, computer repair, etc), water supply facilities and cemeteries, provided that no building shall be located within 10 feet of any lot line of an abutting lot within an R-1 Residential District.
  - D) Nurseries and greenhouses for growing plants.

E) Home Occupations:

1. Intent: To provide peace, quiet, and domestic tranquility within all residential neighborhoods, within the City, and in order to guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard and other possible effects of commercial uses being conducted in residential areas.
  - a. An interim use permit for a home occupation is a permit authorized by the City Council only after a public hearing.
2. Home Occupations - No Interim Use Permit Required. All home occupations which conform to the following standards may be conducted without approval of an interim use permit as provided under this Ordinance.
  - a. Permitted home occupations shall be conducted only by permanent residents of the premises and shall not be conducted in any building on the premises other than the building which is used by the occupant as the private dwelling and not more than one (1) room may be used for such purposes.
  - b. Home occupation may have one (1) wall sign per dwelling which may not, exceed 2.5 square feet.
  - c. There shall be no exterior or garage storage of any materials including business equipment, merchandise, inventory or heavy equipment.
  - d. The area set aside for home occupations shall not exceed twenty percent (20 percent) of the total floor area of such residence.
  - e. Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.
  - f. The use of mechanical equipment other than is usual for purely domestic or hobby purposes are prohibited.
  - g. Off-street loading and off-street parking requirements of Section 3 must be provided.
  - h. Merchandise shall not be openly displayed or offered for sale within the residence.
  - i. The operation of any wholesale or retail business, unless it is conducted entirely by mail or by occasional home invitation and does not involve the sale, shipment, or delivery of merchandise on the premises is prohibited.
  - j. Any home occupation or activity which produces noise or noxious odors, vibrations, glare, fumes, fire hazard, or electric interference detectable to normal sensory perception beyond the property line is prohibited.
  - k. A home occupation must normally involve fewer than six (6) customers entering daily.

3. Home Occupation - Interim Use Permit Required.

- a. All home occupations which do not conform to the standards above shall only be conducted upon approval of an interim use permit. Interim use permits granted by this section shall be temporary in nature and shall be granted to a designated natural person who resides at a residential address. Interim use permits are not transferable from person to person or from address to address.
  - b. Applications for home occupation interim use permits shall be filed with the City together with a filing fee established by City Council in an annual fee resolution. The city council will hold a public hearing. All such hearings shall be at public meetings of the council and shall be conducted as provided in Section 5 of this Ordinance. Legal notice of all such hearings shall be given as required for petitions for any interim use permit. At the conclusion of its hearing the city council shall approve or disapprove based findings of fact. Alternatively, the council may table the request to obtain additional data, if in their determination, sufficient facts were not available. In no case shall such request be tabled for longer than thirty (30) days. Notwithstanding provisions to the contrary, City staff may waive requirement for a survey in circumstances where no buildings or site improvements are proposed.
  - c. An interim use permit for a home occupation shall further conform to the following provisions:
    - i. On-site sales, wholesale or retail, shall not be the primary objective of the business. Limited on-site sales may be permitted provided the effect on traffic levels shall not be judged unacceptable by the City Council. Upon report of objectionable traffic the City Council may restrict or rescind on-site sales approval.
    - ii. Signs shall comply with Section 7 of this Ordinance.
    - iii. The business shall not employ more than three (3) persons in the dwelling or accessory building, who are not immediate family members living in the associated residence.
    - iv. Storage or sales of hazardous substances as defined in Minn. Stat. Sec. 182.651, Subd. 14 as amended from time to time, bulk chemicals or petroleum products shall be specifically prohibited.
    - v. Any other restrictions or conditions as the City Council may determine to be necessary to avoid conflict with surrounding residential land usage.
4. Findings. The City Council shall make the following findings when issuing an interim use permit for a home occupation:
- a. The use conforms to the zoning regulations;
  - b. The date or event that will terminate the use can be identified with certainty;
  - c. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
5. Procedures. The City Council shall follow the procedures for issuance of a conditional use permit under Section 1110, B. for issuance of an interim use permit for a home occupation, as such requirements are found by the City Council to be applicable to the use.

- 2) Height, yard and area regulations shall be as permitted in the Appendix: Height, Area, and Yard Regulations.

#### **601.030 PERMITTED ACCESSORY USES.**

The following shall be permitted accessory uses in the R-1 District.

- 1) Private garages, carports, one of each designation subject to yard and setback requirements of this ordinance.
- 2) Off-street parking and loading-unloading facilities.
- 3) Signs.
- 4) Buildings and land uses customarily incidental to the uses permitted in this ordinance. Any accessory use shall be located on the same lot with the principal use.

#### **601.040 CONDITIONAL USES.**

Within an R-1 District, buildings or land may be used for one or more of the following uses if granted a conditional use permit.

- 1) Multiple Family Dwellings.
- 2) Nursing Homes
- 3) Home Base Business (Hair Salon, Computer, Daycare, etc.)

#### **602.00 C-1 COMMERCIAL DISTRICT**

##### **602.010 PURPOSE.**

The intent of the C-1 Commercial District is to provide suitable locations for, and to encourage the development of commercial facilities in those areas of the city which benefit the commercial needs of both residents and tourists, will avoid land use conflicts with residential areas, and restrict incompatible commercial and industrial uses.

##### **602.020 PERMITTED PRINCIPLE USES.**

The following uses shall be permitted in the C-1 Commercial District:

- A) Restaurants.
- B) Sporting goods and establishments, outfitters and suppliers; bait shops.
- C) Nature trails, snowmobile trails, ski trails and similar facilities.
- D) Commercial retail and service establishments.
- E) All apparel shops.



- F) Appliance and furniture stores.
- G) Banks and financial institutions including drive-up facilities.
- H) Pool and billiard parlors.
- I) Theaters.
- J) Taverns.
- K) Government services and offices, including fire stations and utility buildings.
- L) Public utility service stores.
- M) Art centers.
- N) Hotels and motor hotels.
- O) Service stations and repair garages for motor vehicles; tire and battery sales.
- P) Laundromats.
- Q) Municipal service and utility buildings, to include water treatment plants, transformer and relay stations, fire stations, highway department vehicle and equipment garages.

#### **602.030 PERMITTED ACCESSORY USES.**

The following shall be permitted accessory uses in the C-1 Commercial District.

- 1) Swimming pools, saunas, outdoor recreational equipment and structures.
- 2) Storage garages, rental goods establishments.
- 3) Signs.

#### **602.040 CONDITIONAL USES.**

The following uses may be permitted, subject to the issuance of a conditional use permit.

- 1) Single-family detached dwellings.
- 2) Campgrounds

## **602.050 C-1 DISTRICT PROVISIONS.**

The following provisions shall apply in the C-1 District.

- 1) New structures. Any principal structure hereafter erected, constructed, altered, moved or substantially renovated in any manner, which includes in its function the providing of services, entertainment or lodging for residents or tourists, shall be equipped with indoor toilet and running water (hot and cold) facilities, and adequate heating system based on floor area and occupancy criteria, and facilities for maintaining access routes where operated on a year-round basis. No use shall be permitted unless it is provided with municipal sewer and water services.
- 2) Recreational vehicle campground provisions. An applicant for a recreational vehicle camping area conditional use permit shall submit a general development plan for the proposed park including the following:
  - A) The proposed site and existing development.
  - B) Proposed size, location and arrangement of buildings.
  - C) Parking areas and stall arrangements.
  - D) Entrance and exit drives.
  - E) Proposed sewer and water system.
  - F) Recreation areas.
- 3) Submission of plans. No recreational vehicle camp shall be constructed, nor shall any system of plumbing, sewage system, water supply or swimming pool for the vehicle camp be installed or altered until four plans drawn to scale have been submitted to and approved by the City Council and the State Board of Health.

## **602.060 GENERAL REGULATIONS.**

Additional regulations applicable in the C-1 Commercial District are set forth in the Appendix.

## **603.000 I-1 GENERAL INDUSTRIAL DISTRICT**

### **603.010 PURPOSE.**

The purpose of the General Industrial District is to provide areas in the city which will permit industry at standards that will not impair the traffic-carrying capabilities of abutting thoroughfares and encourage development that is compatible with surrounding or abutting districts.

### **603.020 PERMITTED PRINCIPLE USES.**

- 1) All new Industrial Development shall be permitted and further regulated. Unless otherwise provided by this ordinance, no building or land shall be used except for the following:
  - A) Building materials; storage and sales.

- B) Cartage and express facilities.
  - C) Contractors offices, shops, yards and storage facilities for plumbing, heating, glazing, painting, roofing, ventilating, air conditioning, lumber, masonry, electrical and refrigeration industries.
  - D) Garages for storage, repair and servicing of motor vehicles and farm implements.
  - E) Gasoline and bulk oil stations and distributing plants.
  - F) Highway maintenance shops and yards.
  - G) Medical, dental and optical laboratories.
  - H) Monument works.
  - I) Public service structures, including power substations, gas regulator stations, sewage disposal plants, telephone exchanger, elevated tanks, and water works.
- 2) Height, yard, lot width and lot coverage regulations shall be as permitted and regulated in the Appendix: Height, Area, Yard Regulations.

### **603.030 PROHIBITED USES**

The following uses shall be prohibited in the I-1 District.

- 1) Manufacturing of cement, concrete, lime, gypsum or plaster.
- 2) Distillation of bone, coal, tar, petroleum, refuse, grain, or wood.
- 3) Explosive manufacture or storage.
- 4) Fertilizer manufacturing, compost or storage.
- 5) Garbage, offal, dead animals, refuses rancid fats, incineration, and glue manufacturing, size or gelative manufacturing where the processes include the refining or recover of products from animal refuse or offal.
- 6) Petroleum or asphalt refining, manufacturing or storage.
- 7) Smelting or refining of metals from ores.
- 8) Storing, curing and tanning of raw, green or salted hides or skins.
- 9) Corrosive acid manufacturing or bulk storage thereof.
- 10) Junkyards.

## **603.040 General Regulations**

Additional regulations applicable in the I-1 Industrial District are set forth in the Appendix.

## **605.000 A-1 AGRICULTURE DISTRICT**

### **605.010 PURPOSE**

To provide a district, whose primary purpose is to maintain, conserve and enhance agricultural land that has historically been tilled on a continuous basis.

### **605.020 PERMITTED PRINCIPLE USES**

The following activities shall be permitted in the A-1 District.

- 1) Dwellings.
- 2) Agricultural Uses
  - Raising crops to include but not limited to corn, beans, oats, grasses and legumes, sunflowers, wheat, and sorghum.
  - Horticulture and other similar agriculturally related uses.
- 3) Drainage systems, flood control and watershed structures and erosion control devices provided each will meet the appropriate safety laws and regulations.
- 4) Forestry and Wildlife Management Areas.
- 5) Electrical distribution lines and other essential services in accordance with Section 723.

### **605.030 CONDITIONAL USES**

The following activities shall be permitted with a Conditional Use Permit.

- 1) Public parks.
- 2) Commercial radio and television towers and transmitters.
- 3) Campgrounds.
- 4) WECS (Wind Energy Conversion Systems).

### **605.040 PROHIBITED USES**

The following uses shall be prohibited in the A-1 District.

- 1) The establishment and operation of a rock quarry, sand pit or gravel pit.
- 2) Feedlots

## **605.050 GENERAL REGULATIONS.**

Additional regulations applicable in the A-1 Agricultural District are set forth in the Appendix.

### **Section 7 General Regulations and Performance Standards**

#### **701.000 SCOPE OF REGULATIONS.**

- 1) Nonconforming Structures and Uses, all buildings erected hereafter, all uses of land or buildings established hereafter, all exterior structural alterations or relocation of existing buildings occurring hereafter, and all enlargements or additions to existing uses occurring hereafter shall be subject to all regulations of this ordinance which are applicable to the zoning districts in which the buildings, uses or land shall be located.
- 2) No application for a building permit or other permit or license, or for a certificate of zoning compliance, shall be approved by the Zoning Administrator, and no permit or license shall be issued by any other city department which would authorize the use or change in use of any land or building contrary to the provisions of this ordinance, or the erection, moving, exterior alteration, enlargement, or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this ordinance.
- 3) No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations as herein provided, nor shall the area of any lot be reduced below the minimum requirements herein established except by variance granted by the Council.

#### **702.000 NO MORE THAN ONE PRINCIPAL STRUCTURE.**

In any district, no more than one principal structure may be erected on a single lot.

#### **703.000 ACCESSORY BUILDINGS.**

- 1) In case an accessory building is attached to the main building, it shall be made structurally a part of the main building, and shall comply in all respects with the requirements of this ordinance applicable to the main building. An accessory building, unless attached to and made a part of the main building, shall not be closer than 12 feet to the main building. Any person constructing a car port or hoop building shall get a permit from the city council before construction begins.
- 2) A detached accessory building shall not be located in any required front yard.
- 3) A detached accessory building not be over one story and not exceeding 12 feet in height and shall occupy no more than 30% of the area of any side or rear yard, provided further that no detached accessory building shall be placed nearer than ten feet from any side or rear lot line.

#### **704.000 HEIGHT REGULATIONS.**

The heights of all structures in the City of Canton shall not exceed those put forth in the Appendix.

#### **705.000 YARD REGULATIONS.**

The following requirements qualify or supplement, as the case may be, the district regulations appearing elsewhere in this ordinance. Measurements shall be taken from the nearest points of the wall of a building to the lot line question, subject to the following qualifications.

- 1) Corner lots. The setback requirements shall be observed on each street side of a corner lot; provided, however, that the buildable width of a lot shall not be reduced to less than 30 feet.
- 2) Setbacks in certain circumstances. A total setback requirement of 300 feet shall be mandatory for all land uses handling highly explosive or inflammable materials in quantity, such as gas service stations, bulk fuel or oil dealers and similar operations, from all schools, churches, hospitals, or any public meeting place having a seating capacity of 50 or more persons.

#### **706.000 VISION CLEARANCE.**

- 1) Fences, walls in front yard. In any residence zone on any corner lot, no fence or accessory structure or planting shall rise over 2½ feet in height above the level of the public sidewalk within 20 feet of any corner, so as to interfere with traffic visibility across the corner. No fence or wall shrub planting of more than 2½ feet in height above the level of the public sidewalk shall be erected on any interior lot within ten feet of the front property line where it will interfere with traffic visible from a driveway.
- 2) Fences in side yard and rear yard. No fence or wall, other than a retaining wall, along a side or rear line of a lot in a residential zone, shall be higher than eight feet.

#### **707.000 ESSENTIAL SERVICES.**

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city in any district, it being the intention hereof to exempt erection, construction, alteration, and maintenance from the application of this ordinance.

#### **708.000 ACCESS TO STRUCTURES.**

Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

#### **709.000 SIGN REGULATIONS.**

All signs hereafter erected or maintained, except official, public traffic, and street signs, shall conform with the provisions of this section and other ordinances or regulation of the city.



#### **709.010 General provisions for all districts.**

The following regulations shall apply to all signs hereinafter permitted in all districts.

- 1) Signs are not permitted within the public right-of-way or easements.
- 2) Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.
- 3) No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air or access to any building or structure.
- 4) Upon notification by the City Council or Zoning Administrator that a sign is rotted, unsafe or unsightly, the owner of the sign or owner of property thereunder shall remove or repair same.
- 5) The owner, lessee or manager of any ground sign, and the owner of the land on which the same is located, shall keep grass or weeds and other growth cut, and debris and rubbish cleaned up and removed from the lot on which a sign is located.
- 6) All non-commercial signs of any size may be posted from August 1 in a state general election year until ten days following the state general election.
- 7) Rotating and/or flashing signs shall not be permitted.

#### **709.020 Signs in residential districts.**

No sign shall be erected in any R-1 or R-2 District except as follows.

- 1) A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided the sign does not exceed two square feet in surface area. The sign may not be illuminated.
- 2) A sign pertaining to the lease or sale of the building or property, provided the sign does not exceed four square feet in surface area. The sign shall not be illuminated.
- 3) A temporary sign identifying an engineer, architect, contractor, or product engaged in or used in the construction of a building, provided the sign does not exceed four square feet in surface area and is removed prior to the occupancy of the building. The sign shall not be illuminated.
- 4) One identification sign not to exceed 24 square feet in surface area, displaying location information for churches, schools, hospitals, nursing homes, clubs, offices, libraries or similar use. The sign may be illuminated.
- 5) Directional, unilluminated signs not exceeding two square feet in surface area displaying directional information for churches, schools, hospitals, nursing homes, clubs, libraries or similar uses, excluding office or commercial establishments, provided that each use shall be limited to one sign per thoroughfare approach.
- 6) Public street identification signs, traffic signs, and directional signs in any parking area where the signs are necessary for the orderly movement of traffic.

### **709.030 Signs in Commercial Districts.**

Signs may be erected in Commercial Districts subject to the following provisions.

- 1) The total surface area of all commercial signs on a lot shall not exceed two square feet per lineal foot of lot frontage, or 10% of the building frontage area, or 75 square feet in area, whichever is greater. Signs may be illuminated.
- 2) Advertising sign structures shall be limited to one for a lot of 100 foot frontage or less, and to only one for each additional 100 feet of additional lot frontage.
- 3) An advertising structure may not contain more than two signs per facing, nor exceed 55 feet in total length.
- 4) No advertising sign may be erected within 100 feet of an adjoining Residential District.
- 5) For corner lots, the frontage used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.
- 6) No sign shall project higher than six feet above the height of the building, or 32 feet above the average grade at the building line, whichever is greater.
- 7) Signs painted on a building shall be governed by the square footage limitations specified above. Such signs shall be maintained in good condition and shall be repainted, removed, or painted out when, in the opinion of the Council and/or Zoning Administrator, they are not so maintained.
- 8) Where a sign is illuminated, the source of light shall not be visible from any public right-of-way, and the light shall be directed away from any Residential District.
- (9) No signs shall project more than one foot perpendicular to the building.

### **709.040 Signs in the I-1 General Industry District.**

Signs may be erected in the I-1 Districts subject to the same provisions found in the C-1 District.

### **710.000 EXTRACTION OF MATERIALS AND MINERALS.**

There shall be no commercial or industrial extraction of materials and minerals within the boundaries of the City of Peterson.

### **711.000 LANDSCAPING, LIGHTING, STORAGE AND OUTDOOR DISPLAYS.**

#### **1) Landscaping.**

All exposed ground areas surrounding or within a principal or accessory use, including street boulevards, which are not devoted to drives, sidewalks, patios, or other such uses, shall be landscaped with grass, shrubs, trees, or other ornamental landscaped materials. All landscaped areas shall be kept neat, clean and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.



## **2) Lighting.**

All sources of artificial light situated in a Commercial or Industrial District site shall be so fixed, directed, designed or sized that the sum total of their illumination will not increase the level of illumination on any nearby residential property. Glare, whether direct or reflected, as differentiated from general illumination, shall not be visible from beyond the limits of the immediate site from which it originates.

## **3) Storage; displays.**

All materials, supplies, merchandise or other similar matter not on display for a direct sale, rental or lease to the ultimate consumer or user shall be stored within a completely enclosed building within the Commercial or Industrial District, or within the confines of a 100% opaque wall or fence not less than eight feet high. Merchandise which is offered for sale as described above may be displayed beyond the confines of a building in the Commercial and Industrial Districts, but the area occupied by the outdoor display shall not constitute a greater number of square feet than 10% of the ground floor area of the building housing the principal use, unless the merchandise is of a type customarily displayed outdoors, such as garden supplies. No storage of any type shall be permitted within the one-half of the required front or side street setback nearest the street.

## **712.000 PERFORMANCE STANDARDS.**

In order to insure compliance with the performance standards set forth below, the City Council may require the owner or operator of any permitted use to have made any investigations or tests as may be required to show adherence to the performance standards. Any investigation or tests as are required shall be carried out by an independent testing organization selected by the city. Any investigations or testing shall be ordered by the owner or operator. The cost of same shall be shared equally by the owner or operator and the city, unless the investigation or tests disclose noncompliance with the performance standards, in which situation the entire costs shall be paid by the owner or operator.

The performance standards are as follows:

- 1) Noise. No person shall generate noise at any level that is offensive to neighbors or other people living or residing in the City of Peterson
- 2) Odors. No odors shall be detectable beyond the limits of the property.
- 3) Exterior lighting. Any lights used for exterior illumination shall direct light away from adjoining property. Glare, whether direct or reflected, such as from floodlights, spotlights, or high-temperature processing, and as differentiated from general illumination, shall not be visible the limits of the property.
- 4) Vibration. No vibration shall be discernible at any property line to the human sense of feeling for an accumulated total of three or more minutes during any hour.
- 5) Smoke. The emission of smoke shall be regulated in accordance with the provisions of the Minnesota Pollution Control Agency.
- 6) Dust. The emission of dust shall be regulated in accordance with the provisions of the Minnesota Pollution Control Agency.

- 7) Fumes or gases. Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic or corrosive.
- 8) Sewer and water. The design and construction of water supply facilities and treatment of all sewage and waste water shall comply with the city, county and state health standards and requirements.

## **713.000 Campgrounds**

### **713.020 Recreational Camping Vehicles. (RCV)**

Recreational camping vehicles shall be subject to the provisions of this ordinance.

#### **1) Recreational Camping Vehicles (RCV):**

- A) Must have current licenses plates attached at all times for highway use;
- B) Must be highway ready at all times meaning the wheels and hitch (if constructed with a hitch) must be left on the RCV at all times.
- C) RCV may not be parked on a street for more than 2 consecutive days.
- D) RCV's may not be used as dwelling unless parked in an established campground.
- E) No RCV requiring a special permit to move on the highway may be located in a campground.

#### **2) Allowable areas for placement of Recreational Camping Vehicles:**

- A) Recreational Camping Vehicles may be parked in a side or rear lot
- B) Existing commercial recreational vehicle parks or campgrounds.

## **714.000 Nuisances**

### **714.010 Identification and Abatement**

The following nuisances are recognized as injurious to public health, safety and the general welfare of the citizens of the City of Canton.

1. Diseased Trees. Diseased or damaged trees are dangerous to persons and property in the vicinity. At the direction of the city council they must be removed.
2. Diseased Animals Running at Large. Diseased animals running at large are a threat to public safety. The owners (if known) must remove them from public access. In the event the owners cannot be identified, said animals shall be captured and disposed of in a humane way at the direction of the city council.
3. Exposed accumulations of decaying food matter, vegetable matter, animal manure and carcasses, and garbage cans that are not rodent and odor tight. Any nuisance that attracts rodents must be abated immediately upon receiving a letter from the city council.

4. Noxious weeds and other rank plant growth on public or private lands. The city council shall notify the offending land owner and allow 5 days to remove said growth of rank plants or noxious weeds. Failure to comply shall be grounds for enforcement.
5. Dense smoke or noxious fumes. Dense smoke or noxious fumes are a threat to all persons and especially those with respiratory problems. All persons creating dense smoke or noxious fumes must notify the local fire chief and take immediate steps to terminate the problem.
6. Accumulations of ice and snow on public sidewalks. All land owners in the city must keep their sidewalks clear of ice and snow. The landowner shall have 24 hours from the conclusion of a snow or ice event to remove the ice and snow from the sidewalks.
7. No hedge, tree, shrub, or other obstacle shall be allowed that will impair the vision of travelers and road signs in the City of Peterson.
8. Loud noises. Loud noises audible from a land owner's property line shall be prohibited. Any land owner who allows loud noises to go beyond his or her property line shall be guilty of a gross misdemeanor. Loud parties shall be controlled by the land owner. Any landowner who fails to control loud party noise shall be guilty of a gross misdemeanor.
9. Car bodies or used appliances are an attractive nuisance for children and are prohibited. Upon notification by the city council, all car bodies and used appliances shall be removed from the land owners property and properly disposed of.
10. No person shall operate a piece of power equipment such as a chainsaw, lawn mower, or hedge clipper after 10 pm and before 6 am.
11. No person shall store on their residential lot, any material that is commercial or industrial in nature.
12. All vehicles parked on a residential lot must have current licenses, be in operating order, and road worthy. All inoperable automobiles must be removed from a residential lot upon written notice from the city council.
13. All buildings in the city shall be maintained in a neat, well maintained condition. Any building that is deteriorating or posing a threat of toppling or falling down or parts of the structure breaking free of the structure shall be repaired or removed.

#### **714.020 Enforcement**

All violators of this section shall be notified in writing of the violation they have committed. The notice shall describe the violation, and what course of action the violating landowner shall take to come back into compliance with this ordinance.

If the violating landowner fails to take action to correct the violation, the city shall bring charges against said violator. If the city determines that said violation is a threat to the community's health, safety and general welfare, the city may abate the nuisance and charge the landowner for all expenses. The violator shall pay the city for all expenses incurred in abating the nuisance.

## SECTION 8

### Separability, Supremacy and Effective Date

#### 800.010. Separability

Every section, provision, or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision or part thereof.

#### 800.020 Supremacy

When any condition imposed by any provision of this Ordinance on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other community ordinance or regulation, the more restrictive conditions shall prevail.

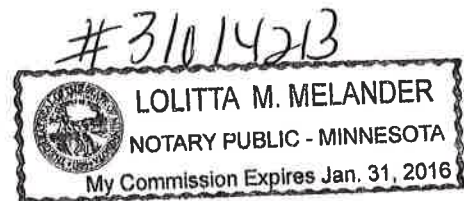
This Ordinance is not intended to abrogate any easements, restrictions or covenants relating to the use of land or impose on lands within the community by private declaration or agreement, but where the provisions of this Ordinance are more restrictive than any such easement, restriction or covenant or provision of any private agreement, the provisions of this Ordinance shall prevail.

#### 801.03. Effective Date

This Ordinance shall be in full force and effect from and after its passage and approval as provided by law. Passed and approved this 4<sup>th</sup> day of April, 2012 by the Canton City Council.

Mayor, City of Canton: Donivee Johnson

City Clerk, City of Canton: Lolly Melander



#### APPENDIX: HEIGHT, AREA AND YARD REGULATIONS

Setbacks, Area, and Height in each District.

District		Front Yard	Side Yard	Rear Yard	Minimum Area	Max Height	Max. % lot coverage
R-1		30	10	10	10,000 sq. ft.	35	30
C-1		0	0	10	2500 sq. ft.	35	75
I-1		20	20	20	40,000 sq. ft.	35	50
A-1		40	10	10	2.5 Acres	70	25

## CHAPTER 152: SUBDIVISION CONTROL

### Section

- 152.01 Purpose
- 152.02 Legal authority
- 152.03 Compliance
- 152.04 Savings clause
- 152.05 Exemptions
- 152.06 Definitions
- 152.07 Platting procedures
- 152.08 Platting presentation requirements
- 152.09 Plat design standards
- 152.10 Required improvements
- 152.105 Dedication requirements
- 152.1051 Protected areas and tree preservation
- 152.11 Metes and bounds standards
- 152.12 Administration
- 152.13 Fees
  
- 152.99 Enforcement and penalties
- Appendix I: Preliminary Title Opinion
- Appendix II: Final Title Opinion
- Appendix III: Minimum Road Standards

### § 152.01 PURPOSE.

(A) In order to integrate new subdivisions with the development objectives of the city and to contribute to an attractive, stable and wholesome environment, adequate public services and an integrated safe road and highway system, the subdividing of land in the city shall be required. The provisions of this chapter shall not be in effect until the provisions of Chapter 151, Zoning, become effective, as provided in §§ 151.01 (B) and 151.05. If the city has in effect as of the effective date of this chapter, any ordinances regulating the subdivision of land within shorelands or floodplains, the provisions of those ordinances shall supersede the provisions of this chapter within the areas regulated. The provisions of this chapter shall not be in effect until a certified copy of this chapter is filed with the County Recorder as required by M.S. § 462.36, as it may be amended from time to time.



(B) *Minimum design features.* The design features set forth in this chapter are minimum requirements. The city may impose additional or more stringent requirements concerning lot size, streets and overall design as deemed appropriate considering the property being subdivided.

(C) *Zoning ordinance and zoning map consistency.* Subdivisions and preliminary or final plats may only be approved if they are consistent with the city's zoning ordinance and official zoning maps, if any.

#### **§ 152.02 LEGAL AUTHORITY.**

This chapter is enacted pursuant to M.S. § 462.358, as may be amended from time to time.

#### **§ 152.03 COMPLIANCE.**

(A) Any subdivision creating parcels, tracts, or lots which results in one or more parcels, tracts or lots of less than five acres shall be platted, except as provided in this chapter.

(B) The provisions of M.S. Ch. 505 shall prevail over any inconsistent provisions in this chapter.

(C) No conveyance other than those described in division (A) above, shall be recorded unless it meets the requirements of § 152.11 herein.

(D) No conveyance or other document creating a subdivision of any real property other than by a duly approved plat, shall be recorded unless accompanied by a registered surveyor's drawing for recording. The surveyor's drawing shall accurately illustrate the subdivider's entire lot, parcel or tract which is subdivided by the conveyance or other document, and shall illustrate the location of any wetlands, lakes, rivers, streams or other public waters on that property. No conveyance or other document shall be recorded unless accompanied by this surveyor's drawing.

(E) Any surveyor performing a survey in the city shall file a copy of that survey with the County Recorder and the Clerk.

(F) No deed or other document purporting to subdivide property shall be recorded or certified for recording by the County Auditor, County Treasurer or County Recorder unless it meets the requirements set forth above.

#### **§ 152.04 SAVINGS CLAUSE.**

All plats approved under this chapter are approved for city purposes only and shall not release the subdivider from any liability or obligation imposed by Minnesota Statutes or Federal Law. In the event

any provision of this chapter shall be found contrary to law by a Court of competent jurisdiction from whose final judgment no appeal has been taken, such provision shall be considered void. All other provisions of this chapter shall continue in full force and effect as though the voided provision had never existed.

#### § 152.05 EXEMPTIONS.

(A) The division of a surveyed lot, parcel or tract for the purpose of attachment to contiguous lots where no residual plot or lot or real property is left unattached is exempted from the provisions of this chapter, as are subdivisions conveying property to a public utility for such things as substations, poles, towers, telephone booths, and the like.

(B) If the parcel can be described as a rectangular portion of a parcel of the government rectangular survey system, a surveyor's drawing will not be required.

(C) Metes and bounds subdivisions of less than five acres, as provided in § 152.03(A), that will be permanently attached to an adjacent contiguous parcel will be exempt from the minimum size requirements provided all other conditions of this chapter are complied with.

#### § 152.06 DEFINITIONS.

As used in this chapter, words in the present tense shall include future tense and words used in the singular number shall include the plural number and the plural the singular. The word **SHALL** and **MUST** are mandatory and not discretionary. The word **MAY** is permissive. For the purpose of this chapter certain terms and words are herein defined as follows:

**ADMINISTRATIVE OFFICER.** The Clerk of the City or another person appointed by the City Council to administer this chapter.

**ALLEY.** Any strip of land publicly or privately owned, less than 33 feet in width between property lines, set aside for public vehicular access to abutting property.

**ARTERIAL ROAD or HIGHWAY (PRIMARY).** A road or highway of considerable continuity designed primarily to serve as an interconnection link between sectors of the city and beyond (such as from within a city to outlying areas).

**BACKLOT.** Residential lots without water frontage located in the Shoreland Area of the city.

**BACKSLOPE.** The portion of the roadway cross-section beginning at the outside edge of the ditch bottom, sloping upward to a point where the slope intersects the existing ground line.

**CUL-DE-SAC.** A road having but one end open to traffic and the other end being permanently terminated by a vehicular turnaround.

**DEDICATED STREET.** A roadway designated for public use.

**DEVELOPMENT OBJECTIVES.** Those goals defined as part of the city's comprehensive planning program which indicate how the city wishes to develop itself in line with orderly and logical direction.

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

**FEE SCHEDULE.** A document setting forth the city's fees for permits, appeals, variances and subdivision filings as adopted by ordinance by the City Council as provided in § 152.13.

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

**INSLOPE.** The portion of the roadway cross-section beginning at the outside edge of the roadway shoulder, sloping downward to the inside edge of the ditch bottom.

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

**METES AND BOUNDS.** A description of real property which identifies a parcel of land by its shapes and boundaries, starting at a known point and describing the bearing and distances of lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

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

**PRELIMINARY PLAT.** The preliminary map drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission, if the city has a Planning Commission, and City Council for their consideration.

**PUBLIC ROAD.** A particularly described and identified right-of-way, at least 33 feet in width, dedicated to public use for road or highway purposes.

**SERVICE ROAD.** A public road having a traveled surface of at least 24 feet in width lying parallel and adjacent to an **ARTERIAL ROAD** or **HIGHWAY** and which provides access to abutting properties and protection from through traffic.

**STRUCTURE.** Any building or appurtenance, including but not limited to, vision obstructing fences, decks, retaining walls, satellite dishes, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, tower poles and other supporting facilities.

**SUBDIVIDER.** Any person commencing proceedings under this chapter to affect a subdivision of land for himself/herself or for another.

**SUBDIVISION.** A parcel of land which is divided.

#### § 152.07 PLATTING PROCEDURES.

(A) *Generally.* The following procedures shall be followed in the administration of this section and no real property within the jurisdiction of this section shall be subdivided and offered for sale or a plat recorded until a pre-application meeting has been held, a preliminary plat has been reviewed and approved and until a final plat has been reviewed and approved as set forth in the procedures provided herein.

(B) *Pre-application meeting.* Prior to the submission of any plat for consideration by the Planning Commission, if the city has a Planning Commission, under the provisions of this chapter, the subdivider may meet with the Administrative Officers to introduce himself or herself as a potential subdivider and learn the relevant requirements of the city's code.

(C) *Preliminary plat.*

(1) *Submission of plat.* The subdivider shall submit to the Administrative Officer ten copies of a preliminary plat of his/her proposed subdivision, the requirements of which are set forth in this chapter. They shall be filed at least 30 days prior to a regularly scheduled Planning Commission meeting, if the city has a Planning Commission, or a Council meeting, and shall be accompanied by the fees set forth in the fee schedule.

(2) *Notice procedure.* Notice of the public hearing at which the Planning Commission, if the city has a Planning Commission, will consider the preliminary plat shall be made by the Administrative Officer pursuant to M.S. § 462.358, Subd. 3b, as it may be amended from time to time. The owner or

subdivider shall also be notified as to the time and place of the public hearing. As required by M.S. § 505.03, as it may be amended from time to time, at least 30 days prior to taking final action on a preliminary plat, the proposed preliminary plat must be presented by the Administrative Officer to the Commissioner of Transportation for review if the plat includes or borders on a trunk highway or state rail bank property. Within five days after receiving a preliminary plat that includes or borders on an existing or proposed county road or state rail bank property, the Administrative Officer must submit it to the County Engineer for review. The Commissioner of Transportation and the County Engineer must report to the city within 30 days with any comments and recommendations they may have. No preliminary plat may be approved by the city until these comments and recommendations are received and considered. Within ten days after approval of the preliminary plat, notice must be sent to the Commissioner and the County Board explaining how their comments and recommendations have been met.

(3) *Public hearing.* At the public hearing set for consideration of the preliminary plat, the Planning Commission, if the city has a Planning Commission, or the City Council shall consider comments to the notice of plat, and it shall also review the preliminary plat from the standpoint of environmental impact, compatibility with surrounding area, suitability of area for subdividing, public health and welfare, crowding potential, the compatibility with the city Comprehensive Plan and overall city planning.

(4) *Planning Commission action.* At the conclusion of the public hearing set forth in the preceding division, the Planning Commission, if the city has a Planning Commission, shall either recommend approval, conditional approval or denial of the preliminary plat. The Planning Commission may also table the preliminary plat for future consideration. The Planning Commission shall not recommend approval of a preliminary plat unless the presentation requirements set forth in § 152.08 have all been met. No lot on the preliminary plat shall be recommended for approval if, in the opinion of the Planning Commission, a lot does not have dedicated road access, an adequate building site, or sufficient area for an on-site individual sewage treatment system in areas where public services are not available, meeting the requirements of all rules and regulations in this chapter and the code of the city. The action of the Planning Commission shall be stated in writing setting forth the conditions of approval, reasons for approval or the reasons for denial. The Planning Commission's recommendation shall then be submitted to the City Council.

(5) *City Council action.* The City Council shall consider the Planning Commission's action, if the city has a Planning Commission, at their next regularly scheduled meeting, and shall either approve, approve with conditions, deny or table for future consideration the application. As required by M.S. § 462.358, Subd. 3b, as it may be amended from time to time, the Council must either approve or deny the application for a preliminary plat within 120 days after the application has been submitted, unless an extension of time has been agreed to in writing by the subdivider. The 120-day period does not begin to run until the application contains all of the information required by §§ 152.08(B) and 152.09. Failure to comply with the time limits for approval in M.S. § 462.358, Subd. 3b, as it may be amended from time to time, may result in automatic approval of a preliminary plat. The Council shall



not approve a preliminary plat unless the presentation requirements set forth in § 152.08 have all been met. No lot on the preliminary plat shall be approved if, in the opinion of the Council, a lot does not have dedicated road access, an adequate building site, or sufficient area for an on-site individual sewage treatment system in areas where public services are not available, meeting the requirements of all rules and regulations in this chapter and the code of the city. The action of the Council shall be stated in writing, setting forth the conditions of approval, reasons for approval or the reasons for denial. Approval shall mean the acceptance of the design as a basis for preparation of the final plat, and the submission of such final plat for approval. Approval by the City Council of all engineering proposals presented in the preliminary plat which pertain to such things as water supply, sewage disposal, storm drainage, gas and electric service, road gradients and widths and the surface of roads is required prior to the approval of the final plat. The Council may, after notifying the subdivider, employ qualified persons to check and verify each proposal, the costs of such services shall be paid by the subdivider.

(D) *Final plat.*

(1) *Filing of the final plat.*

(a) The owner or subdivider shall file with the Administrative Officer within one year of the date of the approval of the preliminary plat the final plat which shall substantially conform to the preliminary plat as approved (see § 152.08(C) for filing document requirements) and all applicable city regulations and ordinances, state and federal rules, regulations and laws.

(b) Final plat approval shall not be granted to any plat which is not filed within the time herein specified, unless an extension is requested in writing and for good cause, granted by the City Council. The final plat shall be presented to the City Council at a scheduled meeting which is at least two weeks after the date of filing with the Administrative Officer.

(2) *Contents.* The subdivider may file a final plat limited to such portion of the preliminary plat which the subdivider proposed to record and develop at one time, provided that such portion must conform to all requirements of this chapter. Lots which have received preliminary approval but are not included on the final plat must be considered as a new subdivision.

(3) *Review.* The Administrative Officer shall check the final plat to see that it is in substantial conformity with the preliminary plat as approved by the City Council and that it meets all applicable city regulations and ordinances, state and federal rules, regulations and laws.

(4) *City Council action.* Final plat approval shall not be granted unless all presentation requirements of § 152.08 have been met and the plat conforms to all applicable city regulations and ordinances, state and federal rules, regulations and laws. The City Council shall approve, deny or table the final plat, and the Clerk shall notify the owner or subdivider of the Board's actions within 60 days of the submittal of the final plat, as required by M.S. § 462.358, Subd. 3b, as it may be amended from time to time, unless an extension of time has been agreed to in writing by the subdivider. Failure to meet

the time limit requirements of M.S. § 462.358, Subd. 3b, as it may be amended from time to time, may result in automatic approval of the final plat. The final plat, if approved, shall then be recorded with the County Recorder by the subdivider. If any irregularity prevents recording of the final plat, the County Auditor shall notify the owner or subdivider. Any approval of the final plat by the Council shall be null and void if the plat is not recorded with the County Recorder within 90 days after the date of approval unless application for an extension of time is made, in writing, during said 90-day period, to the City Council and for good cause granted by the Council.

#### § 152.08 PLATTING PRESENTATION REQUIREMENTS.

(A) *Lot suitability.* Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

(B) *Preliminary plat.*

(1) Preliminary plat must be prepared by a Minnesota Registered Land Surveyor and certified as such. Plats must conform to the technical requirements of M.S. § 505.021, as it may be amended from time to time.

(2) Scale: 1 inch equals 100 feet, if possible, but not smaller than 1 inch equals 200 feet.

(3) Identification and description:

(a) Proposed name of subdivision, which name shall not duplicate or closely resemble the name of any plat previously recorded in the city;

(b) Location by section, township, range or by other identifying description;

(c) Names and addresses of the owner, subdivider, surveyor and designer of the plan;

(d) Graphic scale;

(e) North point;

(f) Date of preparation; and

(g) A dedication statement as required by M.S. § 505.021, Subd. 2, as it may be amended from time to time, describing what part of the subdivision land is dedicated, to whom and for what purpose.

(4) Existing conditions in tract and in surrounding area to a distance of 300 feet:

- (a) Boundary line of proposed subdivision, clearly outlined and dimensioned;
- (b) Total acreage and total water frontage (shoreland areas) and water boundaries;
- (c) Platted roads, rights-of-way and utility easements;
- (d) Boundary lines and ownership of adjoining land;
- (e) Sewers, water mains or wells, culverts or other underground facilities;
- (f) Plans for the provision of potable water, sewage disposal, drainage and flood control;
- (g) Existing structures;
- (h) Summary of soil and vegetation types (terrestrial and aquatic);

(i) Lakes, water courses and wetlands and such other information as soil tests, location of the ordinary high water level and contours at vertical intervals of not more than ten feet. All elevation data shall be mean sea level or some other assumed, workable datum;

(j) Evidence that the ground water level is at least three feet below the level of finished grades or plans for resolving any ground water problems; and

(k) All other information required by M.S. § 505.021, as it may be amended from time to time.

(5) *Subdivision design features.*

(a) Layout and width of proposed road rights-of-way and utility easements, showing road names, approximate lot dimensions, parks and other public areas. All roads must be identified. The road right-of-way layout shall include all contiguous land owned or controlled by the subdivider.

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

(c) Preliminary road grades and drainage plans shall be shown on a copy of the contour map.

(d) Statement of proposed protective covenants.

(e) Statement of source of water supply.

(f) Statement of provisions for sewage treatment. In areas where a public sewage treatment system is unavailable, a lot must contain sufficient suitable area for the installation of two standard on-site sewage treatment systems. Lots that would require use of holding tanks shall not be approved.

(g) *Dedications.* Easement dedications must be provided over natural drainage or ponding areas for management of stormwater and significant wetlands. Provisions for surface water drainage and flood control must be provided.

(6) *Preliminary Title Opinion.* The subdivider shall provide a Preliminary Title Opinion, prepared by an attorney of the subdivider's choosing, in substantial conformity with the form set forth as Appendix I to this chapter.

(7) *On-site.* Within 14 days of submitting the preliminary plat, the subdivider must clearly stake and identify the tentative proposed lot corners and the proposed center line of the road serving the proposed subdivision.

(C) *Final plat.* The final plat shall include the following:

(1) Such information as was found necessary for review and requested by the Planning Commission, if the city has a Planning Commission, or City Council;

(2) (a) Data requirements as set forth in M.S. Ch. 505, as it may be amended from time to time; and

(b) All interior and exterior boundary lines shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle and radii and arc lines for all curves. Durable iron monuments shall be set at each angle and curve point on the interior and exterior boundary lines and at all block corners and at all intermediate points on the block or lot lines indicating a change of direction in the lines. The plat shall indicate that the monuments have been set;

(3) An identification system for all lots and blocks. All lots shall be numbered consecutively;

(4) The area (in square feet) and dimensions of all lots in feet;

(5) The subdivider shall submit two hardshells, one transparency copy and six duplicate copies of the final plat;

(6) All signatures on the plat must be in black ink;

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

(8) Notarized certification by the fee owner, any contract for deed vendees and by any mortgage holder of record, of the adoption of the plat and the dedication of roads and other public areas as required by M.S. § 505.021, Subd. 3, as it may be amended from time to time;

(9) Certification showing that all taxes, special assessments and utility charges currently due on the property to be subdivided have been paid in full for the calendar year in which the plat is filed;

(10) Form for approval by Registered Land Surveyor:

I hereby certify that I have reviewed this plat and found it to be in compliance with the surveying requirements of the Subdivision Control Ordinance of the City and Minnesota Statutes Ch. 505.

(11) The subdivider shall provide the County Auditor's Office with a Final Title Opinion prepared by the attorney who prepared the Preliminary Title Opinion in substantial conformity with the form set forth as Appendix II to this chapter, within 14 days of the final plat being recorded. The attorney shall also sign the following statement on the face of the plat prior to filing:

I hereby certify that proper evidence of title has been presented to and examined by me, and I hereby approve this plat as to form and execution.

(12) Form for Mortgage Statement:

I hereby attest to the fact that there are no mortgages, other than shown, outstanding against any of the property in this subdivision.

Signed \_\_\_\_\_  
Subdivider

Dated \_\_\_\_\_.



## (13) Form for comparison by Administrative Officer:

Comparison with Preliminary Plat made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signed \_\_\_\_\_

City Administrative Officer

## (14) Form for approval by City Council:

Accepted and approved by the City Council of the city of \_\_\_\_\_, Minnesota,  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signed \_\_\_\_\_

Mayor Signed

Signed \_\_\_\_\_

City Clerk

## (15) Form for approval by County Treasurer:

I hereby certify that the taxes for the year \_\_\_\_\_ for the lands described within are  
paid.

Signed \_\_\_\_\_ Dated \_\_\_\_\_

County Treasurer

## (16) Form for approval by County Auditor:

No delinquent taxes and transfer entered. Dated \_\_\_\_\_

Signed \_\_\_\_\_

County Auditor Signed

Signed \_\_\_\_\_

Deputy Auditor

## (17) Form for approval by County Recorder:

I hereby certify that the within instrument was filed in this office for record on  
the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and was duly recorded in Book  
of \_\_\_\_\_ on page \_\_\_\_\_.

Signed \_\_\_\_\_

County Recorder Signed

Signed \_\_\_\_\_

Deputy Recorder

**§ 152.09 PLAT DESIGN STANDARDS.**

(A) *Roads.* The design of all roads shall be considered in relation to existing and planned roads, to reasonable circulation of traffic, topographical conditions, to run off of storm waters and to the proposed uses of the areas to be served.

(1) Where adjoining areas are not subdivided, the arrangement of roads in new subdivisions shall make provisions for the proper projection of roads. When a new subdivision adjoins unsubdivided land susceptible of being subdivided, then the new road shall be carried to the boundaries of such unsubdivided land. Where new roads extend existing adjoining roads, their projections shall be at the same or greater width, but in no case, less than the minimum required width.

(2) The minimum road design standards of the city, including road width and grade standards, shall be observed by the subdivider, as set forth in Appendix III.

(3) Straight segments of at least 50 feet in length shall be introduced between reverse curves on city streets and alleys.

(4) Insofar as practical, road intersections shall be at right angles and no intersection shall be at an angle of less than 45 degrees. It must be evidenced that safe and efficient traffic flow is encouraged.

(5) Private roads shall not be approved nor shall public improvements be approved for any previously existing private road.

(6) Where a proposed plat is adjacent to a highway, the City Council may require the subdivider to provide a service road along the right-of-way.

(7) The road arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(8) At road intersections, curb lines shall be rounded at a radius of not less than 15 feet.

(B) *Easements.*

(1) Utility easements at least ten feet wide shall be provided for utilities where necessary. They shall be centered on rear and other lot lines or within alley rights-of-way. They shall have continuity of alignment from block to block. At deflection points, easements for pole line anchors shall be provided where necessary.

(2) Where a subdivision is traversed by a water course, drainage way, channel or road, there shall be provided a storm water easement or drainage right-of-way substantially with the lines of such

water course, together with such further width or construction or both as will be adequate for stream channel, but also adjoining areas that have been subject to flooding in years of heavy runoff.

(C) *Lots.*

(1) Where possible, side lot lines shall be at right angles to straight or radial to curved road lines. Each lot shall front on a public road or highway. Lots with frontage of two parallel roads shall be permitted only under unusual circumstances.

(2) Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans consistent with the purpose of this chapter for the future use of such remnants.

(3) Lots must be designed and have adequate size to meet the zoning requirements of the zoning district in which they are located related to setbacks, width and required yard sizes. Lots must also be of adequate size to allow off-street parking, loading areas and such other facilities as are required by the zoning ordinances of the city. If the city does not have zoning ordinances in place, or if there are portions of the city not zoned but where subdivision is occurring, the following minimum lot sizes shall apply:

(a) For residential lots intended for single and two-family dwellings:

1. Width of not less than 80 feet at the right-of-way line of inside street curvature;
- and
2. Width of not less than 65 feet at the right-of-way line of outside street curvature (including cul-de-sac).

(b) For residential lots intended for multiple family dwelling of three or more families living independently of one another:

1. Width of not less than 130 feet at the right-of-way line of inside street curvatures;
2. Width of not less than 80 feet at the right-of-way line of outside street curvatures (including cul-de-sac); and

(4) All lots must have a minimum of 30 feet in width at the rear lot line.

(5) Lots abutting on a water course, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding.

(6) On lots determined to be irregular in shape (e.g., triangular), the developer shall demonstrate to the city an ability to properly place principal buildings and accessory structures upon the site which are compatible in size and character to the surrounding area.

#### § 152.10 REQUIRED IMPROVEMENTS.

(A) As a condition of approval of a final plat and before the City Council approves a final plat, the subdivider shall give satisfactory assurance of the provision of the following requirements:

(1) *Monuments.* Steel monuments shall be placed at all block corners, angle points, points of curves in roads and at intermediate points as shown on the final plat. All U.S., state, city or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

(2) *Roads.* All roads shall be improved in accordance with the road design standards as specified in Appendix III.

(a) Trees and boulevard sodding shall be planted in conformance with the standards and specifications as required by the City Council.

(b) Street signs of the design approved by City Council shall be installed at each street intersection.

(c) Driveway approaches and sidewalks of a standard design or pedestrian pathways as may be required by the City Council shall be installed.

(d) Street lighting fixtures as may be required by the City Council shall be installed.

(3) *Water supply.* Wherever connection with a community or public water system is possible, the public water shall be used. In other case, individual wells shall be used. Either shall be provided in accordance with state and city regulations.

(4) *Sanitary sewer.* Wherever trunk line sanitary sewer facilities are available, the subdivider shall be required to install sanitary sewers and connect the same to such trunk line sewers. In other cases, individual on-site sewage treatment systems shall be used. Either shall be provided in accordance with state and city regulations.

(5) *Stormwater management.*

(a) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.

(b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(c) When development density, topographic features, and soil runoff using natural features, and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.

(6) *Landscaping*. All developments shall be landscaped with a combination of overstory trees, understory trees, shrubs, flowers and ground cover materials. All areas not covered by buildings, streets, sidewalks, parking lots, driveways or similar hard surface materials shall be covered with sod or an equivalent ground cover approved by the city. This requirement shall not apply to site areas retained in a natural state. All new landscape trees and shrubs must meet the American Standard for Nursery Stock and American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball. Landscape trees must be balled and burlapped or moved from the growing site by tree spade. Deciduous trees will be not less than one and one quarter inches but not more than three inches caliper for balled and burlapped trees, and not less than three inches but not more than six inches caliper for spade-moved trees. Coniferous trees will not be less than six feet in height but no more than eight feet for balled and burlapped trees, and not less than eight feet in height but not more than fourteen feet for spade-moved coniferous trees. The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee.

(7) *Erosion and sediment control*. The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion. If determined necessary by the City Engineer, the subdivider shall be required to submit an erosion and sediment control plan. Erosion and sediment control measures shall be consistent with best management practices (BMPs) for erosion and sedimentation control as specified in the "Minnesota Stormwater Manual" (MPCA, 2005), as amended, and shall be sufficient to retain sediment on site. Erosion and sediment controls shall meet the standards for the general permit authorization to discharge stormwater associated with construction activity under the national pollutant discharge elimination system/state disposal system permit program permit MN R100001 (NPDES general construction permit) issued by the Minnesota Pollution Control Agency, as amended. Final stabilization of the site must be completed in accordance with the NPDES construction permit requirements.

(B) All required improvements shall be installed by the subdivider except that the city reserves the right to elect to install all or part of the improvements required under the provisions of this title pursuant to M.S. Ch 429, as it may be amended from time to time. If the city elects to install the improvements the city may require the developer to post a cash escrow or letter of credit guaranteeing payment of the assessments.



(C) Satisfactory assurance that all required improvements shall be provided shall include:

(1) Entering into a development contract setting forth the conditions under which the plat is approved and setting forth required improvements.

(2) Furnishing the city financial security in the form of a cash escrow or letter of credit. Letters of credit must be from a state or federally chartered bank or savings and loan association, insured by the Federal Deposit Insurance Corporation, that has an office in the state of Minnesota or a subsidiary of such bank or savings association with an office in the state of Minnesota. If the subdivider fails to perform any obligations under the development contract, the city may apply the security to cure the default.

(a) If the subdivider is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

1. Utilities.
2. Streets.
3. Streetlights and operating cost for one year (if any are required).
4. Erosion control.
5. Engineering, to include developer's design, surveying and inspection.
6. Landscaping (if any is required).
7. Storm sewer connection charges.
8. Principal amount of special assessments previously levied against the property together with one year of interest.
9. Real estate tax for one year, if there are special assessments.
10. City engineering fees.
11. Sanitary sewer area charges (if any are required).
12. Lateral sanitary sewer and water main access charges.
13. Wetland mitigation (if any is required).

14. Custom graded lots (if any is required).
15. Removal of buildings and temporary improvements (if any is required).
16. Tree preservation.
17. Lot corners/iron monuments.

(b) If the city is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

1. Principal amount of special assessments for public improvements to be installed together with one year of interest.
2. Streetlights (if any are required).
3. Erosion control.
4. Landscaping.
5. Storm sewer connection charges.
6. Real estate tax for one year.
7. Principal amount of special assessments previously levied against the property together with one year of interest.

(3) The city shall require of a subdivider submission of a warranty/maintenance bond in the amount equal to the original cost of the improvements or such lesser amount as agreed to by the City Engineer. The required warranty period for materials and workmanship from the utility contractor installing public sewer and water mains shall be two years from the date of final acceptance or one year following final acceptance of the final bituminous wearing surface as approved by the City Engineer. The required period for sod, trees and landscaping is one growing season.

(D) No final plat shall be approved by the Council without first receiving a report from the City Engineer that the improvements described therein together with the agreements and documents required under this section, meet the requirements of the city.

(E) No final plat shall be approved by the Council without first receiving certification from the City Clerk, Administrator or Finance Officer that all fees required to be paid to the city in connection with the plat have been paid or that satisfactory arrangements have been made for payment.

**§ 152.105 DEDICATION REQUIREMENTS.**

(A) As a condition of subdivision approval, subdividers shall dedicate a portion of any proposed subdivision for conservation purposes or for public use as parks, recreational facilities as defined and outlined in M.S. § 471.191, playgrounds, trails, wetlands or open space; provided that the city may choose to accept an equivalent amount in cash for part or all of the portion required to be dedicated based on the fair market value of the land following the criteria of M.S. § 462.358, Subd. 2b, as it may be amended from time to time.

(B) Land shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location. Land with trash, junk, pollutants, flooding or wetlands and unwanted structures is generally not acceptable.

(C) The Planning Commission, if the city has a Planning Commission, and the City Council, shall determine the land and/or cash contribution requirements for proposed subdivisions.

(D) Any increase in density of subdivisions shall be reviewed for reconsideration of park land and/or cash contribution requirements.

(E) When a proposed park, playground, recreation area or other public ground has been indicated in the city's official map or comprehensive plan and is located in whole or in part within a proposed subdivision, it shall be designated as such on the plat and shall be conveyed to the city. If the subdivider elects not to dedicate an area in excess of the land required hereunder for such proposed public site, the city may consider acquiring the site through purchase or condemnation.

(F) Land area conveyed or dedicated to the city shall not be used in calculating density requirements of the city zoning ordinance and shall be in addition to and not in lieu of open space requirements for planned unit developments.

(G) Where private open space for park and recreation purposes is provided in a proposed subdivision, these areas may be used for credit, at the discretion of the City Council, against the land or cash dedication requirement for park and recreation purposes, provided the City Council finds it is in the public interest to do so.

(H) The dedication requirements are presumptively appropriate. A subdivider may request a deviation from the presumptive requirements based upon the anticipated impact of that particular subdivision. The request must be made before final subdivision approval by the city.

(I) (1) In residential subdivisions where a land dedication is required, the following formula will be used to determine the dedication requirement:

Density: Units Per Acre	Land Dedication Percentage		
0	—	2.5	10%
2.5	—	4	11%
4+	—	6	13%
6+	—	8	15%
8+	—	10	17%
10+	—	17% - 20%	

(2) In commercial or industrial subdivisions where a land dedication is required, the following formula will be used to determine the dedication: 5% of the gross area of land being platted.

(J) In lieu of land dedication the city may require cash fees established pursuant to M.S. § 462.358, Subd. 2b, as it may be amended from time to time, for commercial, industrial, multi-family dwelling units and single-family dwelling units, in amounts established in a separate ordinance or in the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time.

(K) The city may elect to receive a combination of cash, land and development of the land. The fair market value of the land the city wants and the value of the development of the land shall be calculated. That amount shall be subtracted from the cash contribution required by division (J) of this section. The remainder shall be the cash contribution requirement.

(L) Fair market value shall be determined as of the time of final subdivision approval in accordance with the following:

(1) The city and the developer may agree as to the fair market value; or

(2) The fair market value may be based upon a current appraisal submitted to the city by the subdivider at the subdivider's expense. The appraisal shall be made by appraisers who are approved members of the SREA or MAI, or equivalent real estate appraisal societies.

(3) If the city disputes such appraisal the city may, at the subdivider's expense, obtain an appraisal of the property by a qualified real estate appraiser, which appraisal shall be conclusive evidence of the fair market value of the land.

(M) Planned developments with mixed land uses shall make cash and/or land contributions in accordance with this section based upon the percentage of land devoted to the various uses.

(N) Cash contributions are to be calculated at the time of final subdivision approval. The council may require the payment at the time of final subdivision approval or at a later time under terms agreed upon in the development agreement. Delayed payment shall include interest at a rate set by the city.

(O) Cash contributions shall be deposited in the park dedication fund and shall only be used for the acquisition of land for the purposes set forth in division (A) of this section, and the planning and development of land for such purposes.

(P) Property being subdivided without an increase in the number of lots shall be exempt from park and trail dedication requirements if similar requirements were satisfied in conjunction with an earlier subdivision. If the number of lots is increased, then the dedication shall be based on the additional lots created.

#### **§ 152.1051 PROTECTED AREAS AND TREE PRESERVATION.**

(A) *Protected areas.* Where land proposed for subdivision is deemed environmentally sensitive by the city due to the existence of wetlands, drainageways, watercourses, floodable areas, significant trees, steep slopes or wooded areas, the design of said subdivision shall clearly reflect all necessary measures to ensure against adverse environmental impacts. Based upon the necessity to control and maintain certain sensitive areas, the city shall determine whether said protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of outlots. In general, measures of protection shall include design solutions that allow for construction and grading involving a minimum of alteration to sensitive areas. Such measures, when deemed appropriate by the city, may include, but shall not be limited to, the following:

(1) The establishment of buffers designed consistent with adopted management plans, if any, easements and/or outlots over wetlands, drainageways and watercourses as approved by the City Engineer.

(2) The implementation of flood control measures, including ponding and infiltration design standards as specified in adopted management plans, if any, and approved by the City Engineer.

(3) The enlargement of lots or redesign of the subdivision.

(4) The submission of a tree preservation plan subject to the approval of the City Council.



(5) The utilization of appropriate erosion control measures subject to approval by the City Engineer.

(6) Soil testing to determine the ability of the proposed subdivision to support development.

(7) The limitation of development on slopes steeper than three to one (3:1).

(8) Structure conformance to the natural limitations presented by the topography and soil so as to create the least potential of soil erosion, as determined by the City Engineer.

(B) *Tree preservation.* The following process for preserving significant trees shall be required of subdividers. Subdividers shall preserve, where feasible, all healthy trees of significant value even if the trees are less than six inches in diameter.

(1) *Definitions.* The following words and terms, whenever they occur in this section, are defined as follows:

(a) **DIAMETER.** The measurement of a tree's trunk measured four and one-half feet above the ground.

(b) **DRIP LINE.** The farthest distance away from the trunk of a tree that rain or dew will fall directly to the ground from the leaves or branches of the tree or one foot per one inch of diameter, whichever is greater.

(c) **SIGNIFICANT TREE.** A healthy tree measuring six inches in diameter or greater.

(d) **TREE CERTIFICATION.** A certified inventory of trees on the site after work is complete listing all trees and their final disposition, which is signed by a licensed forester or landscape architect.

(e) **TREE PRESERVATION PLAN.** A plan and inventory certified by a forester or landscape architect indicating all of the significant trees and their locations in the proposed development or on the lot. The tree preservation plan shall include the size, species, tag numbers, and location of all significant trees proposed to be saved and removed on the area of development, and the measures proposed to protect the significant trees to be saved.

(f) **TREE PROTECTION.** Snow fencing or polyethylene laminar safety netting placed at the drip line of the significant trees to be preserved. The tree protection measures shall be shown on tree preservation plan drawings and remain in place until all grading and construction activity is terminated.

(2) Subdivider responsibilities. Subdividers shall:

(a) Prepare a tree preservation plan. Such plan shall be superimposed on the grading plan, if any.

(b) Ensure the tree preservation plan is followed during the plan development including any mass grading.

(3) The tree preservation plan must be certified by a forester or landscape architect. The forester or landscape architect shall indicate on the plan the following items:

(a) Graded areas and proposed grades.

(b) Size, species, tag numbers, and location of all significant trees.

(c) Identification of all significant trees proposed to be saved and significant trees proposed to be removed.

(d) Measures proposed to protect significant trees shall include, but are not limited to:

1. Installation of snow fencing or polyethylene- laminar safety netting at the drip line.

2. Placing fill against the trunk of the tree, on the root crown, and under the drip line of the tree shall be prohibited.

3. Installation of erosion control measures.

4. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials such as fuels or paints.

5. Pruning of oak trees must not take place from April 15 through July 1. If wounding of oak trees occurs, a nontoxic tree wound dressing must be applied immediately. Excavators must have a nontoxic tree wound dressing with them on the development site.

(4) During preliminary plat review, the tree preservation plan will be reviewed according to the best available layout to preserve significant trees and the efforts of the subdivider to mitigate damage to significant trees.

(5) The subdivider shall provide a financial guarantee as part of the development contract in an amount necessary to guarantee replacement of all significant trees which were to have been saved but were actually destroyed or damaged.

(6) After grading has been completed and streets and utilities installed, the forester or landscape architect shall:

(a) Certify in writing to the city the status of all trees indicated as save trees in the approved plan.

(b) Certify in writing to the city whether tree protection measures were installed.

(c) Certify the status of any remove designated trees that were saved.

(7) If a significant tree indicated to be saved on the tree preservation plan is destroyed or damaged, tree replacement as required by this chapter will be enforced by the city.

(8) The financial security required in division (5) above will be released upon certification in writing by the forester or landscape architect indicating the tree protection measures were installed on graded lots and tree replacement is completed, if necessary;

(9) Removal of tree preservation measures shall require written approval from the City Engineer. Tree preservation measures shall not be removed from the site until the City Engineer has approved the grading as built plans for a mass graded site nor prior to the release of financial securities held by the city.

(10) Tree Replacement Policy. Subdividers shall be required to replace the significant trees which were indicated on the tree preservation plan to be saved but ultimately were destroyed or damaged. The subdivider and builder shall be required to replace each of the significant trees destroyed or damaged with two replacement trees. Replacement trees must consist of nursery stock and be no less than the following sizes:

(a) *Deciduous trees*. No less than two and one-half-inches in diameter.

(b) *Coniferous trees*. No less than six feet high.

(11) Replacement trees shall be species similar to the trees which were destroyed or damaged and shall comply with the requirements of § 152.10.

(12) Replacement trees shall not be placed on easements or street rights of way. The city shall determine the locations of tree replacement for subdivider's tree plans.

#### **§ 152.11 METES AND BOUNDS STANDARDS.**

No subdivision of real property in which the divided tract is described by metes and bounds shall be permitted, unless all tracts meet the following standards:

(A) Each lot, located in a shoreland area or containing a wetland area must be a minimum of five acres in size; and all other lots must be a minimum of two and one-half acres in size;

(B) Certification of public road access;

(C) All roads must be identified on the surveyor's drawing;

(D) Sufficient suitable area for the installation of two standard on-site sewage treatment systems;

(E) A registered surveyor's drawing accompanies the document creating the subdivision for recording, as required by § 152.03(D) above; and

(F) The surveyor's drawing contains the following form for signature by the property owner: I hereby certify that the subdivided property described in this survey meets the city requirements for public road access and sewage treatment systems.

#### § 152.12 ADMINISTRATION.

(A) *Variances from standards.* In any case where, upon application of any subdivider to the Board of Adjustment, it appears by reason of exceptional circumstances, that the strict enforcement of any provision of the standards would cause unusual hardship under the circumstances, the Board of Adjustment may permit a variance therefrom upon such conditions as it may prescribe consistent with the general purposes of this chapter and the intent of this and all other applicable State and local regulation.

(B) *Appeals.* The Board of Adjustment shall hear and decide appeals from and review any order, requirements, decisions or determinations made by any city Administrative Officer charged with enforcing any provision of this chapter.

#### § 152.13 FEES.

As provided by M.S. § 462.353, Subd. 4, as it may be amended from time to time, fees may be established as follows:

(A) The Council may in a separate ordinance or in the Ordinance Establishing Fees and Charges, adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time, prescribe fees sufficient to defray the costs incurred in reviewing, investigating and administering applications for a preliminary or final plat, or an application for some other approval required under this chapter.

(B) These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The city shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

(C) If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the court.

#### **§ 152.99 ENFORCEMENT AND PENALTIES.**

(A) This chapter shall be administered and enforced by the Administrative Officer who is hereby designated the enforcing officer.

(B) Any violation of the terms and provisions of this chapter shall constitute a misdemeanor and shall be punished as provided in § 10.99. All fines paid for violations shall be credited to the City General Revenue Fund. Each 24-hour day that a violation continues shall constitute a separate offense.

(C) In the event of a violation or threatened violation of this chapter, the City Council and/or the Administrative Officer, in addition to other remedies may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the City Attorney to institute such action. This will include, but not be limited to, mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

(D) A person who knowingly makes or submits a false statement or document in connection with an application or procedure required by this section is guilty of a misdemeanor and shall be punished as provided by § 10.99.



**APPENDIX I: PRELIMINARY TITLE OPINION**

City Council of the City of \_\_\_\_\_

RE: Plat of \_\_\_\_\_

Subdividers \_\_\_\_\_

**Preliminary Opinion**

I hereby certify that I have examined the above-described plat including the signatories thereon and an abstract of title consisting of entries \_\_\_\_\_ through \_\_\_\_\_ inclusive, last certified by (Abstract Co.) to the hour of 8:00 a.m. on \_\_\_\_\_. From such examination I conclude that good record title in fee simple absolute is in the subdividers' so as to vest in the public those right-of-way rights and easement rights as in the plat, subject to the following:

- 1.
- 2.
- 3.

which shall be cured prior to the recording of the plat. I further agree to furnish the Final Title Opinion following the recording of the plat as required by Chapter 152 of the City Code of Ordinances.

Sincerely,



**APPENDIX II: FINAL TITLE OPINION**

City Council of the City of \_\_\_\_\_

RE: Plat of \_\_\_\_\_  
Subdividers \_\_\_\_\_

Gentlemen:

Final Opinion

I hereby certify that I have examined all records relating to the above described plat in the office of the County Recorder from the date of the abstract of title to \_\_\_\_\_, the date the plat was recorded. From such examination I conclude:

1. That all defects cited in the Preliminary Opinion have been cured;
2. That as of the date of recording, good record title in fee simple absolute was in the subdividers;  
and
3. That the public is vested with those right-of-way rights and easement rights as in the plat indicated.

Sincerely,



**APPENDIX III: MINIMUM ROAD STANDARDS**

1. All construction of roads dedicated for public use shall be in compliance with the Minnesota Department of Transportation State Aid Design Standards for Roads as well as the following minimum standards.
2. All roads dedicated for public use or for the use of lot owners on a plat presented for the approval shall have a permanent minimum width of 66 feet right-of-way (during the road construction period the right-of-way width may exceed 66 feet to provide for the appropriate backslope). Dead end roads require a cul-de-sac which has a minimum 120-foot diameter. Alleys require a minimum width of 20 feet right-of-way.
3. All dedicated roadways have a roadbed of not less than 32 feet and shall have a bituminous surface. All cul-de-sacs, regardless of surface type, shall have a minimum traveled surface diameter of 100 feet.
4. When necessary for drainage, ditches along the roadbed shall not be less than two feet deep.





## CHAPTER 153: ANTI-BLIGHT REGULATIONS

### Section

- 153.01 Purpose
- 153.02 Findings
- 153.03 Definitions
- 153.04 Exceptions
- 153.05 Location of sexually oriented businesses
- 153.06 Sign restrictions for sexually oriented businesses
  
- 153.99 Penalty

### § 153.01 PURPOSE.

The purpose of this chapter is to control, through zoning regulations, certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods. The City Council specifically recognizes the sanctity and fundamental nature of free speech and does not intend to regulate or ban speech based on content. This chapter is intended to supercede the provisions of M.S. § 617.242, as it may be amended from time to time, and to render M.S. § 617.242 inapplicable as authorized by the statute.

### § 153.02 FINDINGS.

The City Council makes the following findings regarding the effect sexually-oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations and conclusions of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, dated June 6, 1989, a copy of which is adopted by reference and included in Appendix II of Chapter 119 of this code. This Chapter 153 shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in Appendix I of Chapter 119 of this code.

(A) Sexually oriented businesses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other uses.

(B) Residential and commercial neighborhoods located within close proximity to sexually oriented businesses experience the following negative impacts:

- (1) Increased crime rates, particularly in sex-related crimes such as rapes, prostitution, indecent exposure and other lewd and lascivious behavior;
- (2) Property values which are either diminished or fail to appreciate at the rate of other comparable properties not located in proximity to sexually oriented businesses;
- (3) Increased transiency and decreased stability of ownership;
- (4) Deteriorated neighborhood appearance from litter and graffiti;
- (5) Sex-related harassment of residents and customers by motorists and pedestrians;
- (6) A perception that the area is "unsafe"; and
- (7) Difficulty in attracting and retaining customers, employees, and desirable tenants.

(C) The adverse impacts which sexually oriented businesses have on surrounding areas diminish as the distance from the sexually oriented business increases.

(D) The adverse impacts of sexually oriented businesses are exacerbated when the uses are located near each other.

(E) The presence of liquor establishments in the immediate vicinity of sexually oriented businesses also compounds the adverse impacts on the neighborhood.

(F) Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending day care centers or schools, and people using public parks and libraries.

(G) Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area where they are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

(H) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating: other businesses move out of the vicinity and residents flee from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

(I) Land-use regulations are appropriate to minimize the detrimental effects that sexually oriented businesses have on adjacent land uses.

### § 153.03 DEFINITIONS.

The following words and terms shall have the following meanings when used in this section, except as provided otherwise in § 153.04:

***SEXUALLY ORIENTED BUSINESS.*** Shall include the following:

(1) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:

(a) Has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials;

(b) Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually oriented materials; or

(c) Derives more than 25% of its gross revenues from sexually oriented materials; or

(2) A business that engages for any length of time in a sexually oriented use as defined in this section, or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

***SEXUALLY-ORIENTED MATERIALS.*** Visual, printed, or aural materials, and other objects or devices, which:

(1) Contain, depict, simulate, or describe specified sexual activities or specified anatomical areas;

(2) Are marketed for use in conjunction with, or are primarily used only with or during, specified sexual activities; or

(3) Are designed for sexual stimulation.

***SEXUALLY-ORIENTED USE.*** Includes any of the following activities and businesses, even if the activity exists for only a short-time:

(1) **ADULT BODY PAINTING STUDIO.** An establishment or business that provides the service of applying paint, ink or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

(2) **ADULT BOOKSTORE.** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film if it meets the criteria established in the definition of "sexually oriented business," as defined in this section.

(3) **ADULT CABARET.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(a) The depiction of nudity, specified sexual activities or specified anatomical areas; or

(b) The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) **ADULT COMPANIONSHIP ESTABLISHMENT.** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) **ADULT CONVERSATION/RAP PARLOR.** A business or establishment that provides the services of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) **ADULT HEALTH/SPORT CLUB.** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) **ADULT HOTEL OR MOTEL.** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(8) **MASSAGE PARLOR/HEALTH CLUB.** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(9) **ADULT MINI-MOTION PICTURE THEATER.** A business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.



(10) **ADULT MODELING STUDIO.** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted.

(11) **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(12) **ADULT MOTION PICTURE THEATER.** A motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

(13) **ADULT NOVELTY BUSINESS.** An establishment or business that has a variety of items for sale if it meets the criteria established in the definition of "sexually oriented business," as defined in this section.

(14) **ADULT SAUNA.** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(15) **ADULT STEAM ROOM/BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

**SPECIFIED ANATOMICAL AREAS.** Shall include the following:

(1) Less than completely and opaquely covered human genitals, pubic area, buttock, anus, or female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

***SPECIFIED SEXUAL ACTIVITIES.*** Shall include the following:

- (1) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zooerastia;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- (4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
- (5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person;
- (6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

**§ 153.04 EXCEPTIONS.**

This section does not regulate the following:

- (A) Any material with significant literary content or social commentary;
- (B) A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if (1) the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, and (2) each item is in an area accessible only by an employee of the business;
- (C) Any person or organization exempted under M.S. § 617.295;
- (D) Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale and the business does not have a liquor license; and
- (E) Movies rated G, PG, PG-13, NC-17 or R.

**§ 153.05 LOCATION OF SEXUALLY ORIENTED BUSINESSES.**

(A) A sexually-oriented business may locate only in the C-2 and I zones.

(B) No person may operate a sexually oriented business on property, any part of which is within the area circumscribed by a circle that has a radius of 250 feet from any of the uses listed below. Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the property parcels where the two uses are located. This distance requirement applies to the following uses:

(1) Property used or zoned for residential uses;

(2) A day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution or other public recreational facility;

(3) Premises licensed under city code Chapter 112, Liquor Regulations; and

(4) Another sexually-oriented business.

***Cross-reference:***

*Sexually Oriented Businesses, Ch. 119*

**§ 153.06 SIGN RESTRICTIONS FOR SEXUALLY ORIENTED BUSINESSES.**

In order to protect children from exposure to lurid signs and materials, to avoid the appearance that the windows are boarded up and that the property is deteriorating, and to preserve the value of property surrounding sexually oriented businesses, the following sign regulations apply to all sexually oriented businesses.

(A) All signs must be flat wall signs. No signs may be freestanding, located on the roof or contain any flashing lights, moving elements or electronically or mechanically changing messages.

(B) No merchandise, photos or pictures of the products or entertainment on the premises may be displayed in or immediately behind window areas or any other area, if they can be viewed from outside the portion of the building in which the business is located.

(C) Window areas must not be covered or made opaque in any way. No signs may be placed in a window. A sign no larger than one square foot must be placed on the main entrance door and must state, "adults only." The letters of this message must be a minimum of two inches high. The only other information on this sign may be the hours of operation.

***Cross-reference:***

*Sexually Oriented Businesses, Ch. 119*

**§ 153.99 PENALTY.**

A violation of this section is a misdemeanor under Minnesota law and is subject to the penalties and provisions of § 10.99