

LINWOOD TOWN CODE

Published in 2021 by Order of the Town Board of Linwood Township, Minnesota



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PREFACE

This Code constitutes a recodification of the general and permanent ordinances of Linwood Township, Minnesota.

Source materials used in the preparation of the Code were the 2004 Code, as supplemented through June 21, 2007, and ordinances subsequently adopted by the town board. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2004 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CODE INDEX	CDi:1

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language

generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Alyce A. Whitson, Senior Code Attorney, and Erin McDaniel, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Pam Olson, Town Clerk, Bob Ruppe, Town Attorney, Joe Dolphy, Chair of the Planning and Zoning Commission, Tom Searing, Vice-Chair of the Planning and Zoning Commission and the other members of the town staff for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and Linwood Township, Minnesota. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and Linwood Township, Minnesota.

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Chapter 1 GENERAL PROVISIONS¹

¹State law reference(s)—Codification, M.S.A. § 415.021; codification as evidence, M.S.A. § 415.02; construction of words and phrases, M.S.A. § 645.08 et seq.; definitions of words and phrases, M.S.A. § 645.44 et seq.

Sec. 1-1. Citation; short title.

This Code shall be known as the "Linwood Town Code," and may also be cited and referred to as the "Linwood Code."

(Code 2004, § 100.01(subd. 1))

State law reference(s)—Codification, M.S.A. § 415.021; codification as evidence, M.S.A. § 415.02.

Sec. 1-2. Definitions.

Unless the language or context clearly indicates that a different meaning is indicated, the following words, terms and phrases, for the purpose of every chapter, section, subdivision, paragraph or provision of this Code, shall have the following meanings and inclusions, and the rules of construction shall apply:

Code. The term "Code," without further qualifications, means the Linwood Town Code.

County. The term "county" means Anoka County, Minnesota.

Minn. R. The abbreviation "Minn. R." means and refers to the latest edition or supplement of the Minnesota administrative regulations codified as "Minnesota Rules."

M.S.A. The abbreviation "M.S.A." means and refers to the latest edition or supplement of Minnesota Statutes Annotated.

Oath. The term "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Person. The term "person" includes all firms, partnerships, associations, corporations, and natural persons.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Premises. The term "premises" means any lot, piece or parcel of land within a continuous boundary whether publicly or privately owned, occupied or possessed.

Private property. The term "private property" means all property not included within the definition of "public property" or "public place."

Property. The term "property" means tangible or intangible real, personal or mixed property.

Public property and public place. The terms "public property" and "public place" mean any place, property or premises dedicated to public use, owned by the town, occupied by the town as a lessee, or occupied by the town as a street by reason of an easement, including, but not limited to, streets, parks or parking lots so owned or occupied.

Roadway. The term "roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Sidewalk. The term "sidewalk" means the portion of the street between the curblines and the adjacent property line, which is intended for the use of pedestrians.

State. The term "state" means the State of Minnesota.

Street. The term "street" means the entire area dedicated to public use or contained in an easement or other conveyance or grant to the town, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.

Titles of officers, employees, department heads, boards, committees, commissions, agencies, etc. Titles of officers, employees, department heads, boards, committees, commissions, agencies, etc., when used alone, shall be deemed to be followed by the words "of Linwood Township, Minnesota."

Town. The term "town" means and refers to Linwood Township, Anoka County, Minnesota.

Town board. The term "town board" means and refers to the town board of Linwood Township, Minnesota.

Violate. The term "violate" includes failure to comply with.

Written and in writing. The terms "written" and "in writing" mean any mode of representing words and letters in the English language.

(Code 2004, § 100.02)

State law reference(s)—Designation of town board title, M.S.A. § 366.01; construction of words and phrases, M.S.A. § 645.08 et seq.; definitions of words and phrases, M.S.A. § 645.44 et seq.; definitions of misdemeanor and petty misdemeanor, M.S.A. § 609.02.

Sec. 1-3. Rules of construction.

In the interpretation of this Code, the following rules of construction shall apply:

- (1) *Computation of time.* When the performance or doing of any act, duty, matter, payment, or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.
- (2) *Conflicts of law.* Where any provision of this Code imposes greater restrictions upon the subject matter than any general provisions imposed by this Code, the provision imposing the greater restriction or regulation shall be applicable.
- (3) *Delegation of authority.* When a provision requires the head of a department or other officer to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to the required act or perform the required duty unless the terms of the provision designate otherwise.
- (4) *Designees.* When an appointed public official is referred to in this Code, the reference shall include such public official or his designee.
- (5) *Editorial errors.* Grammatical and editorial errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.
- (6) *Gender.* Words of the male gender shall include the female and neuter.
- (7) *Numbers.* The singular shall include the plural and the plural shall include the singular.
- (8) *Headings and titles.* The chapter, article, division, section and other editorial titles for portions of this Code are intended for the convenience of the reader only and are not to be construed to be of any legal effect or as part of the Code.
- (9) *Historical and editorial notes.* The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section. State law references and editor's notes following certain sections of this Code are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

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- (10) *Joint authority.* Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.
 - (11) *Liberal construction.* All general provisions, terms, phrases, and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the town board may be fully carried out. In the interpretation and application of any provision of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.
 - (12) *Nontechnical and technical words.* Words and phrases shall be constructed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
 - (13) *Ordinary meanings.* The ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter when they shall have the signification attached to them by experts in such trade or with reference to such subject matter.
 - (14) *Repeals.* The repeal of an ordinance or portion of this Code shall not revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect. The repeal of an ordinance or a portion of this Code shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed.
 - (15) *Shall; may.* Shall is mandatory; may is permissive.
 - (16) *Statutory rules of construction.* Unless they are clearly in conflict with the provisions of this Code, or otherwise clearly inapplicable, the rules of construction included in state law for construction of statutes and case law shall apply in the construction of this Code.
 - (17) *Tense.* Words used in the past or present tense include the future as well as the past and present.

(Code 2004, § 100.01(subd. 4))

State law reference(s)—Construction of words and phrases, M.S.A. § 645.08 et seq.; definitions of words and phrases, M.S.A. § 645.44 et seq.

Sec. 1-4. Numbering.

Each section number of this Code consists of two component parts separated by a dash. The first digit of the number refers to the chapter number and the digits after the dash refer to the position of the section within the chapter.

(Code 2004, § 100.01(subd. 3))

Sec. 1-5. Continuation of existing ordinances.

The provisions appearing in this Code, so far as they are substantially the same as ordinances existing at the time of the effective date of this Code, shall be considered continuations thereof and not as new enactments.

Sec. 1-6. Preservation of existing rights, etc.

- (a) The repeal of any ordinance or portion thereof by adoption of this Code or any subsequent amendment, repeal, or addition thereto shall not affect or impair any act done, right vested or accrued or any proceeding, suit or prosecution had or commenced, which shall remain in full force and effect to all intents and purposes as if such repeal had not taken place, unless specifically defined within this Code.
- (b) No offense committed, no liability, penalty or forfeiture, either civil or criminal, incurred prior to repeal of any ordinance, or any part thereof, by this Code or subsequent amendment, repeal or addition thereto, is discharged or affected; and the prosecution and suit of any such offense, liability, penalty or forfeiture may be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed.

(Code 2004, § 100.04)

Sec. 1-7. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issue of any bonds, or any evidence of the town's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the town.
- (3) Any administrative ordinances of the town not in conflict or inconsistent with the provisions of this Code.
- (4) Any right or franchise granted by any ordinance.
- (5) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the town.
- (6) Any appropriation ordinance.
- (7) Any ordinance levying or imposing taxes.
- (8) Any ordinance prescribing fees, fines, charges, rates, or other specific monetary values.
- (9) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the town.
- (10) Any ordinance establishing traffic or parking regulations on any street or public way, including traffic schedules.
- (11) Any ordinance regarding salaries or compensation of town officers or employees.
- (12) Any temporary or special ordinances.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. All ordinances are on file in the office of the town clerk.

Sec. 1-8. Amendments to Code.

- (a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the town board to make such additions or amendments a part of this Code, shall be deemed to be incorporated in this Code so that reference to this Code shall be understood and intended to include such additions and amendments.
- (b) All ordinances passed subsequent to the adoption of this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from this Code by the omission thereof from reprinted pages.
- (c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section ___ of the Linwood Town Code is hereby amended to read as follows:...." The new provisions shall then be set out in full.
- (d) If a new section not then existing in this Code is to be added, the following language may be used: "That the Linwood Town Code is hereby amended by adding a section to be numbered ___, which section reads as follows:...." The new section may then be set out in full.
- (e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

(Code 2004, § 100.01(subd. 2))

Sec. 1-9. Supplementation of Code.

- (a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the town board. A supplement to this Code shall include all substantive permanent and general parts of ordinances passed by the town board or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in this Code. The pages of a supplement shall be so numbered that they will fit properly into this Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, this Code will be current through the date of adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of this Code that have been repealed shall be excluded from this Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier, meaning the person authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of this Code printed in the supplement, and make changes in catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in this Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

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- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," or "this section," as the case may be, or to "sections ___ through ___." The inserted section numbers will indicate the sections of this Code which embody the substantive sections of the ordinance incorporated into this Code; and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into this Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in this Code.

Sec. 1-10. Publication.

A copy of this Code has been on file and open for public inspection in the office of the town clerk as required by law and shall be permanently filed with the town clerk and open for public inspection.

(Code 2004, § 100.01(subd. 4))

Sec. 1-11. Altering of Code prohibited.

It shall be unlawful for any person to change or alter by additions or deletions, any part or portion of such Code, or to inset or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the town to be misrepresented thereby.

State law reference(s)—Destruction, mutilation, alteration and falsification of public records prohibited, M.S.A. § 609.63(6).

Sec. 1-12. Severability.

Every chapter, article, section, subsection or provision of this Code shall be and is hereby declared severable from every other such chapter, article, section, subsection or provision, and if any part or portion of any of them shall be held invalid, it shall not affect or invalidate any other chapter, article, section, subsection or provision.

(Code 2004, § 100.07)

Sec. 1-13. General penalties.

- (a) *Petty misdemeanor.* Whenever an act or omission is declared by this Code to be a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine of no more than \$300.00.
- (b) *Misdemeanor.* Unless another penalty is expressly provided in this Code, any person violating any provision of this Code, or any rule or regulation adopted in the pursuance thereof, or any other provision of any code adopted in this Code by reference, including any provision declaring an act or omission to be a misdemeanor, shall, upon conviction, be subject to a fine of not more than \$1,000.00, plus the cost of prosecution. If a provision of this Code is a petty misdemeanor, the maximum fine shall be \$300.00. If a provision of this Code is not designated as a petty misdemeanor, it shall be deemed to be a misdemeanor punishable as provided in this subsection.
- (c) *Separate violations.* Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.
- (d) *Applicability.* When a penalty or forfeiture is provided for in the violation of a chapter, section, subdivision, paragraph or provision of this Code, such penalty or forfeiture shall be construed to be for each such violation.

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- (e) *Attorney's fees and costs.* In all cases where the town is enforcing compliance with this Code and the enforcement does not involve criminal prosecution, the offending party shall be required to reimburse the town for the town's attorney's fees and costs associated with enforcing the offending party's compliance with this Code.
 - (f) *Acts otherwise unlawful.* This Code does not authorize an act or omission otherwise prohibited by law.
 - (g) *Payment into town treasury.* All fines, forfeitures, and penalties recovered for the violation of any ordinance, rule or regulation of the town shall be paid into the town treasury. All other obligations owing to the town, whether by contract or agreement, shall likewise be paid into the town treasury. Payments shall be made in the manner, and at the time, and in the proportion provided by law or otherwise directed by the town board.

(Code 2004, § 100.06)

State law reference(s)—Authority of statutory town to impose penalties for ordinance violations, M.S.A. § 366.01; maximum penalties for ordinance violations, M.S.A. § 609.034; maximum penalties for ordinance violations constituting petty misdemeanors, M.S.A. § 609.0332; violations defined as crimes, M.S.A. § 626.05.

Chapter 2 ADMINISTRATION²

ARTICLE I. IN GENERAL

Sec. 2-1. Town board powers.

The supervisors of Linwood constitute a board designated as "The Town Board of Linwood Township." The town board shall have charge of all town affairs not committed to other officers by the laws of the state. Town supervisors are charged with the duty to make decisions on behalf of the town and have the responsibility to see that the town fulfills its duties to the state and to the town residents.

State law reference(s)—General powers of the town board, M.S.A. § 366.01, subd. 1.

Sec. 2-2. Composition.

- (a) The town board shall be comprised of five board members, elected at large, for staggered four-year terms.
- (b) The term of office shall begin on the first Monday of January next following their election. The oath of office must be taken and filed with the clerk before undertaking the duties of office.
- (c) Incumbents must take the oath after each election. Every time the position is up for election or appointment, entry into office is treated the same even if the incumbent was reelected to the office.
- (d) Unless provided otherwise, three supervisors shall comprise a quorum.

State law reference(s)—Oath of office, M.S.A. § 367.25, subd. 1.

Sec. 2-3. General powers and duties of chair and vice-chair.

- (a) The town board shall annually select a chair and a vice-chair from among the town board members.

²State law reference(s)—Towns, M.S.A. § 365.01 et seq.

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- (b) The town board chair shall perform the following duties in addition to the usual responsibilities of a supervisor:
 - (1) Preside over meetings of the town board.
 - (2) Sign documents.
 - a. Sign all ordinances, resolutions, bylaws, orders, regulations, licenses and permits adopted or authorized by the town board unless the town board, by motion, authorizes another officer to sign specific types of documents in lieu of the chair. The board, by resolution, may authorize the use of a facsimile signature.
 - b. Sign all drafts, order checks and transfer orders.
 - c. The town board chair shall not be authorized to execute any contract on behalf of the town unless and until the contract has been reviewed and approved by the town board and express authority has been granted to the town board chair by the board to sign the contract on behalf of the town. Each page of any contract signed on behalf of the town must be signed or initialed at the time of signing.
 - (c) The town board vice-chair shall serve in place of the chair in the chair's absence, disability or refusal to preside.
 - (d) Emergencies prior to reorganization. In the event that immediate action by the township is required to protect the public health, safety, or welfare between the date of taking office and the time set for the annual reorganization of the town board, those members of the board remaining in office or, having taken the oath of office for a term to commence on the first Monday in January following their election, shall select a chairman pro tempore to serve until the scheduled reorganization.

Sec. 2-4. Reorganization.

At the annual reorganization meeting, to be held at the first town board meeting in January each year, the town board shall:

- (1) Appoint a chair and vice-chair.
- (2) Appoint board members that shall serve as liaisons between the town board and the various commissions, committees, departments and duties.
- (3) Set the time and place of the regular public meetings of the town.
- (4) Designate the official newspaper and town posting locations.
- (5) Designate the town depository and officials to sign checks.
- (6) Other business, as needed.

Sec. 2-5. Vacancies.

A vacancy in the office of supervisor may be filled by the remaining supervisors until the next town election, when a successor shall be elected for the expired term. The supervisors may hold a special election to fill the vacant supervisor position. When a vacancy occurs in the position of the town clerk or town treasurer, the town board shall fill the vacancy by appointment.

Sec. 2-6. Compensation.

The town board shall set the compensation of supervisors, treasurer, clerk, deputy treasurer, deputy clerk, and all other employees of the town. The town board may fix the hours of employment for town employees.

Sec. 2-7. Election of supervisors.

- (a) The town board supervisors are elected at large by the voters of the township at the general election to be held on the first Tuesday after the first Monday in November.
- (b) The following outlines the years in which each town office would be scheduled for election:

Election Schedule of Town Offices

<i>Seat</i>	<i>Election Year</i>
Supervisor A	Same as U.S. Congressional midterm
Supervisor B	Same as U.S. Presidential
Supervisor C	Same as U.S. Presidential
Supervisor D	Same as U.S. Congressional midterm
Supervisor E	Same as U.S. Presidential

(Ord. No. 151, § 1, 3-24-2015)

Secs. 2-8—2-18. Reserved.

ARTICLE II. ELECTIONS (RESERVED)³

Secs. 2-19—2-41. Reserved.

ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-42—2-70. Reserved.

DIVISION 2. PLANNING AND ZONING COMMISSION⁴

³State law reference(s)—Town general election, M.S.A. § 205.075; annual town elections, M.S.A. § 365.51.

⁴State law reference(s)—Municipal planning, M.S.A. § 462.12 et seq.

Sec. 2-71. Establishment.

There is hereby established a planning and zoning commission.

(Code 2004, § 201.01)

State law reference(s)—Planning agency, M.S.A. § 462.354.

Sec. 2-72. Composition.

- (a) The planning and zoning commission shall consist of seven regular members, each of whom shall be appointed for staggered terms of three years. Members shall be resident freeholders of the town. Each member shall be appointed by a majority vote by the town board and may also be removed by a majority vote of the town board. In addition, one alternate member of the planning and zoning commission, also a resident freeholder of the town, shall be appointed by a majority vote by the town board, who may also be removed by a majority vote of the town board. The alternate member shall attend all meetings of the planning and zoning commission but shall vote only in the absence of a regular member. The alternate member shall be treated as a regular member in all other respects and shall receive the same compensation as regular members.
- (b) Appointees shall hold their offices until their successors are appointed or qualified. The terms of ex officio members on the planning and zoning commission shall correspond to their respective official tenures. Vacancies during a term shall be filled by the board for the unexpired portion of the term. Every appointed member, before entering upon the discharge of the member's duties, shall take an oath that the member will faithfully discharge the duties of the member's office. Compensation will be set by the town board.

(Code 2004, § 201.02)

State law reference(s)—Organization for municipal planning, M.S.A. § 462.354.

Sec. 2-73. Organization and meetings.

- (a) The planning and zoning commission shall elect its own chair and vice-chair. A secretary shall be appointed by the town board to preserve a record of the planning and zoning commission proceedings. Meetings of the planning and zoning commission may be called by the town board or by the chair of the planning and zoning commission. Four members of the planning and zoning commission shall constitute a quorum to do business.
- (b) The planning and zoning commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which record shall be a public record. On or before February 1 of each year, the planning and zoning commission shall submit to the town board a report of its work during the preceding year from January 1 to December 31. Expenditures of the planning and zoning commission shall be within amounts appropriated for the purposes by the town board.

(Code 2004, § 201.03)

Sec. 2-74. Adoption of program of work.

- (a) Upon the appointment and organization, the planning and zoning commission shall adopt by resolution a program of work, outlining activities proposed to be undertaken in the exercise of its powers and the performance of its duties. Such a program includes:

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- (1) An outline of data and information to be assembled as a basis for the town plan.
 - (2) An outline of subjects to be covered by the town.
 - (3) An outline of types of procedures necessary to make the town plan effective.
- (b) The planning and zoning commission may, by resolution, revise its program of work from time to time.
- (Code 2004, § 201.04)

Sec. 2-75. Adoption of plan.

- (a) Before adopting any substantial amendment of the town plan, the planning and zoning commission shall hold at least one public hearing thereon. Notice of the time, place and purpose of the hearing shall be given by publication in the official town newspaper at least ten days before the day of the hearing. The adoption of the town plan or any section or amendment thereof shall be by resolution of the planning and zoning commission, approved by a majority of all the members of the commission. The planning and zoning commission may from time to time amend or add to the town plan or section thereof as herein provided for the adoption of the original plan whenever changed conditions or further studies by the commission indicate that such amendment or addition is necessary.
- (b) An attested copy of the plan or of any section, amendment or addition to the town plan adopted by the planning and zoning commission shall be certified to the town board.

(Code 2004, § 201.06)

Sec. 2-76. Town board procedure for plan effectuation.

Upon the adoption of the comprehensive town plan or any amendment thereof, it shall be the duty of the planning and zoning commission to recommend to the town board reasonable and practicable means for putting into effect such plan or amendment thereof in order that the same will serve as a pattern and guide for the orderly physical, economic and social development of the town and as a basis for the efficient expenditure of the funds thereof relating to the subjects of the town plan. Such means shall consist of zoning regulations, regulations for the control of subdivision plats, an official map, coordination of the normal public improvements of the town, a long-term program of capital expenditures and such other matters as will accomplish the purposes of this section.

(Code 2004, § 201.07)

Sec. 2-77. Zoning ordinance.

At any time after the adoption of a land use plan for the town, the planning and zoning commission, for the purpose of carrying out the policies and goals of the land use plan, may and upon instructions by the town board shall prepare a proposed ordinance and submit it to the town board with its recommendations for adoption. No zoning ordinance or amendment thereto shall be adopted by the town board until a public hearing has been held thereof by the planning and zoning commission after a notice similar to that required by section 2-75.

(Code 2004, § 201.08)

Sec. 2-78. Official map.

- (a) After adoption of a major thoroughfare plan and a community facilities plan, the planning and zoning commission with the assistance of the town engineer, may and upon instructions by the town board, shall

prepare an official map of the platted and unplatted portions of the town and adjoining territory, or portions thereof, indicating upon such map the land that is needed for future street purposes and as sites for other necessary public facilities and services within the town.

- (b) After such map has been prepared, it shall be submitted to the town board, which shall thereupon consider such map and may adopt it or any part of it with such amendments as it deems advisable. Before such adoption by the town board, a public hearing shall be held upon the proposal at least ten days after a notice of the time, place and purpose thereof has been published in the official town newspaper. After such map has been adopted by the town board and filed with the county recorder, whenever any street or highway is widened or improved or any new street is opened or interests in land for other public purposes are acquired by the municipalities, it is not required in such proceedings to pay for a building or structure placed without a permit or in violation of condition of the permit within the limits of the mapped street or outside of any building line that may have been established upon the existing street or within any area thus identified for public purposes.

(Code 2004, § 201.09)

Sec. 2-79. Plats.

- (a) Every proposed plat of land within the town shall be submitted to the town board before being filed and no plat of land shall be filed unless and until the same shall first have been approved by the town board.
- (b) Any person who violates this provision or who sells land or offers land for sale or contracts for the sale of land by reference to or by other use of any plat before such plat has been approved by the town board in accordance with the provisions of this section, is guilty of a misdemeanor and upon conviction thereof shall be punished in accordance with the law.
- (c) Before approving a plat, the town board shall submit the same to the planning and zoning commission for its recommendations. The planning and zoning commission, within 30 days after any such plat has been referred to it by the town board, shall act on the same and shall make its recommendations with respect thereof. Such recommendations may consist of:
- (1) Recommendation that the town board approve such plat;
 - (2) Recommendation that the town board disapprove such plat, in which case such recommendation shall include a statement of the specific reasons for recommendation; or
 - (3) Recommendation that the town board approve such plat after specified changes or revisions are made therein, which recommendations may include the condition that a revised plat, containing such changes or revisions, be submitted to the planning and zoning commission, in which case such revised plat shall be so submitted to the planning and zoning commission for its further consideration and recommendations before action thereon by the town board.

(Code 2004, § 201.10)

Sec. 2-80. List of recommended public works.

Each officer, department, board or commission of or in the town whose functions include recommending, preparing plans for or constructing public works shall, at least three months before the end of each fiscal year, submit to the planning and zoning commission a list of the proposed public works recommended by such officer, department, board or commission for planning, initiation or construction during the ensuing fiscal year. The planning and zoning commission shall request from the local school district a similar list of its proposed public works. The planning and zoning commission shall list and classify all such proposed public works and shall prepare

a coordinated program of proposed public works for the ensuing fiscal year. Such program shall be recommended by the commission to the town board and to such other officers, departments, boards or public bodies as have jurisdiction over the recommending, planning or construction of such public works. A copy of such recommended program of public works shall be included in the annual report of the planning and zoning commission provided for in section 2-73.

(Code 2004, § 201.12)

Sec. 2-81. Compliance with plan.

After a comprehensive town plan or section thereof has been recommended by the planning and zoning commission and a copy filed with the town board, no publicly owned interest in real property within the town shall be acquired or disposed of, nor shall any capital improvement be authorized by the town or special district or agency thereof or any other political subdivision having jurisdiction within the town until after the planning and zoning commission has reviewed the proposed acquisition, disposal or capital improvement and reported in writing to the town board or other special district or agency or political subdivision concerned, its findings as to compliance of the proposed acquisition, disposal or improvement with the comprehensive town plan. Failure of the planning and zoning commission to report on the proposal within 45 days after such a reference, or such other period as may be designated by the town board, shall be deemed to have satisfied the requirements of this section. The town board may, by resolution adopted by two-thirds vote, dispense with the requirements of this section when in its judgment it finds that the proposed acquisition or disposal of real property or capital improvement has no relationship to the comprehensive plan.

(Code 2004, § 201.13)

Secs. 2-82—2-105. Reserved.

ARTICLE IV. ADMINISTRATIVE ENFORCEMENT PROCEDURES

DIVISION 1. GENERALLY

Sec. 2-106. Purpose and intent.

The administrative enforcement procedures established within this article are intended to provide the town with an informal, cost-effective and more efficient alternative to criminal prosecution or civil litigation for certain violations of the town ordinances. The town retains the right, at its sole discretion, to also enforce the town ordinances by bringing criminal charges or commencing civil litigation in any case where the town determines it is appropriate or necessary, but finds that an administrative process is beneficial to the residents of the town and further finds that such a process is a legitimate and necessary alternative method of enforcing ordinance violations. The penalties imposed by this article may be in addition to any other enforcement mechanism available to the town for violations of the town ordinances and state statutes.

(Ord. No. 179, § 1, 5-28-2019)

Sec. 2-107. Definitions.

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

Ordinance compliance officer means any officer of the county sheriff's department, the town zoning administrator, or any person or company contracted to provide ordinance enforcement services who has received official authority by the town board to enforce the town ordinances. There may be more than one person designated as ordinance compliance officer at any given time.

Ordinance offense means a violation of any section, subdivision, paragraph or provision of the town Code or duly adopted ordinance.

Owner means an individual, association, syndicate, partnership, corporation, limited liability company, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling units or other property.

(Ord. No. 179, § 2, 5-28-2019)

Secs. 2-108—2-127. Reserved.

DIVISION 2. PROCEDURE

Sec. 2-128. Administrative notice; citation; response.

- (a) *Administrative notice.* An ordinance compliance officer may issue, either in person or by United States first class mail, an administrative notice to a person suspected or known to have committed an ordinance offense and/or to be the owner of property upon which an ordinance offense is being committed. The administrative notice shall identify the ordinance offense, the location upon which the ordinance offense occurred or is occurring, and the recommended corrective action for the ordinance offense. The administrative notice may also state that the alleged violator has, at the discretion of the ordinance compliance officer, up to 15 days to correct or abate the ordinance offense. If the alleged violator and/or owner of property upon which an ordinance offense is being committed is unable to correct or abate the ordinance offense within the prescribed time, that person may request in writing an extension of no more than 30 additional days from the ordinance compliance officer. Any extension granted by the ordinance compliance officer shall be in writing and shall specifically state the date of expiration. If the ordinance offense is not corrected or abated, as outlined in the administrative notice, within the prescribed time or any extension thereto, the ordinance compliance officer may issue a citation as provided in subsection (b) of this section.
- (b) *Citation.* An ordinance compliance officer is authorized to issue a citation upon the belief that an ordinance offense has occurred, whether or not an administrative notice has first been issued in regard to said ordinance offense. The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the violation has occurred, either by personal service or by United States first class mail. Said citation shall state the nature of the ordinance offense, the time and date said ordinance offense occurred, the civil penalty applicable to that ordinance offense as set forth in a schedule of civil penalties which shall be adopted by resolution of the town board from time to time, and the manner for paying the civil penalty or requesting a hearing before a hearing officer to contest the citation.
- (c) *Responding to a citation/payment.* Once a citation is issued, the alleged violator and/or the owner of the property upon which the violation has occurred shall, within 15 days of the time of issuance of the citation, either pay the civil penalty set forth in the citation or request a hearing in writing according to the procedure set forth in section 2-155. The civil penalty may be paid either in person at the town hall or by United States first class mail postage prepaid and postmarked within said prescribed 15 days. Payment of the civil penalty shall be deemed to be an admission of the ordinance offense.

(Ord. No. 179, § 3, 5-28-2019)

Secs. 2-129—2-154. Reserved.

DIVISION 3. APPEAL TO TOWN BOARD

Sec. 2-155. Procedure.

- (a) *Requesting a hearing.* Any person contesting a citation issued pursuant to this article may, within 15 days of the time of issuance of the citation, request a hearing before the town board. Any request for a hearing shall be made in writing and either delivered personally to the town clerk or mailed to the town hall by United States first class mail, postage prepaid and postmarked within said prescribed 15 days. The hearing shall be held at the town hall at the next regular town board meeting. Failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. The town board may waive this result upon good cause shown. A determination of good cause shall be made by the town board, but does specifically not include forgetfulness or intentional delay.
- (b) *Town board to hear appeal.* If an appeal contesting the citation issued under this article is timely filed as outlined in subsection (a) of this section, the town board is authorized to conduct an informal hearing regarding the appeal to determine if an ordinance offense has occurred. The town board shall have the authority to uphold or dismiss the citation or reduce, stay or waive the civil penalty imposed upon such terms and conditions as the town board shall determine. The town board's decision shall be in writing. A copy of the town board's decision shall be served by United States first class mail upon the person requesting the hearing. The town board's decision is final.
- (c) *Conduct of hearing.* At the hearing, the parties will have the opportunity to present testimony, documents and exhibits and question witnesses. The town clerk shall tape record the proceedings and receive testimony and exhibits. Strict rules of evidence will not apply. The town board shall receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

(Ord. No. 179, § 4, 5-28-2019)

Secs. 2-156—2-178. Reserved.

DIVISION 4. ENFORCEMENT

Sec. 2-179. Civil penalty; failure to pay.

- (a) In the event a person charged with an ordinance offense fails to pay the civil penalty and correct or abate the ordinance offense for which a citation was issued within the prescribed time, a late charge of six percent shall be imposed thereon while the civil penalty remains unpaid and the ordinance offense remains uncorrected or unabated beyond the due date unless waived in whole or in part by the town board in its sole discretion.
- (b) An unpaid civil penalty and accrued late charges will constitute a personal obligation of the person to whom the citation was issued and the town shall have the right to collect such unpaid civil penalty and accrued late charges, together with the town's costs and reasonable attorney's fees, in criminal or civil proceedings.
- (c) Pursuant to M.S.A. §§ 366.012, 429.101, 514.67, and other applicable laws, a lien in the amount of the civil penalty and any accrued late charges may be assessed against the property where the ordinance offense

occurred and collected in the same manner as taxes at the interest rate of six percent per annum. Any such assessment shall not preclude the town from issuing additional citations for a continuing ordinance offense, nor shall it preclude the town from making additional assessments against the same property resulting from a continuing or new ordinance offense.

- (d) The town may suspend or revoke a license or permit or other approval associated with the ordinance offense if the civil penalty and accrued late charges are not timely paid.

(Ord. No. 179, § 5, 5-28-2019)

State law reference(s)—Unpaid charges as liens, M.S.A. § 429.101; governmental service charges constitute lien, M.S.A. § 514.67.

Sec. 2-180. Subsequent violations.

If a second citation for an ordinance offense is issued by the town to the alleged violator and/or owner of the property upon which the violation has occurred within 24 months of the issuance of a previous citation for the same ordinance offense, the civil penalty shall increase to 200 percent of the scheduled civil penalty amount. If a third citation for an ordinance offense is issued by the town to the alleged violator and/or the owner of the property upon which the violation has occurred within 24 months of the issuance of a previous citation for the same ordinance offense, the civil penalty shall increase to 300 percent of the scheduled civil penalty amount. For the fourth and all subsequent ordinance offenses issued by the town to the alleged violator and/or the owner of the property upon which the violation has occurred within 24 months of the issuance of a previous citation for the same ordinance offense, the civil penalty shall increase to 400 percent of the scheduled civil penalty amount.

(Ord. No. 179, § 6, 5-28-2019)

Secs. 2-181—2-198. Reserved.

ARTICLE V. PUBLIC HEARINGS⁵

Sec. 2-199. General authority of hearings.

Unless otherwise provided in this Code or by law, every public hearing required by law, ordinance or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this article.

(Code 2004, § 100.05(subd. 1))

Sec. 2-200. Notice.

Every hearing shall be preceded by ten days mailed notice to all persons entitled thereto by law, ordinance or regulation unless only published notice is required. The notice shall state the time, place and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this section.

(Code 2004, § 100.05(subd. 2))

⁵State law reference(s)—Public hearing requirements, M.S.A. § 117.0412.

State law reference(s)—At least 30 days but not more than 60 days must be provided for hearings involving mitigation of a blighted area, remediation of an environmentally contaminated area, reducing abandoned property, or removing a public nuisance, M.S.A. § 117.0412.

Sec. 2-201. Conduct of hearing.

At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The board may adopt rules governing the conduct of hearings, records to be made and such other matters as it deems necessary.

(Code 2004, § 100.05(subd. 3))

Sec. 2-202. Record.

Upon the disposition of any matter after hearing, the board shall have prepared a written summary of its findings and decisions and enter the summary in the official board minutes.

(Code 2004, § 100.05(subd. 4))

Secs. 2-203—2-227. Reserved.

ARTICLE VI. FEES, RATES AND CHARGES

DIVISION 1. GENERALLY

Secs. 2-228—2-247. Reserved.

DIVISION 2. ADMINISTRATIVE FEES AND CHARGES

Sec. 2-248. Purpose.

To defray administrative costs of processing of requests for amendments, variances, interim use permits, conditional use permits, or the subdivision of land, the town board has established a schedule of fees and service charges. Further, all applicants shall pay the total cost of staff and/or consulting time spent in processing the applicant's request. The zoning administrator as part of the application process shall collect the fees. No land use application shall be deemed complete until such time as the zoning administrator has collected all required fees. If any portion of this section conflicts with the language of any other portion of the town Code including, but not limited to, the subdivision regulations of chapter 22 or the zoning regulations of chapter 30, the terms of this article shall apply and control.

(Ord. No. 170, pt. 1, ¶ 1, 5-22-2018)

Sec. 2-249. Schedules of fees and charges adopted.

The following schedule of license and permit fees, and planning and zoning related fees, charges for services and resales and other charges is hereby adopted by the town board, to be in effect in the town from the date of

publication of the ordinance from which this section is derived and thereafter until adoption and publication of another ordinance resetting the fees and charges in the town:

Linwood Town Fee Schedule

<i>License Fees</i>		
Annual fees expire on December 31		
Adult use establishment license	\$10,000.00	
Dog license annual fee	\$2.00	
Dog kennel annual fee	\$25.00	Requires interim use permit
Large assembly license	\$100.00	\$300,000.00 bond, minimum
Rental housing license - biennial renewal	See Land Use Fees	
Sign permit annual fee	\$25.00	
Temporary habitation annual fee	\$60.00	
<i>Service Fees</i>		
Assessment search	\$10.00	
Copies - paper or electronic	\$0.25 per side	
Credit card convenience fee	3.0% of transaction	
Data request response staff time	\$40.00 hour after first ½ hour	
Fax (send or receive)	\$2.00 per 10 pages	
Notary fee (no charge for residents)	\$2.00	
Filing fee for elected office	\$2.00	
Recording fee	\$75.00	
Returned check fee - NSF	\$35.00	
Senior center hall rental	\$200.00 hall	\$250.00 hall w/kitchen
Senior center hall damage deposit	\$200.00 hall	\$250.00 hall w/kitchen
Senior center hall rental application fee	\$50.00	
Senior center chair rental	\$1.00 each (minimum fee \$10.00)	
Senior center table rental	\$5.00 each	
Senior traveler	\$0.75 per mile (non-medical)	
Swing away mailbox post	\$65.00 plus sales tax	
Swing away mailbox post with installation	\$150.00 plus sales tax	
Town code book	\$75.00	

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Recodification codified through Ord. No. 188, adopted on February 23, 2021

Township maps	\$1.00 to \$10.00	
<i>Building Permit Fees</i>		
Accessory building: over 200 sq. ft.	Valuation, plus surcharge	
Building permit	Valuation, plus surcharge	
Building permit plan check	65% of building permit	
Inspections - investigative	\$85.00 per hour (\$50.00 minimum)	
Inspections - after hours	\$125.00 per hour (1-hour minimum)	
Mechanical/air conditioning per unit	\$79.00 plus \$1.00 surcharge	
Mechanical/heating per unit	\$79.00 plus \$1.00 surcharge	
Plumbing	\$79.00 plus \$1.00 surcharge	
Re-roofing, per structure	\$79.00 plus \$1.00 surcharge	
Re-siding, per structure	\$79.00 plus \$1.00 surcharge	
Solar: gardens and farms	Valuation, plus surcharge	Requires interim use permit, escrow shall apply
Solar: rooftop, architecturally integrated and ground-mount	Valuation, plus surcharge	Requires zoning application, escrow may apply
Swimming pool - in ground	Valuation, plus surcharge	
Windows in same opening	\$79.00 plus \$1.00 surcharge	
For projects not listed above, the permit fee will be based on valuation as determined by the building official and assessed according to the 1997 Uniform Building Code fee schedule.		
<i>Land Use Fees</i>		
Accessory building 120 sq. ft. to 200 sq. ft.	\$50.00	
Adult use establishment application	\$3,000.00	Escrow may apply
Demolition per structure	\$150.00	
Driveway permit	\$100.00	
Mobile home set-up	\$100.00	
Rental housing license - initial & renewal application (1—4 units)	\$350.00	Initial application after July 1 20% off

Rental housing license - initial & renewal application (5—9 units)	\$350.00 plus \$15.00 per room	
Rental housing license - initial & renewal application (10+ units)	\$500.00	
Rental housing - annual inspection	\$160.00	
Right-of-way utility permit	\$200.00	
Septic system (pumping)	\$10.00	
Septic system (standard)	\$250.00	
Septic system (shoreland)	\$375.00	
Sign permit application	\$25.00	
Swimming pool above ground	\$80.00	
Wetland issues/wetland mitigation	\$200.00 minimum	Escrow may apply
<i>Zoning Fees</i>		
Administrative subdivision application	\$350.00	Escrow may apply
Amendment application for conditional or interim use permit	\$350.00, requires public hearing	
Amendment to comp plan	\$350.00, requires public hearing	Escrow may apply
Amendment to zoning plan/map	\$350.00, requires public hearing	Escrow may apply
Text amendment to Town Code	\$1,000.00, requires public hearing	Escrow may apply
Conditional use permit	\$350.00, requires public hearing	Escrow may apply
Development final plat	\$200.00	Escrow may apply
Development preliminary plat	\$350.00 plus \$100.00/lot	\$1,500.00 minimum escrow
Easement vacation	\$350.00, requires public hearing	Escrow may apply
Interim use permit	\$350.00, requires public hearing	Escrow may apply
Interim use permit: solar garden or solar farm	\$1,500.00, requires public hearing	Escrow shall apply
Other land use application	\$200.00	Escrow may apply
Parkland dedication fee	\$2,000.00 minimum per lot	
Public hearing	\$200.00	Escrow may apply
Site plan review	\$50.00	
Sketch plan review	\$100.00	
Solar zoning application	\$100.00	Escrow may apply

Variance application	\$350.00, requires public hearing	Escrow may apply
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(Code 2004, § 1101.01; Ord. No. 134, § 1, 6-10-2008; Ord. No. 140, 7-27-2010; Ord. No. 152, § 1, 4-14-2015; Ord. No. 155, § 1, 9-22-2015; Ord. No. 170, pt. 1, ¶ 2, 5-22-2018; Ord. No. 184, § C, 7-28-2020; Ord. No. 187, 1-26-2021)

Secs. 2-250—2-276. Reserved.

DIVISION 3. PROFESSIONAL FEES AND ESCROW AMOUNTS

Sec. 2-277. Purpose and responsibility.

The owner of the property subject to the land use application shall be responsible for all professional fees and expenses incurred by the town associated with the processing of the land use application or request and enforcing the terms of any application agreement, including, but not limited to, attorney's fees, engineering or planning fees. The fees will be promptly paid upon billing by the town in the event the escrow fund is depleted and payment will be received within ten days of the date of the invoice.

(Ord. No. 170, pt. 2(subd. 1), 5-22-2018)

Sec. 2-278. Fees, expenses due despite approval or denial; additional escrow monies.

All fees and expenses are due whether the application is approved or denied. If the escrow amount is depleted, the applicant and/or property owner shall furnish additional monies as requested by the town within 30 days of such request. Any amounts not utilized from this escrow fund shall be returned to the applicant and/or property owner, without interest, when all financial obligations to the town have been satisfied. All fees and expenses are due whether the application is approved or denied.

(Ord. No. 170, pt. 2(subd. 2), 5-22-2018)

Sec. 2-279. Deposit to escrow.

When a land use application has been submitted, the applicant and/or property owner shall deposit funds in an escrow account with the town from time to time an amount determined by the zoning administrator to be necessary to cover such costs prior to commencement of the review stage of the application. The applicant shall reimburse the escrow account for any deficits caused if the amount actually expended or billed to the town by the consultants exceeds the fund balance. The town shall refund any amount deposited in the escrow account not expended within 30 calendar days after final action on the application. The town shall not pay interest on such escrow fund deposits.

(Ord. No. 170, pt. 2(subd. 3), 5-22-2018)

Secs. 2-280—2-306. Reserved.

DIVISION 4. ORDINANCE VIOLATION FINES

Sec. 2-307. Action upon notification.

An ordinance violation shall be corrected and/or removed within seven days of notification. Failure to comply may subject the resident/property owner to court action.

(Ord. No. 170, pt. 3(subd. 1), 5-22-2018)

Sec. 2-308. Notification to zoning administrator.

The zoning administrator must be notified in writing within seven days to contest the issuance of a citation.

(Ord. No. 170, pt. 3(subd. 2), 5-22-2018)

Sec. 2-309. Schedule adopted.

The schedule of ordinance violation fines is as follows:

Ordinance Violation Fines

<i>Ord. No./ Sec. No.</i>		<i>1st Offense</i>	<i>2nd Offense within 24 Months</i>	<i>3rd Offense within 24 Months</i>	<i>4th and Subsequent Offense within 24 Months</i>
	Warning, may be issued with no fine				
20-140	Obstruction in right-of- way	\$50.00	\$100.00	\$150.00	\$200.00
20-140	Vehicle in right-of-way	\$50.00	\$100.00	\$150.00	\$200.00
4-166 et seq.	Dog kennel regulations	\$50.00	\$100.00	\$150.00	\$200.00
Ch. 26, Art. V	Outside storage violation, unlicensed autos, etc.	\$25.00	\$50.00	\$75.00	\$100.00
10-20	Public nuisance	\$25.00	\$50.00	\$75.00	\$100.00
6-201 et seq.	Abandoned or	\$50.00	\$100.00	\$150.00	\$200.00

	dangerous structure				
10-48	Junk on property	\$50.00	\$100.00	\$150.00	\$200.00
10-48	Noxious substance	\$50.00	\$100.00	\$150.00	\$200.00
10-48	Tall grass and weeds	\$25.00	\$50.00	\$75.00	\$100.00
Ch. 6, Art. II, Div. 2	Other building permit violation	\$50.00	\$100.00	\$150.00	\$200.00
Ch. 6, Art. II, Div. 2	Unpermitted alterations or construction	\$50.00	\$100.00	\$150.00	\$200.00
Ch. 30, Art. VII	Illegal or unpermitted sign	\$25.00	\$50.00	\$75.00	\$100.00
8-296	Rental housing violations	\$50.00	\$100.00	\$150.00	\$200.00
M.S.A. § 160.2715	Plowing snow across public road	\$50.00	\$100.00	\$150.00	\$200.00
Town Code	Any violation of the town Code which is not otherwise listed above	\$50.00	\$100.00	\$150.00	\$200.00

After 15 days, a late charge of six percent shall be imposed while the civil penalty remains unpaid and the ordinance offense remains uncorrected or unabated.

Sec. 2-310. Noncompliant fire fines.

The following fines are applicable to noncompliant fires:

Schedule of Noncompliant Fire Fines

<i>Ord. No./ Sec. No.</i>		<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>	<i>4th Offense</i>
504.05 404.06 Sec. 12-47	Noncompliant fire	Written warning	\$100.00	\$300.00	\$500.00

(Code 2004, § 1101.01; Ord. No. 134, § 1, 6-10-2008; Ord. No. 140, 7-27-2010; Ord. No. 152, § 1, 4-14-2015; Ord. No. 155, § 1, 9-22-2015; Ord. No. 170, pt. 3(subd. 2), 5-22-2018; Ord. No. 172, 11-13-2018)

Secs. 2-311—2-337. Reserved.

DIVISION 5. SPECIFIC FEES, RATES AND CHARGES

Subdivision I. In General

Secs. 2-338—2-360. Reserved.

Subdivision II. Rental Housing

Sec. 2-361. Residential buildings.

The following fees, rates and charges are applicable to residential rental properties:

Fees, Rates and Charges of Residential Rental Properties

Initial license - Per property address (includes inspection and set-up fees)	
1—4 individually rented units or bedrooms (non-owner-occupied)	\$350.00
5—9 individual rented units or bedrooms (owner and non-owner-occupied)	\$15.00 per room, in addition to license fee
10 or more units	\$500.00
Yearly fire and building safety inspection fee (required for more than 4 units)	\$160.00
Re-inspection fee (if repairs are needed)	\$85.00
No entry fee (for failing to show up for scheduled appointment)	\$45.00

(Ord. No. 159, § 509.09, 5-23-2017)

Secs. 2-362—2-380. Reserved.

Subdivision III. Certification of Unpaid Costs and Expenses

Sec. 2-381. Property owner responsibility; action upon nonpayment.

All unpaid expenses incurred by the town or owed to the town under the various provisions of the town Code and this article not covered by any escrow will be charged against said parcel and will be the responsibility of the property owner whose property is subject to the request for services pursuant to M.S.A. ch. 462 and M.S.A. § 366.012 and any other relevant statutes. The property owner shall be invoiced for the town's costs to where property tax statements are sent by the county. The invoice shall advise the property owner of his right to request a hearing by the town board regarding said costs. Unless a hearing is granted by the town board, the invoice shall be paid within 30 days of the date of the invoice; should property owner not reimburse the town within said time, the town shall be authorized to certify said unreimbursed costs to the county auditor for payment with the property owner's property taxes. This cost recovery shall be in addition to any penalty or legal or equitable remedy the town may seek or receive for the violation of any provision of the town Code.

(Ord. No. 170, pt. 4, 5-22-2018)

State law reference(s)—Collection of unpaid service charges, M.S.A. § 366.012.

Secs. 2-382—2-400. Reserved.

ARTICLE VII. SPECIAL ASSESSMENTS

Sec. 2-401. Special assessment policy.

- (a) The special assessment policy of the town shall be comprised of the statutes contained in M.S.A. ch. 429 which is hereby adopted by reference and incorporated into this Code as if fully set forth herein, along with any applicable provisions of the Code, or policy provisions adopted by ordinance or resolution. The town board may, from time to time, by ordinance or resolution, adopt, amend, or repeal any portion of the special assessment policy.
- (b) Full prepayment of an assessment is authorized only until such time that the assessment is certified to the county auditor for collection. Upon certification of the assessment to the county auditor for collection, only regular annual installment payments pursuant to the terms and conditions established in the resolution adopting the assessment, or a full payment for the outstanding amount due for the assessment, will be accepted by the town.

Chapter 4 ANIMALS⁶

⁶State law reference(s)—Prevention of cruelty to animals, M.S.A. § 343.01 et seq.; partition fence policy, M.S.A. § 344.01 et seq.; animals, M.S.A. § 346.01 et seq.; dogs and cats, M.S.A. § 347.01 et seq.

ARTICLE I. IN GENERAL

Sec. 4-1. Animals at large.

- (a) No person shall permit any horse, mule, dog, cat, donkey, pony, cattle, sheep, goat, swine, rabbit, chicken, goose, duck or turkey of which they are the owner, caretaker or custodian to be at large within the town. Any such animal is deemed at large when it is off the premises of the owner and not under the physical control of the owner or a person designated by the owner. Such animals may be impounded as provided in section 4-136 for impounding dogs.
- (b) The fact that the town may be pursuing classification of a dog under this chapter shall not prevent or prohibit the simultaneous prosecution, under facts arising from the same occurrence which gave rise to the classification procedure, of an owner of a dog for permitting the dog to run at large. The classification procedure shall be in addition to, and not in lieu of, criminal procedures under this chapter or any other code.

(Code 2004, § 503.17)

Secs. 4-2—4-20. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 4-21. Exceptions.

- (a) Hospitals, clinics or other premises operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this chapter except where such duties are expressly stated.
- (b) The licensing requirements hereof shall not apply to any dog belonging to a nonresident of the town and kept within the town for not more than 30 days, provided that all such dogs shall at all times while within the town be kept under restraint.

(Code 2004, § 503.16)

Secs. 4-22—4-45. Reserved.

DIVISION 2. ANIMAL CONTROL OFFICER

Sec. 4-46. Investigation.

The animal control officer or any police officer accompanied by a qualified veterinarian may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal

and to take possession of such animal when, in their opinion, it requires humane treatment; however, only in such cases may the animal be removed from the premises.

(Code 2004, § 503.11)

Sec. 4-47. Interference.

No person shall interfere with, hinder or molest the animal control officer in the performance of his duty or seek to release any animal in the custody of the animal control officer except as herein provided.

(Code 2004, § 503.15)

Sec. 4-48. Implied consent for entry.

Any person who owns, possesses or harbors an animal within the town grants implied consent for entry upon their premises, without express consent, to any animal control officers or police officers for the purpose of enforcing the provisions of this chapter.

Secs. 4-49—4-67. Reserved.

ARTICLE III. DOGS⁷

DIVISION 1. GENERALLY

Sec. 4-68. Definitions.

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

At large. A dog is at large when it is off the property of its owner and not under restraint.

Dog means any canine animal, male or female, altered or unaltered.

Kennels. Kennels, whether termed residential or commercial, must meet all conditions of this chapter.

Nuisance dog refers to any dog which by frequent and habitual howling, yelping, barking, or any other noise shall unreasonably disturb the peace and quiet of any neighborhood or unreasonably disturb any person in the vicinity of the dog. The term "nuisance dog" also includes any dog which causes any other annoyance or disturbance to persons or a neighborhood, frequents school grounds, parks, or public beaches, chases vehicles, molests or annoys any person not on the property of its owner or keeper, or damages, defiles, or destroys public or private property.

Own, unless otherwise specified, means keep, harbor or have charge, control or custody of a dog for a period of ten days or longer. The term "own" shall not apply to dogs owned by others, which are temporarily maintained on the premises of a veterinarian or kennel operator.

Owner means any person, group of persons or corporation owning, keeping, harboring or having charge or control of or permitting any dog to habitually be or remain on or be lodged or fed within such person's house, yard

⁷State law reference(s)—Dogs and cats, M.S.A. § 347.01 et seq.

or premises for a period of ten days or longer. The term "owner" shall not apply to veterinarians or kennel operators temporarily maintaining on their premises dogs owned by others.

Police officer, law enforcement officer, animal control officer, etc., means any person, firm, agency, or company hired or appointed by the town to assist and/or enforce this chapter.

Restraint. A dog is under restraint within the meaning of this chapter if it is controlled by a leash not exceeding eight feet in length; if it is under voice or signal command of a competent person, provided that the dog will immediately obey that person's voice or signal command; if it is within a vehicle being driven or parked on the public streets; or if it is within the limits of its owner's premises.

Stray means any unlicensed dog, the owner of which is unknown, which is at large.

(Code 2004, § 503.01; Ord. No. 136, § 2, 1-13-2009; Ord. No. 163, § B, 1-23-2018)

Sec. 4-69. Violations.

- (a) No person shall own, keep, harbor or be in actual physical control of a dog which has been declared to be vicious.
- (b) No person shall own, keep, harbor or be in actual control of any dog within the limits of the town, for any period of time, which dog has had its license physically revoked.
- (c) Nothing in this chapter, nor the initiation of any procedures herein enumerated, shall be deemed to limit, alter or impair the right of the town to seek enforcement through criminal prosecution of any violation of this chapter.
- (d) A violation of any provision of this chapter shall subject the violator to misdemeanor charges.

(Code 2004, § 503.19)

Secs. 4-70—4-96. Reserved.

DIVISION 2. LICENSE⁸

Sec. 4-97. Required.

Except as provided in section 4-21, no owner of a dog over six months of age shall own, keep or harbor any dog within the town limits unless such dog is licensed as herein provided. Written application for such license shall be made at the town clerk's office and shall state the name and address of the owner and the name, breed, color, age and sex of the dog. The license fee shall be paid at the time of making the application, and the town clerk shall deliver the original receipt to the applicant.

(Code 2004, § 503.02(subd. 1))

⁸State law reference(s)—Licenses, M.S.A. § 347.09.

Sec. 4-98. Annual fee.

The annual license fee shall be as stated in section 2-249. Each license shall expire on December 31 next following the date of issue. There shall be no discount or prorating of annual license fees for periods less than 12 months.

(Code 2004, § 503.02(subd. 2))

Sec. 4-99. Duplicate tags.

In the event that the metallic license tag issued for a dog shall be lost or stolen, the owner may obtain a duplicate tag from the town clerk at a cost set by the town board by resolution from time to time.

(Code 2004, § 503.02(subd. 3))

Sec. 4-100. New residents.

Any owner of a dog over six months of age, upon first becoming a resident of the town, shall be allowed 30 days from such time within which to obtain a dog license. Any owner having a valid dog license from another municipality shall secure, within 30 days after becoming a resident of the town, a town dog license for which the owner shall pay the license fee as set by the town board.

(Code 2004, § 503.02(subd. 5))

Sec. 4-101. Change of ownership.

If there is a change of ownership of a dog over the age of six months, the new owner must apply, within 30 days, for a license therefor and pay the fee prescribed by this division as for a new license.

(Code 2004, § 503.02(subd. 6))

Sec. 4-102. Rabies vaccination required.

No license shall be granted for a dog not currently vaccinated against rabies. The phrase "currently vaccinated against rabies" means an animal is vaccinated for rabies in accordance with Minn. R. 1721.0010 et seq., and not overdue for a rabies booster vaccination as recommended by the rules and proof of such vaccination is attached to the license application. The applicant for a dog license must present a certificate of vaccination from a licensed veterinarian.

(Code 2004, § 503.02(subd. 7))

Sec. 4-103. Tag and collar.

- (a) Upon complying with the provisions of this division, there shall be issued to the owner a metal dog tag stamped with a number and the year of issue.
- (b) Every owner is required to keep a valid dog tag securely fastened to the dog's collar or harness which must be worn by the dog at all times, except when the dog is indoors or on the property of its owner.

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- (c) No person shall make, sell, purchase or place or allow to be placed on his dog any metallic tag of the same form or shape or intended to be similar to the official tag, nor shall any person attempt in any way to counterfeit the design adopted for such official dog tag.
 - (d) Dog tags shall not be transferable and no refund shall be made of any dog license fee to anyone who leaves the town or in the event the dog dies before expiration of the license.

(Code 2004, § 503.03)

State law reference(s)—Dog tags, M.S.A. § 347.11.

Secs. 4-104—4-134. Reserved.

DIVISION 3. CARE AND CONTROL

Sec. 4-135. Confinement of certain dogs.

Every female dog in heat shall be confined in such a manner that such female dog cannot come in contact with another dog except for breeding purposes.

(Code 2004, § 503.04)

Sec. 4-136. Impounding dogs.

- (a) The animal control officer may take up and impound any dog found not to be kept, confined or restrained as required by this chapter.
- (b) Immediately upon the impounding of a dog wearing a current license, the animal control officer must make every reasonable effort to notify the owner of such dog of the impoundment and of the conditions whereby the owner may regain custody of the dog. Any verbal notices must immediately be confirmed in writing by the animal control officer.
- (c) Notwithstanding anything contained herein to the contrary, if a critically injured dog is impounded pursuant to this chapter, it may be destroyed at any time, upon recommendation of a veterinarian, but only after reasonable efforts have been made to contact its owner.
- (d) Any dog found in violation of this chapter shall be taken and confined in a humane manner for a period of not less than five business days, and, if not claimed prior thereto by its owner, such dog shall thereafter become the property of the animal control officer and may be disposed of in a humane manner, sold to an individual desiring to purchase the dog as a pet or sold for licensed scientific use.

(Code 2004, § 503.05; Ord. No. 163, § B, 1-23-2018)

Sec. 4-137. Dogs which cannot be impounded.

- (a) If a dog is known to be rabid or exposed to rabies and such dog cannot be impounded after all reasonable effort or cannot be impounded without serious risk to the persons attempting to impound it, such dog may be immediately killed.
- (b) When a dog cannot be impounded and is in violation of this chapter, the owner shall be subject to misdemeanor charges.

(Code 2004, § 503.06)

State law reference(s)—Destruction of dog, M.S.A. § 347.56.

Sec. 4-138. Redemption of impounded animal by owner.

- (a) Any impounded dog may be reclaimed by the owner within seven business days upon payment by the owner to the animal control officer of an administrative fee and provided that the licensing and rabies vaccination requirements of the town first are complied with and proof shown. Administrative fees will be set by the town board upon recommendation of the animal control officer for the purpose of covering the costs of keeping such animal during impoundment. When a dog is impounded more than once, the owner must pay any additional fees, set by the town board upon the recommendation of the animal control officer. A dog impounded more than three times will be considered to be a public nuisance and may be destroyed or placed for adoption after ten days' prior written notice to the owner. When, in the judgment of a veterinarian, a dog should be destroyed for humane reasons, such dog may not be redeemed and will be destroyed after ten days' prior written notice to the owner.
- (b) An unlicensed dog may be released after the charges stated in subsection (a) of this section are paid, but a license must be obtained and proof of rabies vaccination be shown before such a dog is released.
- (c) All fines and fees paid under this section will be retained by the animal control officer as compensation for services.
- (d) Any dog not reclaimed within seven days as provided in subsection (a) of this section may be placed for adoption with a humane society or organization approved by the town board after ten days' prior written notice to the owner.

(Code 2004, § 503.07)

Sec. 4-139. Running at large prohibited.

- (a) The owner of a dog shall not permit the dog to run at large within the town limits.
- (b) This restriction does not prohibit the appearance of any dog upon streets or public property when the dog is under the restraint of the person in charge of its care.

(Code 2004, § 503.08)

Sec. 4-140. Dog nuisance.

- (a) *Public nuisance.* The owner of any dog must prevent the dog from committing any act which constitutes a public nuisance. It is a public nuisance for any dog to habitually or frequently howl, yelp, bark or cry and as a result cause annoyance or disturbance to two or more persons residing on separate properties located within a radius of 1,000 feet from the property where the dog is housed or kept. It is also a public nuisance for any dog to frequent school grounds, parks, or public beaches, to chase vehicles, to molest or annoy any person away from the property of its owner, or to damage, defile, or destroy public or private property. Failure of the owner to prevent a dog from committing any of the acts described in this subsection is a violation of this section and will constitute a misdemeanor.
- (b) *Excrement.* Whenever a dog is taken off the property of the owner, the handler of the dog must pick up the dog excrement unless the handler of the dog has the express approval of the property owner to leave the excrement. The animal control officer shall pick up and impound any dog found in violation of this section.

(Code 2004, § 503.09; Ord. No. 131, § 1, 5-13-2008)

Sec. 4-141. Biting dogs to be quarantined.

Whenever a known or suspected rabid dog is picked up by the animal control officer, such dog shall be kept in confinement for a period of ten days after the occurrence provided that the owner of such dog, after having been so notified either orally or in writing, shall have the right to direct where the dog will be quarantined and provided that the location has proper state-approved facilities for such quarantine. Upon reasonable belief that the dog may be rabid, the dog shall be subjected to the tests necessary to establish the same by a doctor of veterinary medicine for the purpose of determining if it is infected with rabies. The confinement, testing and treatment expenses, in addition to all other expenses incurred as the result of a dog biting a person, shall be the expense of the owner of the dog.

(Code 2004, § 503.10; Ord. No. 163, § B, 1-23-2018)

Secs. 4-142—4-165. Reserved.

DIVISION 4. DOG KENNELS

Sec. 4-166. License—Required.

Any person, family unit, legal organization, or other entity within the town owning or having under their control or boarding or keeping on their property more than two dogs must apply to the town clerk for a kennel license for the property on which the dogs are boarded or kept. The annual fee for a license will be as provided in section 2-249, and, if a license is granted, it will entitle the applicant to up to ten dog license tags, the actual number of dogs that may be boarded or kept on the property to be provided in the license. Before a kennel license is issued for the first time, the applicant must also apply for an interim use permit for a kennel license for the property; and an interim use permit must be granted before a kennel license is issued. The procedure outlined in chapter 30, article II, division 4, for interim use permits must be followed.

(Code 2004, § 503.18; Ord. No. 141, § 1, 5-22-2012; Ord. No. 174, § A, 2-26-2019)

Sec. 4-167. License—Renewal.

Renewal of a kennel license previously granted by the town board may be issued by the town clerk upon payment of the required fee, without further approval of the town board. A kennel license as described herein will allow the boarding or keeping of the number of dogs on the subject property at any time as provided in the license. Additional kennel licenses may be granted by the town board for any property approved for a kennel license upon payment of an additional license fee to allow the boarding or keeping of up to ten dogs per license, but in no case more than a total of 20 dogs maybe boarded or kept on any licensed property, and then only if the original interim use permit for the property has been amended accordingly to allow up to 20 dogs. At any time there is a complaint, either due to excess noise, to odor, or to health conditions or because the kennel is ill kept, the town board, upon investigation, will have the right to immediately revoke the license. Any dog from such a licensed kennel found running at large will be impounded as provided in this article.

(Code 2004, § 503.18; Ord. No. 141, § 1, 5-22-2012; Ord. No. 174, § A, 2-26-2019)

Chapter 6 BUILDINGS AND BUILDING REGULATIONS⁹

ARTICLE I. IN GENERAL

Secs. 6-1—6-18. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Secs. 6-19—6-39. Reserved.

DIVISION 2. BUILDING PERMITS¹⁰

Sec. 6-40. Required.

Per Minn. R. 1300.0120 regarding building, an owner or contractor who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any gas, mechanical, electrical, plumbing system or other equipment, the installation of which is regulated by the state code, shall first make application to the building official and obtain the required permit. A building permit is also required before commencing construction, installation or repair of a wastewater absorption system.

(Code 2004, § 801.02(subd. 1); Ord. No. 143, §§ 5, 6, 3-12-2013)

Sec. 6-41. Applications for building permits.

- (a) Per Minn. R. 1300.0120, no person may do any of the work described in section 6-40 without making application for and procuring a building permit to do so before such work is commenced. Applications for permits shall be accompanied by two copies of the plans and specifications. Residential buildings of 50,000 or more cubic feet and all commercial and industrial buildings shall have such plans and specifications approved by the planning and zoning commission and by the town board.
- (b) Each application for a permit shall be accompanied by a certificate of survey, if the tract of land involved is less than five acres. Said certificate shall show the full legal description of the tract and shall show the location of existing and proposed buildings with respect to the property lines. If the tract involved is five acres or larger, a certificate of survey need not be submitted but the application shall be accompanied by a site plan showing the full legal description of the tract and the location of existing and proposed buildings

⁹State law reference(s)—State building code, M.S.A. § 326B.101 et seq.

¹⁰State law reference(s)—Building permit fees, M.S.A. § 326B.153; surcharge, M.S.A. § 326B.148.

with respect to the property lines. The certificate of survey or the site plan, whichever the case may be, shall also show the proposed location of water supply, sanitary facilities and proposed disposal of surface water.

- (c) Before construction begins, lot corners must be visibly staked at the road. The building official may, at his discretion, require that additional stakes be placed along side and/or rear lot lines to indicate their locations relative to the sides of the proposed building.
- (d) Applications for permits relating to commercial or industrial buildings shall be accompanied by a site plan showing, in addition to the foregoing, the proposed parking pattern and traffic flow pattern.
- (e) The town board may require a certificate of survey whenever it deems one necessary, notwithstanding anything provided in this division.

(Code 2004, § 801.02(subds. 2, 5.3); Ord. No. 143, §§ 5, 6, 3-12-2013)

Sec. 6-42. Granting and issuance of permits.

- (a) All building permits shall be issued by the building official. Permits for new construction to be located within approved platted subdivisions may be granted and issued by the building official if in his sole discretion the plans and specifications comply herewith and with the state building code. Permits required in all other cases shall be issued by the building official only after such applications have been referred to the planning and zoning commission and town board and approved and granted thereby. Town board approval shall be in the form of a certificate of approval of building permit application and shall be signed by the chair and attested by the clerk. All permits shall be signed by the building official.
- (b) An approved platted subdivision is one which complies with the standards, rules and regulations of the state pollution control agency, if applicable, as well as with all appropriate ordinances and regulations of the county and the town.
- (c) One copy of the plans and specifications in connection with each permit shall be kept by the building official and shall be available for public inspection.

(Code 2004, § 801.02(subd. 3); Ord. No. 143, §§ 5, 6, 3-12-2013)

Sec. 6-43. Denial of permit.

A permit shall not be issued in the following cases:

- (1) Where the plans and specifications and other data which accompany an application shall indicate that the proposed work is not in accordance with the provisions of the state building code or town ordinances.
- (2) Where the lot or tract of land involved does not comply with town ordinances.
- (3) Where necessary grading incidental to the proposed construction shall obstruct any natural drainage waterway, where the relative elevations of the proposed building grade and the established road grade shall conflict in a manner as to cause damage through drainage conditions or where such proposed construction is too low for proper drainage.

(Code 2004, § 801.02(subd. 5); Ord. No. 143, §§ 5, 6, 3-12-2013)

Sec. 6-44. Certificate of survey required.

Each application for a building permit for a new dwelling shall be accompanied by a certificate of survey. The building official may at his discretion require a certificate of survey for additions, accessory buildings, septic systems, or other changes to the property. Located on the certificate of survey must be existing and proposed locations for buildings, septic system, alternate septic site, and future accessory buildings. The building official may also require other data to be located on the certificate of survey, including, but not limited to, well, soil borings, soil elevations, surface water runoff, and separations from mottled soil.

(Code 2004, § 801.02(subd. 5.2); Ord. No. 143, §§ 5, 6, 3-12-2013)

Sec. 6-45. Expiration of permits.

The work contemplated and authorized by a building permit shall be completed according to the plans and specifications within one year of the date of the permit or the permit shall expire. In the event any permit expires as herein provided, all fees shall be forfeited and no additional work shall be done until a new permit is applied for and issued as provided herein.

(Code 2004, § 801.02(subd. 7); Ord. No. 143, §§ 5, 6, 3-12-2013)

Sec. 6-46. Appeal.

The owner or contractor shall have the right to appeal to the town board any decision made by the building official. A written application for appeal shall be based on a claim that the true intent of the state building code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the state building code do not fully apply, or an equally good or better form of construction is proposed. The town board does not have the authority to waive requirements of the state building code.

(Code 2004, § 801.02(subd. 8); Ord. No. 143, §§ 5, 6, 3-12-2013)

Sec. 6-47. Exception.

The requirement of a building permit shall not include buildings for agricultural purposes, which may be erected upon any farm consisting of more than 20 acres without any such permit; provided, however, that any building constructed for the purpose of providing habitation for human beings shall conform to this chapter even though built pursuant to an agricultural purpose and without permit. For the purposes of this section, a building for agricultural purposes shall be one intended to house livestock or store farm machinery and farm-related products such as granaries and corn cribs.

(Code 2004, § 801.02(subd. 9); Ord. No. 143, §§ 5, 6, 3-12-2013)

Secs. 6-48—6-67. Reserved.

DIVISION 3. INSPECTIONS¹¹

¹¹State law reference(s)—Construction code inspector, M.S.A. § 326B.135.

Sec. 6-68. Required inspections; address prerequisite to construction.

- (a) *Generally.* The building official shall make the following inspections, if applicable, in connection with each permit issued and the builder or owner of the subject tract shall contact the building official at the appropriate times and request such inspections and shall not continue with construction until such inspections are made. In addition to inspections required by Minn. R. ch. 1300, the following inspections shall be required:
- (1) *Wastewater and absorption system.* This inspection shall be made before any backfilling is done in connection with such system.
 - (2) *Well.* This inspection shall be made subsequent to the drilling of the permanent well and before hook-up to the plumbing system.
- (b) *Posting of address prior to building site construction.* In all cases, the address shall be posted at the beginning of building construction. No construction inspections shall be made at any site where the address is not clearly visible from the road.

(Code 2004, § 801.01(subd. 6))

Sec. 6-69. Right of entry.

The building official shall have the right to enter upon any property, building or structure in connection with his duties upon showing his credentials or badge of office. He may call upon the town law enforcement officers for assistance in enforcing any of the provisions hereof or the state building code. Any person who shall interfere with the building official in the execution of his duties as defined herein shall, upon conviction thereof, be subject to the penalties provided in section 1-13.

(Code 2004, § 801.01(subd. 4))

Secs. 6-70—6-96. Reserved.

ARTICLE III. STANDARDS¹²

DIVISION 1. GENERALLY

Secs. 6-97—6-120. Reserved.

DIVISION 2. STATE BUILDING CODE

Sec. 6-121. Codes adopted by reference.

The state building code, as adopted by the commissioner of labor and industry pursuant to M.S.A. § 326B.101 et seq., including all of the amendments, rules, and regulations established, adopted, and published from

¹²State law reference(s)—State building code, M.S.A. § 326B.101 et seq.

time to time by the state commissioner of labor and industry, through the construction codes and licensing division, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this division. The state building code is hereby incorporated in this division as if fully set out herein.

(Code 2004, § 801.3(subd. 1))

Sec. 6-122. Application, administration and enforcement.

The application, administration, and enforcement of the state building code shall be in accordance with Minn. R. ch. 1300 and as modified by Minn. R. ch. 1305. The code shall be enforced within the town limits as prescribed by state statutes and the most recent version of the state building code when so established by this division. The state building code shall be enforced by the state certified building official designated by the town board to administer the building code.

(Code 2004, § 801.3(subd. 2))

Sec. 6-123. Permits and fees.

The issuance of permits and the collection of fees shall be as authorized in state statutes and the most recent version of the state building code. Permit and other fees assessed for work governed by the state building code are on file in the town offices.

(Code 2004, § 801.3(subd. 3))

Sec. 6-124. Violations and penalties.

Any person who violates any provision of this chapter including the state building code shall be guilty of a misdemeanor.

(Code 2004, § 801.3(subd. 4))

Sec. 6-125. Building code optional chapters.

- (a) The Minnesota State Building Code, established pursuant to M.S.A. § 326B.121, allows the town to adopt by reference and enforce certain optional chapters of the most current edition of the state building code.
- (b) The state building code includes the following chapters of Minnesota Rules:
 - (1) Minn. R. ch. 1300, Administration of the Minnesota State Building Code;
 - (2) Minn. R. ch. 1301, Building Official Certification;
 - (3) Minn. R. ch. 1302, State Building Code Construction Approvals;
 - (4) Minn. R. ch. 1303, Minnesota Provisions;
 - (5) Minn. R. ch. 1305, Adoption of the 2006 International Building Code;
 - (6) Minn. R. ch. 1307, Elevators and Related Devices;
 - (7) Minn. R. ch. 1309, Adoption of the 2006 International Residential Code;
 - (8) Minn. R. ch. 1311, Adoption of the 2000 Guidelines for the Rehabilitation of Existing Buildings;
 - (9) Minn. R. ch. 1315, Adoption of the 2008 National Electrical Code;

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- (10) Minn. R. ch. 1322, Minnesota Residential Energy Code;
 - (11) Minn. R. ch. 1323, Minnesota Commercial Energy Code;
 - (12) Minn. R. ch. 1325, Solar Energy Systems;
 - (13) Minn. R. ch. 1335, Floodproofing Regulations;
 - (14) Minn. R. ch. 1341, Minnesota Accessibility Code;
 - (15) Minn. R. ch. 1346, Adoption of the 2006 International Mechanical/Fuel Gas Code;
 - (16) Minn. R. ch. 1350, Manufactured Homes;
 - (17) Minn. R. ch. 1360, Prefabricated Structures;
 - (18) Minn. R. ch. 1361, Industrialized/Modular Buildings;
 - (19) Minn. R. ch. 1370, Storm Shelters (Manufactured Home Parks);
 - (20) Minn. R. ch. 4715, Minnesota Plumbing Code.

(Code 2004, § 801.3(subd. 5); Ord. No. 139, 2-9-2010; Ord. No. 154, § 1, 6-9-2015)

Secs. 6-126—6-174. Reserved.

DIVISION 3. LOT AREA, BUILDING SIZE AND LOCATION, ETC.

Sec. 6-175. Parcels of land described by metes and bounds.

No building permit shall be issued for any structure on any parcel of land less than five acres in area and having a width of less than 300 feet on an improved public street at the building setback line which is described by metes and bounds until a plat describing such parcel of land is filed with the county recorder and proof thereof is furnished to the town board. The foregoing provision does not apply if the subject parcel was a separate parcel of record on February 10, 1976, or was the subject of a written agreement to convey entered into prior to said date and, if on said date, there was public access to said parcel either by abutment on a public street or by easement. Proof of such access by easement shall be by the original or a copy of the document granting such easement if available and, if such document or a copy of the same is not available, then proof shall be by the written affidavit of at least two parties that on said date there was public access to said parcel by easement and that such access had been in existence for a least five years prior to said date. In addition, when no such document proving public access on said date is available, an easement deed dated subsequent to said date shall be furnished before a building permit shall be issued.

(Code 2004, § 803.01)

Sec. 6-176. Lots.

All lots or tracts of land upon which structures are hereafter erected for dwelling purposes shall:

- (1) In the case of lots or tracts on roads designated by the county highway department as prospective county roads or highways, have a front yard setback of at least 100 feet or such lesser distance as set by the town board after petition and public hearing as provided herein.
- (2) Abut on a public road.

(Code 2004, § 803.02)

Sec. 6-177. House size.

All structures hereafter erected for dwelling purposes shall contain an area of not less than 864 square feet of finished, habitable floor area on the ground level. Earth-sheltered dwellings containing 864 square feet of habitable floor area on one level shall satisfy this requirement.

(Code 2004, § 803.03)

Sec. 6-178. Location.

No building shall be placed upon a single lot so that there shall be a dwelling house in the rear of another with the same frontage.

(Code 2004, § 803.04)

Sec. 6-179. Garages and location.

Garages shall conform to the same front yard setback and side yard requirements as structures used for dwelling purposes.

(Code 2004, § 803.05)

Sec. 6-180. Road grade.

All structures and driveways shall be constructed to conform to the established grade of the adjacent highway or street.

(Code 2004, § 803.06)

Sec. 6-181. Outside toilets.

In all cases, outside toilets shall comply with any applicable statutes, ordinances or regulations of the state and the county.

(Code 2004, § 803.07)

Sec. 6-182. Occupancy.

No hazardous building shall be occupied by any person or chattel or used for any purpose whatsoever.

(Code 2004, § 805.04)

State law reference(s)—Hazardous building, M.S.A. § 463.15, subd. 3.

Secs. 6-183—6-202. Reserved.

ARTICLE IV. UNSAFE, DILAPIDATED BUILDINGS¹³

Sec. 6-203. Expenses.

The amount of the expense caused by condemnation may be recovered by the town from the owner of the lot or parcel of land. In default of payment by October 1, a statement of expense of any work incidental to the condemnation of a structure or building shall be filed by the clerk in the office of the county auditor and shall become a lien in favor of the town upon said lot or parcel of land. Any lien so established may be enforced in a civil action in any court of competent jurisdiction.

(Code 2004, § 805.03)

Chapter 8 BUSINESSES AND BUSINESS REGULATIONS¹⁴

ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. LARGE ASSEMBLIES

DIVISION 1. GENERALLY

Sec. 8-19. Intent.

- (a) It is the purpose of the town board to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the town, in order that the health, safety and welfare of all persons in said town, residents and visitors alike, may be protected.
- (b) It is the intent of the town board that all sections and provisions of this article shall have an independent existence; and, should any section or provision be declared invalid or unconstitutional by a court of competent jurisdiction, it is the intent of the town board that any section or provision so declared shall be severable from and shall not affect the validity of the remainder.

(Code 2004, § 502.01)

¹³State law reference(s)—Hazardous or substandard buildings, M.S.A. § 463.15 et seq.

¹⁴State law reference(s)—Limitation on power to deny a license, M.S.A. § 364.001 et seq.

Secs. 8-20—8-41. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 8-42. Enforcement.

- (a) The provisions of this article may be enforced by injunction in any court of competent jurisdiction.
- (b) The holding of an assembly in violation of any provision or condition contained in this article shall be deemed a public nuisance and may be abated as such.
- (c) Any person who violates section 8-81(1) or who violates any condition upon which he is granted a license will forfeit an appropriate amount from the bond required in section 8-81(2)m. No portion of the bond will be released to the sponsors until all provisions of the license agreement have been met.

(Code 2004, § 502.07)

Secs. 8-43—8-72. Reserved.

DIVISION 3. LICENSE

Sec. 8-73. Definitions.

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

Assembly means a company of persons gathered together at any location at any single time for any purpose.

(Code 2004, § 502.02(subd. 2))

Sec. 8-74. Required.

No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give tickets to an actual or reasonably anticipated assembly of 250 or more people which continues or can reasonably be expected to continue for four or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the town board, application for which must be made at least 30 days in advance of the assembly. When applying for an assembly license, the sponsor must submit certified copies of other necessary state licenses and/or permits to support his application. A license to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

(Code 2004, § 502.02(subd. 1))

Sec. 8-75. Separate licenses required for additional days, locations.

A separate license shall be required for each day and each location in which 250 people assemble or can reasonably be anticipated to assemble. The fee for each license shall be as outlined in chapter 2.

(Code 2004, § 502.02(subd. 3))

Sec. 8-76. Maximum number of persons.

A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit to assemble at the licensed location more than the maximum permissible number of people.

(Code 2004, § 502.02(subd. 4))

Sec. 8-77. Unreasonable sound.

The licensee shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly.

(Code 2004, § 502.02(subd. 5))

Sec. 8-78. Exemptions for permanently established places of assembly.

This article shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum or other similar permanently established place of assembly for assemblies which do not exceed by more than 250 people the maximum seating capacity of the structure where the assembly is held.

(Code 2004, § 502.02(subd. 6))

Sec. 8-79. Exemption for fairs and other assemblies.

This article shall not apply to government-sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed by other state laws and regulations of the town, nor shall it apply to any assembly held in any public school building in the town or held in any town building.

(Code 2004, § 502.02(subd. 7))

Sec. 8-80. Application.

- (a) Application for a license to hold an actual or anticipated assembly of 250 persons shall be made in writing to the town board at least 30 days in advance of such assembly.
- (b) The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best of the knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, society or group or, if there are no officers, by all members of such association, society or group.
- (c) The application shall contain and disclose:
 - (1) The name, date of birth, residence and mailing address of all persons required to sign the application by subsection (b) of this section and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, date of birth, residence and mailing address of each person;
 - (2) The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the record owners of all such property;

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- (3) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owners of all such property that the applicant has permission to use such property for an assembly of 250 or more persons;
 - (4) The nature or purpose of the assembly;
 - (5) The total number of days and/or hours during which the assembly is to last;
 - (6) The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning regulations of the town if the assembly is to continue overnight;
 - (7) The maximum number of tickets to be sold, if any;
 - (8) The plans of the applicant to limit the maximum number of people permitted to assemble;
 - (9) The plans for fencing the location of the assembly and the gates contained in such fence;
 - (10) The plans for supplying potable water including the source, amount available and location of outlets;
 - (11) The plans for providing toilet and lavatory facilities including the source, number, location, type and means of disposing of waste deposited;
 - (12) The plans for holding, collection and disposing of solid waste material;
 - (13) The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lights;
 - (14) The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots;
 - (15) The plans for telephone service including the source, number and location of telephones;
 - (16) The plans for camping facilities, if any, including facilities available and their location;
 - (17) The plans for security including the number of guards, their deployment and their names, address, credentials and hours of availability;
 - (18) The plans for fire protection as may be required by section 8-81(2)j;
 - (19) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers;
 - (20) The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers;
 - (21) The plans for area traffic control for egress from and exit onto public roads or highways.
- (d) The application shall include the bond required in section 8-81(2)m and the license fee.

(Code 2004, § 502.04)

Sec. 8-81. Conditions for issuing license.

Before a license may be issued:

- (1) The applicant shall first determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of

the nature of the assembly, and provided that where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the zoning or health ordinances of the town and county, or regulations of the state board of health.

- (2) At the time the application is submitted, the sponsor will provide a plan including the provisions herein for operation of the assembly. Ten days prior to the start of the assembly, local authorities will inspect to determine whether the requirements of these provisions have been met:
- a. A fence or barrier (sufficient to prevent ingress/exit except at established gates) completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have sufficient entrances and exits to allow easy movement into and out of the assembly grounds and provide traffic control onto established public road systems;
 - b. Potable water, meeting all federal and state requirements for sanitary quality, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day and where the assembly is to continue for more than 12 hours, water for bathing at the rate of at least ten gallons per person per day, or portion of a day;
 - c. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled, in accordance with the state board of health regulations and standards;
 - d. A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2½ pounds of solid waste per person per day, together with a plan for holding and collecting all such waste at least once each day of the assembly, and sufficient trash containers and personnel to perform tasks;
 - e. If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of a least five footcandles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly;
 - f. A free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons;
 - g. Telephones connected to outside lines sufficient to provide service to the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 1,000 persons;
 - h. If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in state statutes and resolutions/ordinances of the town, sufficient to provide camping accommodations for the maximum number of people to be assembled;
 - i. Security and traffic, and narcotics control plan which will meet the requirements of local authorities and the state department of public safety; regularly employed off-duty state law enforcement officers or protective agents licensed in the state, sufficient to provide adequate security for the maximum number of people to be assembled; at least one security guard for every 100 people will be provided for the first 1,000 people to assemble; for assemblies of more than 1,000 people, additional security guards will be provided at the rate of one for each 250 people or major fraction thereof;

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- j. Fire protection shall be provided by the sponsor which may include, but not be limited to, the following: fire alarms, extinguishing devices, fire lanes and shall be sufficient to meet all applicable state laws and local regulations which are in effect, or may be set forth by the town; and sufficient emergency personnel to efficiently operate the required equipment will be provided by the sponsor, also;
 - k. All reasonably necessary precautions to ensure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly;
 - l. Administrative control center with telephones where local authority can contact the sponsors and law enforcement personnel inside the assembly area;
 - m. A bond, filed with the town clerk, either in cash or underwritten by a surety company licensed to do business in the state, in the minimum amount as provided in section 2-249, which shall indemnify and hold harmless the town or any of its agents, officers, servants and employees from any liability or causes of action which might arise by reason of granting this license, payment of employees or services rendered by the granting authority and from any cost incurred in cleaning up any waste material produced or left by the assembly.

(Code 2004, § 502.03)

Sec. 8-82. Issuance.

The application for a license shall be processed within 20 days of receipt and shall be issued if all conditions are complied with.

(Code 2004, § 502.05)

Sec. 8-83. Revocation.

The license may be revoked by the town board at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with or if any condition previously met ceases to be complied with.

(Code 2004, § 502.06)

Secs. 8-84—8-109. Reserved.

ARTICLE III. SEWER INSTALLING, MAINTENANCE AND DISPOSAL

Sec. 8-110. State license required.

A person may not design, install, maintain, pump, or inspect an individual sewage treatment system in the town without showing evidence of holding a current and appropriate license for such work issued by the commissioner of the state pollution control agency.

(Code 2004, § 506.01)

Secs. 8-111—8-133. Reserved.

ARTICLE IV. SOLID WASTE MANAGEMENT

DIVISION 1. GENERALLY

Sec. 8-134. Purpose.

The purpose of this article is to provide regulation regarding the proper disposal of solid waste, to provide regulations managing recycling of recyclable materials, and to encourage a responsible system of waste management that will protect the environment.

(Code 2004, § 507.01)

Sec. 8-135. Definitions.

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

Construction waste means waste which is created during the construction of a building or residence, such as wood cutoffs, sheetrock scraps, etc.

Curbside recycling. Haulers pick up recyclables from their customers at least two times per month. Picking up the following materials constitutes the minimum for a curbside recycling program: Green, brown, and clear glass jars and bottles; newspaper; aluminum and bi-metal food and beverage cans; PETE (polyethylene terephthalate) and HDPE (high density polyethylene) plastic beverage containers; and corrugated cardboard.

Demolition debris means debris which is created by the demolition of a structure, either commercial, industrial, or residential, such as lumber, shingles, concrete blocks, sheetrock, etc.

Recyclables or recyclable material includes newspaper; green, brown, and clear glass; aluminum, steel, and tin cans; corrugated cardboard; motor oil; non-glossy office paper; PETE plastic; and HDPE plastic. Each material must be source separated and properly prepared per the requirements of the individual hauler for the recycling market.

Refuse includes all solid wastes normal to a society of persons and a byproduct of residential, commercial and industrial operations, including garbage, rubbish, ashes, animals, animal offal and agricultural waste.

Roll-off container means any dumpster of the type that is used for large waste removal tasks in the order of 15 cubic yards to 60 cubic yards. These containers are usually rolled off of a truck and picked up within a few days and hauled away.

Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, and rocks; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, as amended; dissolved materials in irrigation return flows; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

Volume-based pricing means pricing of solid waste collection in an amount proportional to the amount of waste generated. Pricing may reflect that the collection costs are nearly the same, but it shall reflect that disposal costs (tipping fees) are proportionately less. Common options include offering different rates for different size or number of cans or reducing the frequency of pickup.

(Code 2004, § 507.09)

Secs. 8-136—8-152. Reserved.

DIVISION 2. LICENSE REQUIREMENTS

Sec. 8-153. License required.

No person, firm, or corporation shall engage in the business of or perform for others the service of hauling solid waste within the town without first obtaining a solid waste hauler license therefor. No person shall permit refuse to be collected from his premises by an unlicensed hauler. Collection of demolition debris or construction waste in a roll-off container is exempt from the licensing requirements of this article. However, collectors of demolition waste and construction waste shall have a current policy of public liability insurance and shall provide proof of same to the town clerk upon request.

(Code 2004, § 507.02)

Sec. 8-154. Vehicle registration requirements.

- (a) *Compliance with county and state requirements.* All registration requirements must comply with the county and state requirements.
- (b) *Vehicle designation.* The name of the licensee or registered trade name shall be printed in plain letters on each side of the cab of each vehicle.

(Code 2004, § 507.04)

Sec. 8-155. Liability insurance.

All solid waste haulers must be covered by liability insurance as required by the county and the state while operating in the town.

(Code 2004, § 507.05)

Secs. 8-156—8-179. Reserved.

DIVISION 3. RECYCLING REQUIREMENTS

Sec. 8-180. Hauler's requirements.

- (a) All licensees shall be required to provide a curbside recycling program for their customers. Recyclable materials must be picked up from customers at least two times per month. The licensees may subcontract

this work to another firm, but the licensee remains responsible that the work is performed in accordance with this article.

- (b) All recyclable materials collected by the licensees within the town must be recycled. The weight of such recycled material must be reported semi-annually to the town within 15 calendar days of the end of each semi-annual period. The semi-annual periods are as follows: first period: January through June; second period: July through December.
- (c) The hauler shall set a standard rate for solid waste collection and shall offer volume-based pricing to its customers.
- (d) The hauler shall encourage its customers to recycle all materials considered to be recyclable. Such encouragement may take the form of advertising, informational leaflets, added convenience to customers, or monetary credit to those customers who recycle.
- (e) Each licensee shall make its recyclable material collection available to all residential dwellings within the town, whether or not the owner or occupant of that residential dwelling utilizes the licensee's services for collection of other refuse. The licensee may charge a reasonable fee for such recyclable material collection.

(Code 2004, § 507.06; Ord. No. 143, § 4, 3-12-2013)

Sec. 8-181. Burying or accumulation of certain solid wastes prohibited.

No person shall bury any refuse, recyclables, garbage or rubbish within the town unless the site has been approved and licensed as a solid waste landfill or solid waste disposal site by the county.

(Code 2004, § 507.08)

Secs. 8-182—8-202. Reserved.

ARTICLE V. RENTAL HOUSING

DIVISION 1. GENERALLY

Sec. 8-203. Purpose.

The purpose of this article is to provide minimum standards to safeguard life or limb, health and public welfare by regulating and controlling the use and occupancy, maintenance and repair of all buildings and structures within the town used as rental housing. The purpose of this article is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this article.

(Ord. No. 159, § 509.01(subd. 1), 5-23-2017)

Sec. 8-204. Scope.

The provisions of this article shall apply to all buildings or portions thereof leased for human living or sleeping purposes, including those in existence at the time of adoption of this article for one to four individually rented units or bedrooms that are non-owner-occupied and five to nine individually rented units or bedrooms

even if owner occupied. If any provision of this article conflicts with the building code, fire code, plumbing code, mechanical code, or any other state code or law, such code or law shall control.

(Ord. No. 159, § 509.01(subd. 2), 5-23-2017)

Sec. 8-205. Definitions.

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

Building code means the Minnesota State Building Code.

Code official means the town building official, as appointed by the town board, and any designee of such code official.

Electrical code means the Minnesota State Electrical Code.

Extermination means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination method approved by the code official.

Fire code means the Minnesota State Fire Code.

Fire official means the town fire department's fire chief, fire warden or designee of such fire official.

Health officer means any elected or appointed health officer of the state, the county or the town.

Infestation means the presence of insects, rodents or other pests in numbers large enough to be harmful, threatening or obnoxious to human life.

Lease, leased and *let* mean, in each instance any of these words is used, the giving of the use of a building or structure, or portion thereof, by an owner or manager to a tenant in return for rent.

Manager means a person or entity who has charge, care or control of a rental dwelling.

Mechanical code means the Minnesota State Mechanical Code.

Nuisance means any of the following:

- (1) Any public nuisance as defined in section 10-20;
- (2) Any unsafe condition that is attractive to minors, including, but not limited to, unprotected well openings or excavations, abandoned refrigerators and structurally unsound fences;
- (3) Overcrowding of a rental dwelling unit with human occupants or personal property;
- (4) Insufficient ventilation or illumination of a rental dwelling unit;
- (5) Inadequate or unsanitary sewage or plumbing facilities serving a rental dwelling unit; or
- (6) Any unsafe condition, as determined by the code official or health officer.

Owner means a person or entity that owns or has any ownership interest in a rental dwelling within the town.

Plumbing code means the State of Minnesota Plumbing Code.

Premises means, collectively, a rental dwelling and the parcel of land on which it is located.

Refuse means all putrescible and non-putrescible waste solids including garbage and rubbish.

Rent means the consideration provided by a tenant (or on behalf of a tenant) for the temporary possession of a rental dwelling unit, whether paid in money, property or services.

Rental dwelling means a building or structure wholly or partially leased or intended to be leased to one or more tenants for residential living or sleeping purposes, but excluding rest homes, convalescent homes, nursing homes, hotels and motels.

Rental dwelling unit means a room or group of rooms within a rental dwelling that has bathroom, kitchen and sleeping facilities for one household of related or unrelated tenants.

Safe means being reasonably free from dangers and hazards that may cause human injury or illness.

Substandard dwelling unit means any rental dwelling unit that is not safe due to inadequate maintenance, dilapidation, physical damage, unsanitary condition, abandonment or any other reason.

Tenant means a human occupant of a rental dwelling unit, whether one or more.

Unsafe means not safe.

Variance means the difference between that which is required or specified and that which is permitted.

(Ord. No. 159, § 509.02, 5-23-2017)

Sec. 8-206. Responsibilities defined.

Owners are liable for violations of this article even though an obligation is also imposed on a manager or tenant and even if an owner has, by agreement, imposed on the manager or tenant the duty of complying with this article or any part hereof.

(Ord. No. 159, § 509.05, 5-23-2017)

Secs. 8-207—8-235. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 8-236. Enforcement.

- (a) *Authority.* The code official shall enforce or cause the enforcement of this article. The code official shall have the power to render interpretations of this article in conformity with the intent and purpose of this article.
- (b) *Compliance inspections.* When the code official or a health officer has reasonable cause to believe that a condition exists in regard to a rental dwelling or premises that violates this article, including, but not limited to, a tenant complaint made in good faith, the code official or health officer may enter the rental dwelling to inspect, reinspect, or otherwise perform the duties imposed by this article. No such entry shall be made, however, until:
 - (1) The owner, manager or tenant permits entry;
 - (2) The code official or health officer secures an administrative warrant from a court with jurisdiction; or
 - (3) An emergency immediately affecting the health or safety of tenants exists.
- (c) *Compliance order.* If the code official finds that any violation of this article has occurred, the code official shall prepare a compliance order listing all violations and the date or dates when such violations must be corrected. Notice shall be delivered in person or by mail to the permanent residential address listed on the

license application or, if no address is provided, to the address used by the county auditor for mailing tax statements. If a compliance order is issued, the owner shall correct all violations, or cause them to be corrected, within the time limit set forth by the code official. Any violation timely corrected in compliance with such an order shall be deemed remedied by the town and shall not form the basis for a rental housing license suspension or revocation. Extensions of time to correct may be granted by the code official. A request for extension of time shall be made and delivered to the code official prior to the expiration date of the applicable correction period. Extensions may be granted by the code official upon due evidence shown that the owner, manager or tenant, as applicable, is using all reasonable means to timely correct the violation.

- (d) *Notice to vacate.* The code official may post any rental dwelling as being in violation of this article and prevent further occupancy by a tenant if a rental dwelling is determined, in the opinion of the code official and as defined in this article, a substandard dwelling. At the time of posting, notice shall be sent to the owner. The notice shall be delivered in person or by mail to the permanent residential address listed on the license application if no address is provided to the address used by the county auditor for mailing tax statements. Existing tenants shall have 45 days to vacate a posted property if they are in occupancy at the time of posting, except that occupants shall immediately vacate a posted property if such occupancy will cause imminent danger to the health or safety of the tenants. No person other than the code official shall remove or tamper with any placard used for posting. No person shall reside in, occupy, or cause to be occupied any building, structure or rental dwelling which has been posted to prevent occupancy except as set forth herein.

(Ord. No. 159, § 509.06, 5-23-2017)

Secs. 8-237—8-265. Reserved.

DIVISION 3. APPEALS

Sec. 8-266. Appeal correction order or notice to vacate.

- (a) *Right to appeal.* Any person may appeal from any notice, order or any action of the code official under this article by filing a written appeal to the town which informs the town board in ordinary and concise language that specific order, notice or action of the code official is being protested and the reasons therefor, together with any material facts claimed to support the contentions of the appellant.
- (b) *Time allotted for appeal.* The appeal shall be filed within 14 days of the date of mailing of the notice or order being protested by the applicant or within the time of correction as allowed by the code official, whichever is shorter.
- (c) *Notice of hearing.* The town shall provide the appealing party with a notice of a hearing no less than 20 days in advance of the scheduled hearing, unless a shorter period of time is agreed upon. Service shall be deemed complete upon depositing the notice of hearing in the U.S. mail, properly addressed to the last known address of the person requesting the hearing. The notice shall be delivered in person to the appealing party or by mail to the permanent residential address listed on the license application or, if no address is provided, to the address used by the county auditor for mailing tax statements.
- (d) *Hearing procedures.* The hearing will be in front of the town board. At the hearing, the party appealing shall have the opportunity to present testimony and question any witnesses, but the strict rules of evidence shall not apply. The town board shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

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- (e) *Authority on appeal.* The town board has the authority to determine that a violation did or did not occur, to dismiss in whole or in part any order, notice or other action imposed by the code official either unconditionally or upon compliance with appropriate conditions.
 - (f) *Decisions on appeal.* The town board shall issue a notice of decision in writing to the appealing party within ten days of the hearing. The town board's notice of decision shall be delivered in person to the appealing person or by mail to the permanent residential address listed on the license application or, if no address is provided, to the address used by the county auditor for mailing tax statements. Any fines or penalties imposed must be paid no later than 30 days of the date of the notice of decision. Any corrective action must be timely completed as determined by the code official. The decision of the town board is final and may only be appealed to the state court of appeals by petitioning for a writ of certiorari pursuant to M.S.A. § 606.01.

(Ord. No. 159, § 509.07, 5-23-2017)

Secs. 8-267—8-295. Reserved.

DIVISION 4. CRIMINAL AND ADMINISTRATIVE REMEDIES

Sec. 8-296. Violations; administrative penalties.

A violation of any provision of this article is a misdemeanor. Each day the property is in violation is a separate violation. In the alternative, the town may impose administrative penalties upon the owner, per section 2-309. If, however, the owner has been given a specified correction period by the code official, the fine shall be waived if the violation is confirmed corrected by the code official before the expiration of such period.

(Ord. No. 159, § 509.08, 5-23-2017)

Secs. 8-297—8-325. Reserved.

DIVISION 5. LICENSE REQUIREMENTS

Sec. 8-326. License required.

No owner or manager shall allow the occupancy of a rental dwelling unit by a tenant prior to the issuance of a rental housing license by the town for the rental dwelling in which the rental dwelling unit is located. Further, no owner or manager shall allow the occupancy of a rental dwelling unit by a tenant after the expiration of the rental housing license for the rental dwelling in which the rental dwelling unit is located unless the license has been properly renewed.

(Ord. No. 159, § 509.03(subd. 1), 5-23-2017)

Sec. 8-327. Application.

Applications for rental housing licenses shall be made in writing on forms provided by the town. The owner or manager of a rental dwelling shall apply for a rental housing license at least 60 days before the planned occupancy of any rental dwelling unit by a tenant so as to allow time for inspection and, if necessary, correction of conditions that do not conform to the requirements of this article.

(Ord. No. 159, § 509.03(subd. 2), 5-23-2017)

Sec. 8-328. Inspection fee.

The rental housing inspection fee shall be established by the town board, from time to time, and set forth in section 2-249. Each applicant shall pay the inspection fee when an application for a license is made (either initial or renewal).

(Ord. No. 159, § 509.03(subd. 3), 5-23-2017)

Sec. 8-329. License fee.

The rental housing license fee shall be established by the town board, from time to time, and set forth in section 2-249. Each applicant shall pay the license fee when an application for a license is made (either initial or renewal). The license fee for an initial license issued on or after July 1 of any calendar year shall be reduced by 20 percent.

(Ord. No. 159, § 509.03(subd. 4), 5-23-2017)

Sec. 8-330. Inspection.

Before a rental housing license is issued or renewed for a rental dwelling, the code official or fire official shall inspect the rental dwelling to determine if the rental dwelling and the rental dwelling units in the rental dwelling comply with the minimum requirements set forth in this article. The code official or fire official has no duty to inspect any rental dwelling until a complete application has been submitted to the town and the rental housing inspection and license fee has been paid in full.

(Ord. No. 159, § 509.03(subd. 5), 5-23-2017)

Sec. 8-331. Issuance.

No license shall be issued until all the requirements of this article have been fully met. The town shall issue a rental housing license for each rental dwelling that meets or exceeds the minimum requirements set forth by this article or when a variance has been granted by the town board for good cause shown. Each license shall show the number of rental dwelling units for which the rental dwelling is approved.

(Ord. No. 159, § 509.03(subd. 6), 5-23-2017)

Sec. 8-332. Effective period of license.

An initial license shall remain effective until December 31 of the calendar year following the year in which the license was issued, unless sooner revoked or suspended pursuant to the terms of this article. Thereafter, each renewal license shall remain effective for two years, unless sooner revoked or suspended pursuant to the terms of this article. The renewal term shall start on January 1 of the next calendar year.

(Ord. No. 159, § 509.03(subd. 7), 5-23-2017)

Sec. 8-333. Renewals.

Applications for rental housing license renewals shall be submitted at least 60 days prior to the expiration date of the license. The procedure and fee for renewing a license shall be the same as that required for an initial license.

(Ord. No. 159, § 509.03(subd. 8), 5-23-2017)

Sec. 8-334. Suspension and revocation.

A rental housing license may be suspended or revoked as follows:

- (1) *General notification.* A rental housing license may be suspended or revoked by the town board if the town board finds that the provisions of this article have been violated in regard to the rental dwelling for which the license was issued. Before any suspension or revocation occurs, the town shall notify the license holder in writing of the alleged violation and the license holder's right to a hearing regarding the proposed suspension as set forth in subsection (2) of this section. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or the address used by the county auditor for mailing tax statements. This notice shall also specify the date for a hearing before the town board, which shall not be less than ten days from the date of the notice.
- (2) *Hearing.* At such hearing before the town board, the license holder or the license holder's attorney may submit and present evidence and witnesses on the license holder's behalf.
- (3) *Notice of decision.* After a hearing, the town board may suspend or revoke the license if the board finds that a violation of this article has occurred. Within ten days of the hearing the town clerk shall notify the license holder in writing of the town board's decision and the reasons therefor.

(Ord. No. 159, § 509.03(subd. 9), 5-23-2017)

Secs. 8-335—8-356. Reserved.***DIVISION 6. REGULATIONS AND REQUIREMENTS*****Sec. 8-357. Substandard dwellings.**

No substandard dwellings are allowed.

(Ord. No. 159, § 509.04(subd. 1), 5-23-2017)

Sec. 8-358. Condition.

No owner or manager shall allow infestation if extermination is not the tenant's responsibility by law.

(Ord. No. 159, § 509.04(subd. 2), 5-23-2017)

Sec. 8-359. Improper occupancy.

No rental dwelling shall be used in manner inconsistent with its design or construction as defined in state building code sections 310.1 through 310.6, state fire code sections 907.2.8 through 907.2.10.3, Minn. R. chs. 7080 through 7083, and M.S.A. § 115.55.

(Ord. No. 159, § 509.04(subd. 3), 5-23-2017)

Sec. 8-360. Smoke detectors.

Each rental dwelling shall have approved and operational smoke detectors installed as required by state fire code sections 907.2.11.1 through 907.2.11.4. No smoke detector installed in a rental dwelling shall be allowed to remain disabled or nonfunctional. The tenant of a rental dwelling shall notify the owner or manager within 24 hours of discovering that a detector is disabled or not functioning. The owner or manager shall take immediate action to render the smoke detector operational or replace it.

(Ord. No. 159, § 509.04(subd. 4), 5-23-2017)

Sec. 8-361. Carbon monoxide alarms.

Each rental dwelling shall have an approved and operational carbon monoxide alarm installed with ten feet of each room used for sleeping purposes as required by M.S.A. §§ 299F.50 and 299F.51, as amended, unless an exception listed in M.S.A. § 299F.51, subd. 5, applies. No carbon monoxide alarm installed in a rental dwelling shall be allowed to remain disabled or nonfunctional. The tenant of a rental dwelling shall notify the owner or manager within 24 hours of discovering that a carbon monoxide alarm is disabled or not functioning. The owner or manager shall take immediate action to render the carbon monoxide alarm operational or replace it.

(Ord. No. 159, § 509.04(subd. 5), 5-23-2017)

Sec. 8-362. Refuse.

Each rental dwelling shall have an adequate number of refuse containers to hold the amount of refuse produced by the occupants of the rental dwelling or as required elsewhere by this Code. Containers shall be rodent- and animal-proof plastic, fiberglass or rust-resistant metal with a tight-fitting cover. Tenants shall properly dispose of their recyclables, rubbish, garbage and other organic waste.

(Ord. No. 159, § 509.04(subd. 6), 5-23-2017)

Sec. 8-363. Unused or discarded items.

Discarded, unused and junk appliances, furniture, mattresses and other items shall be promptly removed from the premises, but in all cases such removal shall occur within seven days.

(Ord. No. 159, § 509.04(subd. 7), 5-23-2017)

Sec. 8-364. Storage of items.

Large amounts of combustible items and materials shall not be stored in attics or basements of a rental dwelling. Storage shall be maintained two feet or more below ceilings and floor joists. Combustible materials and

items shall not be stored within one foot of any fuel-burning appliances. Storage of items shall be orderly and shall not block or obstruct exits. A minimum three-foot-wide aisle shall be maintained to all exits, furnaces, water heaters, water meters, gas meters or other equipment serving the rental dwelling.

(Ord. No. 159, § 509.04(subd. 8), 5-23-2017)

Sec. 8-365. Fuel storage.

Liquid propane tanks shall only be stored outdoors.

(Ord. No. 159, § 509.04(subd. 9), 5-23-2017)

Sec. 8-366. Fueled equipment.

Fueled equipment, including, but not limited to, motorcycles, mopeds, lawn-care equipment and portable cooking equipment, shall only be stored outdoors or in the garage of a rental dwelling.

(Ord. No. 159, § 509.04(subd. 10), 5-23-2017)

Sec. 8-367. Barbecues and open flames.

No person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, on any roof, or on any ground-floor patio within 15 feet of any structure. Further, no person shall store or use any fuel, barbecue, torch, or similar heating or lighting chemicals or device in such locations.

(Ord. No. 159, § 509.04(subd. 11), 5-23-2017)

Sec. 8-368. Sidewalks and driveways.

All sidewalks, walkways, stairs, driveways, parking spaces and similar areas on a premises shall be kept in a proper state of repair and maintained free from hazardous conditions.

(Ord. No. 159, § 509.04(subd. 12), 5-23-2017)

Sec. 8-369. Parking.

All rental dwelling unit properties must have sufficient on-site parking for tenants and their guests and have sufficient off-street parking to meet the requirements of chapter 30, article VI.

(Ord. No. 159, § 509.04(subd. 13), 5-23-2017)

Sec. 8-370. Defacement of property.

If a rental dwelling is defaced by graffiti, it shall promptly be removed.

(Ord. No. 159, § 509.04(subd. 14), 5-23-2017)

Secs. 8-371—8-399. Reserved.

ARTICLE VI. ADULT USE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 8-400. Purposes.

In the development and adoption of this article, it is recognized that:

- (1) There are some adult use establishments which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods.
- (2) These establishments have deleterious impact upon property values.
- (3) These establishments frequently become places of criminality.

(Ord. No. 148, § 1(810.01(A)), 2-25-2014)

Sec. 8-401. Intent.

- (a) It is the intent of this article to protect the well-being of the youth of the community from objectionable operational characteristics of these uses by regulating and restricting their close proximity to established facilities such as, but not limited to, churches, parks, schools, and residential areas.
- (b) In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this article to inhibit the freedom of speech or the press. The provisions herein have neither the purposes nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials.
- (c) Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This article represents a balancing of the legitimate ends of the town by imposing an incidental, content-neutral place, time and manner of regulation of sexually oriented entertainment to sexually oriented establishments without limiting alternative avenues of communication, and at the same time, requiring the establishments to carry their financial share of the law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this article.

(Ord. No. 148, § 1(810.01(B)—(D)), 2-25-2014)

Sec. 8-402. Definitions.

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

Adult body painting studio means an establishment which provides the service of applying paint, ink or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude or the application of paint or other substance by a patron to the body of another person.

Adult bookstore means an establishment distinguished or characterized the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film which are distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.

Adult cabaret means a building or portion of a building which provides exotic dancing, striptease or other live entertainment, if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.

Adult companionship/conversation/rap establishment means a companionship, conversation, rap establishment which provides the service of engaging in or listening to conversation, talk or discussion between and adult entertainment employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult entertainment employee means any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an adult entertainment employee, independent contractor, agent, or otherwise. The term "adult entertainment employee" does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Adult entertainment facility means a building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are being sold or intended for consumption, and in which may be regularly observed live presentation of entertainment distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult hotel or motel means a hotel or motel that excludes minors by reason of age and that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult massage parlor, health/sport club means a health club, sport club or massage parlor that provides services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult mini motion picture theater means a building or portion of a building with a capacity for less than 50 persons used for presenting still or motion pictures if such pictures are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

Adult modeling studio means an establishment whose business is the provision to customers of figure models who are provided with the intent of giving sexual stimulation or sexual gratification to customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult motion picture arcade means a building or portion of a building wherein coin- or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors, computers or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult motion picture theater means a building or portion of a building with a capacity for 50 or more persons used for presenting still or motion pictures if such pictures are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult novelty business means a building or portion of a building used for the barter, rental or sale of toys, instruments, devices, clothing or paraphernalia designed or used in connection with the stimulation of human genitals or the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas.

Adult sauna/steam room/bathhouse means a business which provides a steam bath or heat bathing room used for bathing, relaxation or reducing which utilizes steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult use, accessory, means the offering of merchandise, whether for sale, rental or loan, characterized by an emphasis on specified sexual activities or specified anatomical areas on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. A business shall be classified as an accessory adult use if the merchandise for sale or rental occupies no more than ten percent of the floor area of the establishment in which it is located or 100 square feet, whichever is less, or comprises no more than 20 percent of the gross receipts of the entire business operation.

Adult use, principal, means the offering of merchandise, services and/or entertainment (live or via various forms of visual, auditory or other sensory media) characterized by an emphasis on specified sexual activities or specified anatomical areas as a primary or sole activity of a business or establishment or where the business advertises, otherwise distinguishes or characterizes itself with an emphasis on the offering of such merchandise, services and/or entertainment. Any adult use establishment which does not meet the definition of an accessory adult use shall be considered a principal adult use.

Adult use establishment includes, but is not limited to, the following list of activities or businesses: adult body painting studios, adult book stores, adult cabarets, adult entertainment facilities, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcades, adult modeling studios and other premises, enterprises, establishments, businesses or places open to some of all members of the public and membership clubs at or in which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or of specified anatomical areas. The term "adult use establishment" does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry by state-licensed registered persons. Activities classified as obscene as defined by M.S.A. § 617.241 are not lawful and are not included in the definitions of adult uses.

Distinguished or characterized by an emphasis upon means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films which are distinguished or characterized by an emphasis upon the exhibition or description of specified anatomical areas or specified sexual activities, the films so described are those whose dominant or principal character and theme are the exhibition or description of specified anatomical areas or specific sexual activities.

Nude or nudity or state of nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than fully opaque covering of any part of the areola.

Semi-nude means a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

Specified anatomical areas means anatomical areas consisting of:

- (1) Less than completely and opaquely covered human genitals, pubic region or pubic hair, buttocks, anus, or female breast or breast below the point immediately above the top of the areola or any combination of the foregoing; and
- (2) Exposed or opaquely covered human male genitals in a discernibly turgid state.

Specified sexual activities means activities consisting of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female

breast, flagellation or torture in a sexual relationship, or any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zoerasty;

- (2) Presentation, display, depiction, or description of human genitals in the state of sexual stimulation, arousal or tumescence;
- (3) Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breast;
- (5) Situations involving persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person;
- (6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being;
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation; or
- (8) Any combination of the above.

(Ord. No. 148, § 1(810.03), 2-25-2014)

Sec. 8-403. Penalty.

Any person violating any provision of this article shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day the violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty. The town may also enforce any provision of this article by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

(Ord. No. 148, § 1(810.09), 2-25-2014)

Secs. 8-404—8-434. Reserved.

DIVISION 2. ADMINISTRATION

Subdivision I. In General

Secs. 8-435—8-451. Reserved.

Subdivision II. License

Sec. 8-452. Required.

No person, firm or corporation shall operate or allow the operation of an adult use establishment on property under the person's ownership or control without a validly issued license as required by this subdivision. The license shall be one of two types:

- (1) Principal adult use.

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- (2) Accessory adult use.

(Ord. No. 148, § 1(810.04(A)), 2-25-2014)

Sec. 8-453. Application.

- (a) The applicant for an adult use license shall complete an application on a form provided by the town. This application shall include:
 - (1) The parcel number and legal description of the property where the adult use establishment is proposed.
 - (2) A detailed floor plan, drawn to scale, showing the type of activities which will be conducted in each area of the adult use establishment, including a statement of the total floor space occupied by the business.
 - (3) The proposed hours of operation.
 - (4) A sewage treatment system design that meets the requirements of the town, the county, and the state.
 - (5) A statement of the type of adult use license (principal or accessory) being applied for.
 - (6) Sufficient evidence that all setback requirements in this article will be met. When deemed necessary, a survey of the property and proposed uses prepared by a qualified surveyor may be required.
 - (7) Whether the applicant is a natural person, corporation, partnership, or other form of organization.
 - (8) The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by M.S.A. § 333.01 shall be submitted.
 - (9) Whether the applicant has had a previous adult use establishment license suspended or revoked.
- (b) If the applicant is a natural person, the application shall include:
 - (1) The name, place, and date of birth, street, city and mailing address, and phone number of the applicant.
 - (2) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name used and information concerning dates and places where used.
 - (3) The street and city addresses at which the applicant has lived during the preceding two years.
 - (4) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two years and name and address of the applicant's employer and partner, if any, for the preceding two years.
 - (5) Whether the applicant has ever been convicted of a gross misdemeanor or felony relating to sex offenses, obscenity offenses, or adult use establishments.
- (c) If the applicant is a partnership, the application shall include:
 - (1) The name and address of the partnership, the name and address of all partners and all of the information concerning each partner that is required of applicants in subsection (b) of this section.
 - (2) Whether the partnership is general or limited.

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- (3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S.A. § 333.01, a certified copy of the certificate shall be attached to the application.
 - (d) If the applicant is a corporation or other organization, the application shall include:
 - (1) The name of the corporation or business form, and if incorporated, the date and state of incorporation.
 - (2) A true copy of the certificate of incorporation, articles of incorporation or association agreement and bylaws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S.A. § 303.06, shall be attached. If the entity is a limited liability company, then true and accurate copies of the articles of organization and any membership agreements shall be attached to the application.
 - (3) The name of the manager, proprietor, or other agent in charge of the business and all of the information concerning each manager, proprietor or agent that is required of the applicants in subsection (b) of this section.
 - (4) Accurate and complete business records showing the names, addresses, and dates of birth of all officers, directors and controlling stockholders for the business.
 - (5) The name of the registered corporate agent and the address of the registered office for service of process.

(Ord. No. 148, § 1(810.04(B)—(E)), 2-25-2014)

Sec. 8-454. Ineligible persons.

Under this article, the town shall not grant a license to, nor may one be held by, any person, or their spouse, who:

- (1) Is under 21 years of age.
- (2) Is overdue in his payment to the town, county, or state of taxes, fees, fines, or penalties assessed against him or imposed upon him.
- (3) Has not paid the license and investigative fees required by this article.
- (4) Is not a citizen of the United States or a lawful resident alien.
- (5) Has been convicted of a felony or of violating any state law within the last five years.
- (6) Has had an adult use or similar license or permit revoked under a chapter or statute similar to this article.
- (7) Has owned or been employed in an adult entertainment use in a managerial capacity and have demonstrated that he is unable to operate or manage an adult entertainment use premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(Ord. No. 148, § 1(810.05(A)), 2-25-2014)

Sec. 8-455. Issuance.

- (a) The town shall investigate all facts set out in the application. Each owner of the establishment, be it individual, or in the case of business entity owner, any owner of five percent or more of the business entity, shall be subjected to a criminal history background check by the county sheriff or his designee. Costs of the

criminal history investigations shall be borne by the applicant according to a fee schedule established by the sheriff.

- (b) The application for the adult use establishment license shall not be considered complete until all required information has been furnished, the investigation has been completed by the sheriff, and a report provided to the town clerk by the applicant.
- (c) The town board shall hold a public hearing with notification equivalent to that required for a conditional use permit within 30 days after receiving a complete application. At the hearing opportunity shall be given to any person to be heard relating to the granting of the license. The town board shall grant or deny said adult use establishment license within 30 days of the conclusion of the hearing.
- (d) The town will issue a license to an applicant unless one or more of the following conditions exist:
 - (1) The applicant has not met the eligibility requirements as noted in this article;
 - (2) The applicant failed to supply all of the information required on the license application;
 - (3) The applicant gives false, fraudulent, or untruthful information on the license application;
 - (4) The adult use establishment is not in full compliance with the town Code and all provisions of county, state and federal law;
 - (5) The applicant has not paid the required license fee;
 - (6) The applicant has been denied a license by the town or any other state municipal corporation to operate an adult use establishment, or such license has been suspended or revoked, within the preceding 12 months;
 - (7) The applicant is not the proprietor of the establishment for which the license is issued; or
 - (8) The adult use establishment owner or operator holds an intoxicating liquor, beer or wine license applicable to the premises.

(Ord. No. 148, § 1(810.05(B1)), 2-25-2014)

Sec. 8-456. Expiration and renewal.

- (a) An adult use establishment license expires on December 31 of each calendar year.
- (b) A licensee may renew a license by completing an application as required for a new license. The applicant will be allowed to continue business until the town has determined whether the applicant meets the criteria for renewal of the license. If the town denies the renewal, the applicant shall not be issued a license for one year from the date of denial.

(Ord. No. 148, § 1(810.05(B2)), 2-25-2014)

Sec. 8-457. Suspension.

- (a) The town may suspend a license beginning on January 1 if the licensee fails to make application for renewal of the license. The suspension shall remain in effect until such time as the applicant has made application and the license has been approved by the town, or until the license has been revoked in accordance with this article;
- (b) The town may suspend a license for a period not to exceed 30 days if it determines that the licensee or an employee of a licensee has:

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- (1) Violated or is not in compliance with any provision of this article;
 - (2) Allowed or engaged in the sale or use of alcoholic beverages while on the adult use establishment premises other than at an adult hotel or motel;
 - (3) Refused to allow an inspection of the adult use establishment as authorized by this article; or
 - (4) Knowingly permitted unlawful gambling by any person on the adult use establishment premises.
- (c) A suspension by the town shall be preceded by written notice to the licensee and, except in the case of failure to make application for renewal, a public hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the alleged violations of the licensee or his employee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

(Ord. No. 148, § 1(810.05(C)), 2-25-2014)

Sec. 8-458. Revocation.

- (a) The town may revoke a license if:
- (1) A licensee fails to make application for renewal of the license by February 28 of the year after the previous license has expired;
 - (2) A cause of suspension occurs and the license has been suspended at least once before within the preceding 12 months;
 - (3) It determines that:
 - a. A licensee gave false or misleading information in the material submitted to the town during the application process;
 - b. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - c. A licensee or an employee has knowingly allowed prostitution on the premises;
 - d. A licensee or an employee knowingly operated the adult use establishment during a period of time when the licensee's license was suspended;
 - e. A licensee or the spouse of a licensee has been convicted of an offense listed in section 8-454, for which the time period required by that same section has not elapsed; or
 - f. Except in the case of an adult hotel or motel, a licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
- (b) The fact that a conviction for an offense listed in section 8-454 is being appealed shall have no effect on the revocation of the license.
- (c) When the town revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult use establishment license for one year from the date revocation became effective. If, subsequent to revocation, the town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license is revoked due to a criminal conviction under section 8-454, an applicant may not be granted another license until the appropriate number of years required under section 8-454 has elapsed.

(Ord. No. 148, § 1(810.05(D)), 2-25-2014)

Sec. 8-459. Appeal of denial, suspension, and revocation.

Non-renewals, suspensions and revocations of an adult use establishment license are governed by the following:

- (1) In the event that the town proposes to not renew, to suspend or to revoke a license, the town will notify the licensee in writing of the basis for the action. The town will hold a hearing for the purpose of determining whether to not renew, to suspend, or to revoke the license, except in the case of failure to apply for renewal of the license by February 28 following the date the license expires. The hearing must be within 30 days of the date of the notice. The town board must determine whether to not renew, to suspend or to revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The town must notify the licensee of its decision within that period.
- (2) If the town determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the town's action, the suspension or revocation is stayed until the conclusion of such action.
- (3) If the town board determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal, if the licensee files and serves an action in state or federal court within the 15 days for the purpose of determining whether the town acted properly, the licensee may continue in business until the conclusion of the action.
- (4) After denial of an application or a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

(Ord. No. 148, § 1(810.05(E)), 2-25-2014)

Sec. 8-460. Inspection.

- (a) An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspector official to inspect the premises of an adult use establishment for the purpose of ensuring compliance with the law at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.
- (b) Refusal to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, or building inspector official at any time it is occupied or open for business is a violation of this article. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license.
- (c) The provisions of this section do not apply to areas of an adult hotel or motel that are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.

(Ord. No. 148, § 1(810.05(F)), 2-25-2014)

Sec. 8-461. Transfer of license.

A licensee shall not transfer his license to another, nor shall a licensee operate an adult use establishment under the authority of a license at any place other than the address designated in the application.

(Ord. No. 148, § 1(810.05(G)), 2-25-2014)

Sec. 8-462. Changes in design or use.

- (a) If an applicant makes any changes in the proposed design or use of the property, or any other changes to the information submitted in the application, before a license is issued, the applicant shall submit the proposed changes in writing to the town.
- (b) If an adult use license holder proposes changes in the design, construction, or use of an already permitted adult use, the license holder must submit to the town a detailed description of the proposed change in writing and no change can be made unless and until the town issues a written opinion that the change complies with all requirements of this article.

(Ord. No. 148, § 1(810.05(H)), 2-25-2014)

Sec. 8-463. Granting of license.

- (a) The town shall issue a license only to the owner of the real property or to an applicant who has express written permission from the owner to use the land for an adult use.
- (b) An adult use license shall be valid only for the specific building and type of use described in the application.
- (c) Adult uses are subject to the location restrictions, performance standards and conditions listed in this article.
- (d) The license, if granted, must state on its face the name of the person or entity to whom is granted, the expiration date, and the address of the adult use establishment. The license must be posted in a conspicuous place at or near the entrance to the adult use establishment.
- (e) The licensee must keep itemized written records of all transactions involving the sale, rental or loan of any items or merchandise for at least 12 months after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the town or to law enforcement upon request.

(Ord. No. 148, § 1(810.05(I)), 2-25-2014)

Sec. 8-464. Responsibility to obtain other permits or licenses.

The granting of any license pursuant to requirements of this article, or other applicable town ordinances, shall not relieve applicants of their responsibility to obtain any required county, state or federal permits and/or licenses.

(Ord. No. 148, § 1(810.05(J)), 2-25-2014)

Sec. 8-465. License fees.

- (a) Each application for an adult use license shall be accompanied by the required fee. All fees shall be paid at time of application.
- (b) The annual license fee for an adult use establishment shall be established by the town board and set forth in section 2-249. Each applicant shall pay the license fee at the time of issuance of the license. The license fee for an initial license issued on or after July 1 of any calendar year shall be reduced by 20 percent. The fee is non-refundable.

(Ord. No. 148, § 1(810.06), 2-25-2014)

Secs. 8-466—8-483. Reserved.

DIVISION 3. STANDARDS AND RESTRICTIONS

Sec. 8-484. Conditions with license issuance.

The town may issue an adult use license to businesses, subject to the conditions in this division.

(Ord. No. 148, § 1(810.07(intro. ¶)), 2-25-2014)

Sec. 8-485. General prohibitions.

- (a) Activities classified as obscene as defined by M.S.A. § 617.241, or successor statutes, are not permitted and are prohibited.
- (b) No principal adult use shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any applicable ordinance of the town, the county, the laws of the state or the United States of America. Nothing in this article shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale or distribution of obscene materials generally, or the exhibition, sale, or distribution of specified materials to minors.
- (c) No principal adult use shall be conducted in any manner that permits the perception or observation, from any property not containing a licensed adult use establishment, of any materials depicting, describing, or relating to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.
- (d) A building owner or operator may not have more than one adult use present in the same building or structure.

(Ord. No. 148, § 1(810.07(A)), 2-25-2014)

Sec. 8-486. Location restrictions.

- (a) All adult use establishment, principal or accessory, location restrictions are as follows:
 - (1) Adult use establishments may only be located in the General Business (B) District.

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- (2) Adult uses shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are permitted or where such activity would reasonably be visible by minors.
- (b) Principal adult use location restrictions are as follows:
- (1) A principal adult use shall be set back a minimum of 1,320 feet from the following land uses:
- a. Any other principal adult use or accessory adult use;
 - b. A church;
 - c. A school;
 - d. A public library;
 - e. A public park;
 - f. A pool hall, video arcade or other entertainment facility open to minors;
 - g. A hotel or motel;
 - h. A licensed day care/child care home or center;
 - i. A licensed group family day care home or center; or
 - j. Any building that contains a business that sells or dispenses non-intoxicating or intoxicating liquors or holds a consumption and display permit.
- (2) A principal adult use shall be set back a minimum of 100 feet from a residential single-family or multifamily dwelling.
- (3) A principal adult use shall be set back a minimum of 50 feet from any property zoned for residential use.
- (4) An accessory adult use shall meet the same setback as is required for structures within the applicable zoning district.
- (c) If such setbacks effectively eliminate all areas within the town to locate an adult use establishment, the town shall reduce the required setback only so much as is necessary to reasonably allow for the use and may require fencing, screening or other conditions of the approval as deemed necessary to protect the public health, safety and welfare. In no case shall the setback be reduced to less than what is required for a structure in the relevant zoning district, without application for, and approval of, a variance.
- (d) If under such an analysis the adult use establishment would be within 50 percent of the setback distance normally required, and another location exists which would meet or be greater than 50 percent of the required setback, the town may prohibit an adult use establishment within 50 percent of the required setback.
- (e) Measurements shall be made in a straight line, without regard to town, city or county boundaries, intervening structures or objects, from the nearest point of the building or structure used as a part of the premises where an principal adult use or accessory adult use is conducted, to the nearest property line of the premises of the uses listed.

(Ord. No. 148, § 1(810.07(B)), 2-25-2014)

Sec. 8-487. Alcoholic beverages.

- (a) A principal adult use shall not sell or dispense non-intoxicating or intoxicating liquors or hold a consumption and display permit, as those terms are defined in M.S.A. ch. 340A, nor shall an adult use be located in a

building that contains a business that sells or dispenses non-intoxicating or intoxicating liquors or holds a consumption and display permit.

- (b) A principal adult use shall not allow the consumption of non-intoxicating or intoxicating liquors anywhere on a parcel containing that use or business.

(Ord. No. 148, § 1(810.07(C)), 2-25-2014)

Sec. 8-488. Protection of minors.

- (a) A principal adult use shall prominently display at all public entrances, between four and six feet above the bottom of the door and located within two feet of the door opening device of the establishment or section of the establishment devoted to adult uses a sign which states: "This business provides goods and/or services containing adult themes. Persons under 18 years of age shall not enter." The sign shall be in clear legible letters, each letter being at least one inch high.

- (b) An accessory adult use shall be restricted from, and prohibit access to, minors by the physical separation of such areas from areas of general public access:

- (1) Display areas shall be physically and visually separated from general view by an opaque wall of durable material, reaching at least eight feet high or to the ceiling, whichever is less. This room must have access controlled by electronic or other means to assure that minors do not enter and/or provide continuous video or window surveillance of the room by store personnel. A sign shall be placed at the entrance to the separate room between four and six feet above the bottom of the entrance way stating that persons under 18 years of age are not allowed inside.
- (2) Publications characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas shall not be accessible to minors and shall be physically separated from areas of general public access and/or covered with an opaque wrapper or other means to prevent display of any material other than the publication title. Magazines or publications classified as adult uses shall not be physically accessible to minors either by placing them at least six feet above the floor surface or by physical separation into a separate room not accessible by minors.
- (3) Accessory adult uses shall be prohibited from both internal and external advertising of adult materials and products anywhere on the premises of the adult use establishment that would be visible to minors.

(Ord. No. 148, § 1(810.07(D)), 2-25-2014)

Sec. 8-489. Building and property standards.

- (a) *Lighting.* All parking lots and exterior business premises shall be lit in such a way so that they are visible to law enforcement without the aid of flashlights and/or spotlights.
- (b) *Entrances.* All entrances to a principal adult use, with the exception of emergency fire exits that are not useable by patrons to enter the business, shall be visible from a public right-of-way.

(Ord. No. 148, § 1(810.07(E)), 2-25-2014)

Sec. 8-490. Hours of operation.

Principal adult uses shall not be open at any time on Sunday nor between the hours of 12:00 midnight and 4:00 p.m. on Monday through Saturday.

(Ord. No. 148, § 1(810.07(F)), 2-25-2014)

Sec. 8-491. Adult cabarets.

The following additional conditions apply to adult cabarets:

- (1) No dancer, live entertainer, performer or patron shall be under 18 years of age.
- (2) All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.
- (3) No dancer, live entertainer or performer shall perform or dance closer than ten feet from any patron unless such dancer or performer is enclosed behind a floor-to-ceiling glass or other partition.
- (4) No dancer or performer shall fondle, caress, or touch any patron and no patron shall fondle, caress, or touch any dancer or performer.
- (5) An adult cabaret shall maintain and retain for a period of two years the names, addresses, and ages of all persons engaged, hired, or employed as dancers or performers by a licensee.

(Ord. No. 148, § 1(810.07(G)), 2-25-2014)

Sec. 8-492. Viewing booths.

The following additional regulations apply to viewing booths:

- (1) Individual motion picture viewing booths must be without doors and the occupant must be visible at all times.
- (2) Only one person may be in a viewing booth at a time.
- (3) Walls separating booths must be such that the occupants cannot engage in sexual activity.
- (4) Each booth must be kept clean and sanitary.
- (5) The booths shall be adequately lit such that the occupant is visible at all times.

(Ord. No. 148, § 1(810.07(H)), 2-25-2014)

Sec. 8-493. Nudity prohibited.

No person may be nude on the premises of any adult use establishment.

(Ord. No. 148, § 1(810.07(I)), 2-25-2014)

Secs. 8-494—8-524. Reserved.

DIVISION 4. SIGNS

Sec. 8-525. Restrictions.

Signs identifying or advertising adult use establishments must comply with the restrictions in this division.

(Ord. No. 148, § 1(810.08(intro. ¶)), 2-25-2014)

Sec. 8-526. Size, number, etc., limitations.

Signs shall be limited to the size, number of signs and other performance standards that are permitted in the district in which the use is located.

(Ord. No. 148, § 1(810.08(A)), 2-25-2014)

Sec. 8-527. Photos and other visual representations.

No photos, pictures, digital representations or visual depictions of any person, product, device or service relating to specified sexual activities or specified anatomical areas shall be displayed on any sign.

(Ord. No. 148, § 1(810.08(B)), 2-25-2014)

Sec. 8-528. Representation of merchandise, activities, etc.

No merchandise, photos, illustrations, representations or pictures of the sexually oriented products, activities or entertainment offered on the premises of the adult use may be displayed in an area where such items can be viewed from a sidewalk, public right-of-way, or any building or structure adjoining or adjacent to the adult use establishment.

(Ord. No. 148, § 1(810.08(C)), 2-25-2014)

Chapter 10 ENVIRONMENT

ARTICLE I. IN GENERAL

Secs. 10-1—10-19. Reserved.

ARTICLE II. NUISANCES¹⁵

DIVISION 1. GENERALLY

Sec. 10-20. Public nuisance defined.

Public nuisance is a thing, act or use of property which shall:

- (1) Maintain or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable numbers of the public;
- (2) Interfere with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

¹⁵State law reference(s)—Public nuisances, M.S.A. § 609.74.

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- (3) Be any other act or omission declared by law or this article to be a public nuisance.

Sec. 10-21. Enforcement.

The town board shall have the duty of enforcing the provisions of this article. In addition, the county sheriff's department and any other law enforcement agency with which the town board has contracted for law enforcement services shall have the authority to enforce the provisions of this article. The town board may, by resolution, delegate to other officers or agencies power to enforce particular provisions of this article, including the power to inspect private premises, and the officers charged with enforcement of this article shall take all reasonable precautions to prevent the commission and maintenance of public nuisances.

Sec. 10-22. Penalty.

A violation of this article is a misdemeanor and subject to the penalties and provisions of section 2-309 and this section. Each day a nuisance continues to exist is deemed a separate punishable offense under this article. The town may, in its discretion, seek any civil remedies available to it as well, including, but not limited to, injunctive relief or abatement. Each right or remedy accruing to the town under this article or at law is separate and distinct and may, in the town's discretion, be exercised independently or simultaneously with any other right or remedy.

Secs. 10-23—10-47. Reserved.

DIVISION 2. PUBLIC NUISANCES

Sec. 10-48. Public nuisances affecting health.

The following are hereby declared to be public nuisances affecting health, safety, comfort or repose:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed within 24 hours after death;
- (5) Accumulations of manure, refuse, garbage, rubbish or other debris;
- (6) The discharge, disposal, accumulation, or collection of sewage or industrial waste without proper permit or approval;
- (7) Privy units, garbage cans or other refuse containers which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors and which waste is not removed at least once a week;
- (8) The pollution of any public well or cistern, stream or lake, canal or other body of water by sewage, industrial waste, or any other substances;
- (9) All noxious weeds, as defined in Minn. R. 1505.0730, and other rank growths of vegetation, upon public or private property;
- (10) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- (11) All public exposure of persons having a contagious disease;

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- (12) Any offensive trade or business as defined by either ordinance or state statute which is not operating under local license, or such trade or business whose operation constitutes a clear and present danger to the health of the public in general;
 - (13) Depositing garbage, rubbish, litter or refuse on any public property, including streets, sidewalks, and parks, except in public receptacles and in such a manner that the garbage, rubbish or litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place; and
 - (14) Dumping the contents of any cesspool, privy unit or garbage can except at places authorized by law or allowing any cesspool or individual sewage disposal system to overflow in any manner.

Sec. 10-49. Public nuisances affecting morals and decency.

The following are hereby declared to be nuisances affecting public morals and decency:

- (1) Any gambling device not authorized by state law and not properly permitted by the appropriate jurisdiction, including, but not limited to, slot machines and punch boards;
- (2) Betting, or bookmaking, not allowed by state law, and all apparatus used in such operations;
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (4) All places where intoxicating liquor or illegal drugs are manufactured, dispensed or disposed of in violation of law or where, in violation of law, persons are permitted for the purpose of drinking intoxicating liquor or ingesting or otherwise using illegal drugs, or where intoxicating liquor or illegal drugs are kept for sale or other disposition in violation of law, and all liquor, illegal drugs, and other property used for maintaining such places; and
- (5) Any vehicle used for the illegal transportation of intoxicating liquor and/or illegal drugs, or for prostitution and/or other immoral or illegal purpose.

Sec. 10-50. Public nuisances affecting peace and safety.

The following are declared to be nuisances affecting public peace and safety:

- (1) Depositing, or causing to be deposited, any snow or ice on any sidewalk or roadway;
- (2) All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
- (3) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- (4) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by ordinance or other applicable law;
- (5) Placing or storing on any street, sidewalk, alley or public right-of-way any boxes, goods, wares, merchandise, building materials, machinery, business or trade article except for the purpose of immediately transferring the same to some other proper place;
- (6) Any tree, shrub, bush, or other vegetation located on private property which obstructs use or travel on any public right-of-way;
- (7) Radio aerials or television antennas erected or maintained in a dangerous manner;

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- (8) Any use of property abutting a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk and which activity is conducted without a permit, license or other permission duly granted by the town;
 - (9) All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
 - (10) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
 - (11) Any electric or barbed wire fencing strung lower than six feet in height and within three feet of a public sidewalk or way, except when used in conjunction with agricultural uses in an area zoned for such use;
 - (12) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
 - (13) Wastewater cast upon or permitted to flow upon streets or other public property;
 - (14) Accumulations in the open of broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials (but excluding building materials awaiting use and stored for a reasonable period of time for an improvement presently in progress on the same premises), discarded or unused machinery, household appliances, automobile bodies, trash, debris, rubbish or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or items accumulated in a manner creating fire, health, or safety hazards;
 - (15) Any well, hole, or similar excavation which is left open or uncovered or in such other condition as to constitute a danger to any child or other person coming on the premises where it is located;
 - (16) Obstruction of the free flow of water in a natural waterway, a public street drain, storm sewer, gutter, or ditch with trash or other materials;
 - (17) Digging excavations, placing culverts, placing dams, or doing any act which may alter or affect the surface, grade or drainage of public roads, streets or alleys; or affect flows of the public storm sewer and drainage ditch system, without authorization by the town;
 - (18) The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire or automobile when passing over such substance;
 - (19) The deposition of garbage or refuse on a public right-of-way or on adjacent private property;
 - (20) Throwing, placing, or depositing dirt, rocks, sand, leaves, trash, lawn clippings, weeds, grass, or other materials in the streets, sidewalks, ditches or other public ways and the gutters thereof;
 - (21) Permitting dirt, rocks or mud from construction or landscaping activities to be carried or deposited onto nearby streets, storm sewers, sidewalks, ditches or other public ways and the gutters thereof;
 - (22) The keeping of any used refrigerator, ice box, or freezer in a location or manner accessible to children which is not in service and which has the door latch intact;
 - (23) All explosives, flammable liquids or other dangerous substances or materials stored or accumulated in any manner or in any amount other than those provided by law or ordinance;
 - (24) All use or display of fireworks except as provided by law or ordinance;
 - (25) All buildings and all alterations to buildings made or erected in violation of state law, fire ordinances and building codes;

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- (26) Throwing, placing, depositing or burning of leaves, trash, lawn clippings, weeds, vegetative matter or other materials on public roads, streets or alleys or parks;
 - (27) The maintenance of any tree, shrub, bush, or other vegetation, the roots of which are causing damage to any public sewer, sidewalk, pavement or other public property; and
 - (28) Making repairs to motor vehicles or tires on public roads, streets or alleys excepting only emergency repairs when it will not unduly impede or interfere with traffic.

Sec. 10-51. Storage of personalty.

- (a) Unsheltered storage of unused, stripped, junked, and other automobiles, recreational vehicles, motorcycles, watercraft or any other motor vehicle, not in good and safe operating condition or not bearing a current state license or registration for that type of vehicle, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, all of which is hereinafter described as "said personalty," for any period of 30 days or more within any given year (except in licensed junkyards) within the corporate limits of the town is hereby declared to be a nuisance and dangerous to the public safety.
- (b) For purposes of this article, the term "unsheltered storage" means said personalty which is not stored in a permitted building complying with the then existing and controlling town ordinances. The period of one year for purposes of considering whether or not a continuing violation exists commences upon the date of notice of the violation. In the event that any violation is corrected but a same or similar act occurs within the one-year time period set forth in this section, it shall be considered a continuation of the original violation and each day that said violation exists may be considered a separate violation as well as a continuation of the original violation.
- (c) Abatement by owners. The owners, tenants, lessees and/or occupants of any lot within the town upon which such above prohibited storage or any other violation of this article is made, and also the owners and/or lessees of said personalty involved in such storage or any other material constituting a violation of this article, all of whom are hereinafter collectively referred to as "owners," shall jointly and severally abate said nuisance by the prompt removal of said personalty or materials into completely enclosed buildings authorized to be used for such purposes, or to a licensed junkyard or waste facility, or remove it to a location outside the corporate limits of the town.
- (d) Abatement by the town. Whenever said owners fail to abate such nuisances, the town shall remove the said personalty or materials to a location of its selection. Abatement of such nuisance by the town shall be in accordance with this article. Costs incurred by the town during said abatement, including the cost of storage or disposal, shall be recoverable from the said owners, jointly and severally, in accordance with section 10-83 or in any other manner authorized by law.
- (e) Disposal of property after abatement by the town. When said personalty or materials have been removed and placed in storage by the town, as provided for herein, said personalty shall be sold by the town after the lapse of such time as is provided for by law. If the proceeds of such sales are insufficient to pay the costs of abatement and storage, said owners shall be liable to the town for the balance of the costs. If the proceeds are in excess of the costs, including storage, the balance shall be paid to said owners or deposited in the town treasury for their use.

Sec. 10-52. Hazardous buildings and excavations.

M.S.A. §§ 463.15 through 463.261, the Hazardous Building Law, is adopted by reference. Any hazardous building or dangerous excavation may be abated in accordance with the provisions of that law.

Sec. 10-53. Responsibility.

The owner and tenant of any premises on which a violation of this article occurs shall make every reasonable effort to see that the violation ceases. Violations of this article shall be deemed the act of both the person committing the act and the person in possession, control, custody, or having charge of the premises who allows or permits the violation to take place. Violations of this article shall also be deemed the act of a nonresident landlord, provided he has received written notice from the town of the violation and has failed to make every reasonable effort to see that the violation ceases.

Sec. 10-54. Public drinking.

- (a) *Consumption.* No person shall consume intoxicating liquor or non-intoxicating malt liquor on any public sidewalk or street, or in a vehicle upon a public street. No person shall consume intoxicating liquor or non-intoxicating malt liquor in any public parking lot or in any public park without town authorization.
- (b) *Possession.* No person shall have in possession intoxicating liquor or non-intoxicating malt liquor in an open container on any public sidewalk or street or in a vehicle upon a public street.

Secs. 10-55—10-81. Reserved.

DIVISION 3. ABATEMENT PROCEDURE

Sec. 10-82. Abatement notice and practice.

- (a) *General abatement.* Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the town, the officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated or abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance is to be abated. If the notice is not complied with within the time specified, the enforcing officer shall notify in writing a notice of hearing upon the owner or occupant of the property at least seven days prior to a scheduled hearing by the town board. The notice shall be served in person or by certified or registered mail. Thereafter, the town board may, after notice to the owner or occupant and an opportunity to be heard, provide for abating the nuisance by the town. The town board may by resolution adopt a notice of abatement, which shall set forth the nuisance to be abated and shall indicate a date and time on which the town will enter onto the property and abate the nuisance. The notice shall also notify the property owner that the costs of abatement will be billed to the property owner and if not paid will be assessed against the property. The notice of abatement shall be served upon the owner and/or occupant in person or by certified or registered mail at least seven days prior to the proposed date for the town to abate the nuisance. If the premises is unoccupied or the owner and/or occupant cannot be served, notice may be posted upon the premises at least seven days prior to the proposed abatement.
- (b) *Emergency abatement.* When the officer charged with enforcement determines that a nuisance constitutes a serious and eminent danger to the public safety or health, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of the property. The officer shall immediately thereafter notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail.

Sec. 10-83. Recovery of costs.

The town may recover all costs incurred in enforcing this article by any or all of the following methods:

- (1) *Personal liability.* The owner of the premises on which a nuisance has been abated by the town shall be personally liable for the cost to the town of the abatement, including legal and administrative costs. As soon as the work has been completed and the costs determined, the clerk or other official designated by the town board shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the office of the clerk.
- (2) *Certification to property taxes.* The town board may certify any unpaid charges resulting from the enforcement of this article, including attorney's fees and court costs, costs of disposal and all other costs incurred by the town, to the property against which this article was enforced pursuant to M.S.A. §§ 366.012 and 429.021, and any other applicable law.
- (3) *Other methods.* Any other method authorized under state law.

Chapter 12 FIRE PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

Secs. 12-1—12-18. Reserved.

ARTICLE II. FIRE DEPARTMENT

Sec. 12-19. Established.

The establishment of the town fire department is hereby ratified. The fire department shall be composed of not less than ten or more than 35 active members. The officers of the department shall consist of a chief, two assistant chiefs, four captains, two lieutenants, a secretary, and a three-member personnel committee.

(Code 2004, § 901.01; Ord. No. 138, 4-14-2009)

Sec. 12-20. Administration.

Membership, nomination and election of officers, duties of the officers, meetings and duties of the members, leaves of absence, disciplinary procedures, voting, and all other matters relating to the operations and transaction of the business of the fire department are set forth in the constitution and bylaws of the town fire department, revised September 1, 2004, and approved by the town board September 28, 2004. A copy of the constitution and bylaws is on file in the office of the town clerk.

(Code 2004, § 901.02; Ord. No. 138, 4-14-2009)

Secs. 12-21—12-43. Reserved.

ARTICLE III. OPEN BURNING

DIVISION 1. GENERALLY

Sec. 12-44. Adoption of state fire code.

The state fire code, as adopted pursuant to M.S.A. § 299F.011, and as modified by Minn. R. ch. 7511, is hereby adopted as the fire code of the town for the purposes of prescribing regulations governing conditions hazardous to life and property from fire or explosion. Every provision in said code, except as modified or amended by this article, is hereby adopted and made a part of this article as if fully set forth herein.

(Ord. No. 162, § 504.01(subd. 1), 1-9-2018)

Sec. 12-45. Adoption of division of forestry regulations.

The provisions of M.S.A. ch. 88, Division of Forestry, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, permits, and all other matters pertaining to open burning are hereby adopted by reference and are made a part of this article as if set out in full.

(Ord. No. 162, § 504.01(subd. 2), 1-9-2018)

Sec. 12-46. Definitions.

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

Burning permit means a permit issued by an authorized Minnesota Department of Natural Resources (MNDNR) fire warden authorizing fires exempted from the general provisions of this article, and setting conditions for use.

Campfire orrecreational fire means a fire set for cooking, warming or ceremonial purposes, which must be contained in such a manner that no flame or fire spread is greater than three feet in diameter, a maximum fuel height of two feet, and a maximum flame height of three feet.

Fire code. Whenever the term "code" or "fire code" is used in the state fire code, it means the fire code adopted pursuant to this article.

Fire code official means the fire chief, fire department representatives authorized by the fire chief, or other authority specifically designated by ordinance, regulation or the town board that is charged with the administration and enforcement of this article.

Jurisdiction. Wherever the word "jurisdiction" is used in the state fire code, it means the town.

Open fire or open burning means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney.

(Ord. No. 162, § 504.01(subd. 3), 1-9-2018)

Sec. 12-47. Penalties.

- (a) Any person, association, firm, corporation or other legally recognized entity violating any of the provisions of this article shall be guilty of a misdemeanor punishable by up to the maximum sentence allowed by law for such offense, unless the town board has by ordinance set a fine schedule for particular offenses hereunder. If the town board has set a fine schedule for particular offenses hereunder, then sentences for such violations shall be imposed consistent with said fine schedule. In addition, the cost of prosecution shall be added. Each day's violation shall constitute a separate offense.
- (b) Any person, association, firm, corporation or other legally recognized entity who shall fail to comply with any order made pursuant to this article by the fire code official or peace officer, shall severally, for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor punishable by up to the maximum sentence allowed by law for such offense, unless the town board has by ordinance set a fine schedule for particular offenses hereunder. If the town board has set a fine schedule for particular offenses hereunder, then sentences for such violations shall be imposed consistent with said fine schedule. In addition, the cost of prosecution shall be added.

(Ord. No. 162, § 504.07, 1-9-2018)

Secs. 12-48—12-67. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 12-68. Fees.

There shall be no fee for a permit required by this article unless otherwise set by the town board by ordinance.

(Ord. No. 162, § 504.02, 1-9-2018)

Sec. 12-69. Enforcement.

The fire code official is authorized to enforce the provisions of this article.

(Ord. No. 162, § 504.03, 1-9-2018)

Secs. 12-70—12-96. Reserved.

DIVISION 3. REGULATIONS

Sec. 12-97. Open burning requirements.

- (a) Open burning in the town is governed by MNDNR on a permit-issued basis.
- (b) Open burning prohibitions in the town shall be in compliance with M.S.A. § 88.171.

-
- (c) The fire code official is hereby authorized to adopt and impose burning restrictions to aid in the prevention of wildfire and to consult with MNDNR, division of forestry, to develop any additional restrictions or other criteria deemed necessary.

(Ord. No. 162, § 504.04, 1-9-2018)

State law reference(s)—Open burning prohibitions applicable in the town, M.S.A. § 88.171.

Sec. 12-98. Recreational fire requirements.

- (a) Recreational fires are permitted at any time unless otherwise declared by the town board under the following conditions:
- (1) The campfire or recreational fire must be contained in such a manner that no flame or fire spread is greater than three feet in diameter. The campfire or recreational fire shall be limited to a maximum fuel height of two feet and at no time shall the maximum flame height exceed three feet.
 - (2) The use of flammable or combustible liquid accelerants is not permitted.
 - (3) All campfire or recreational fire rings or pits must be located a minimum of 25 feet away from any structures or combustibles, such as houses, wooden decks, garages, sheds, wood piles and wooden fences. Manufactured freestanding fire pits equipped with side screens and a cover must be located a minimum of ten feet away from any structures or combustibles such as houses, wooden decks, garages, sheds, woodpiles and wooden fences.
 - (4) The campfire or recreational fire must be constantly attended and supervised by an adult until the campfire or recreational fire has been completely extinguished. The campfire or recreational fire must never be allowed to smolder.
 - (5) A connected garden hose or other means to extinguish the campfire or recreational fire must be readily available.
 - (6) No more than one campfire or recreational fire shall be allowed on any property at one time.
- (b) Peace officers and the fire code official are authorized to require that a campfire or recreational fire be immediately extinguished and discontinued if it is determined that the campfire or recreational fire is not in compliance with the rules set forth in this section, the smoke is offensive to nearby neighbors, or the burning is determined to constitute a hazardous condition in the sole discretion of the peace officer and/or fire code official.

(Ord. No. 162, § 504.05, 1-9-2018)

Sec. 12-99. Burning ban or air quality alert.

- (a) The fire code official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the town.
- (b) No recreational fire or open burn will be permitted when the fire code official or the MNDNR has officially declared a burning ban due to potential hazardous fire conditions or when the state pollution control agency has declared an air quality alert.

(Ord. No. 162, § 504.06, 1-9-2018)

Chapter 14 FLOODS

ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. FLOODPLAIN MANAGEMENT¹⁶

DIVISION 1. GENERALLY

Sec. 14-19. Statutory authorization.

The legislature of the state has, in M.S.A. chs. 103F and 394, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the town board of supervisors, does ordain the following provisions of this article.

(Ord. No. 156, § 1(1.1), 12-22-2015)

Sec. 14-20. Purpose.

- (a) This article regulates development in the flood hazard areas of the town. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this article to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- (b) National Flood Insurance Program compliance. The ordinance from which this article is derived is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR 59—78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- (c) This article is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(Ord. No. 156, § 1(1.2), 12-22-2015)

Sec. 14-21. Definitions.

Unless specifically defined below, words or phrases used in this article must be interpreted according to common usage and so as to give this article its most reasonable application. The following words, terms and

¹⁶State law reference(s)—Floodplain management, M.S.A. § 103F.101 et seq.; planning and development, M.S.A. § 394.33.

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

Accessory use or structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Base flood elevation means the elevation of the regional flood. The term "base flood elevation" is used in the flood insurance survey.

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

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

- (1) Certain conditions as detailed in the zoning chapter exist.
- (2) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Critical facilities means facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, day care facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electrical utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

Development means any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Equal degree of encroachment means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Farm fence means a fence as defined by M.S.A. § 344.02, subd. 1(a)—(d). An open type fence of posts and wire is not considered to be a structure under this article. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this article.

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

Flood frequency means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood fringe means that portion of the floodplain outside of the floodway. The term "flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study for the county.

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

Floodprone area means any land susceptible to being inundated by water from any source. See *Flood*.

Floodproofing means a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

Obstruction means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

One hundred-year floodplain means lands inundated by the regional flood. See *Regional flood*.

Principal use or structure means all uses or structures that are not accessory uses or structures.

Reach means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational vehicle means a vehicle that is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

For the purposes of this article, the term "recreational vehicle" is synonymous with the term "travel trailer/travel vehicle."

Regional flood means a flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one percent chance or 100-year recurrence interval. The term "regional flood" is synonymous with the term "base flood" used in a flood insurance study.

Regulatory flood protection elevation (RFPE) means an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Special flood hazard area means a term used for flood insurance purposes synonymous with the term "one hundred-year floodplain."

Structure means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in section 14-382(2) and other similar items.

Substantial damage means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means, within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions.
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. For the purpose of this article, the term "historic structure" is as defined in 44 CFR 59.1.

(Ord. No. 156, § 2(2.9), 12-22-2015)

Sec. 14-22. Floodplain maps.

This article adopts the floodplain maps applicable to the town and includes three floodplain districts: floodway, flood fringe, and general floodplain.

- (1) Where floodway and flood fringe districts are delineated on the floodplain maps, the standards in divisions 6 and 7 of this article will apply, depending on the location of a property.
- (2) Locations where floodway and flood fringe districts are not delineated on the floodplain maps are considered to fall within the general floodplain district. Within the general floodplain district, the floodway district standards in division 6 of this article apply unless the floodway boundary is determined, according to the process outlined in division 8 of this article. Once the floodway boundary is determined, the flood fringe district standards in division 7 of this article may apply outside the floodway.

(Ord. No. 156, § 2(2.1), 12-22-2015)

Sec. 14-23. Floodplain Management Overlay District.

- (a) This article applies to all lands within the jurisdiction of the town shown on the official zoning map and/or the attachments to the map as being located within the boundaries of the floodway, flood fringe, or general floodplain districts, hereto referred to as the Floodplain Management Overlay District.
- (b) The floodway, flood fringe and general floodplain districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this article. In case of a conflict, the more restrictive standards will apply.

(Ord. No. 156, § 2(2.2), 12-22-2015)

Sec. 14-24. Incorporation of maps by reference.

The flood insurance rate map panels enumerated below, all dated December 16, 2015, and all prepared by the Federal Emergency Management Agency together with all related materials, including the flood insurance study for the county are hereby adopted by reference and declared to be part of the official zoning map and this section. The following materials are on file in the office of the town clerk:

<i>Flood Insurance Rate Map Panels</i>
27003C0095E
27003C0111E
27003C0112E
27003C0113E
27003C0114E
27003C0118E
27003C0119E
27003C0120E
27003C0210E
27003C0230E
27003C0235E

(Ord. No. 156, § 2(2.3), 12-22-2015)

Sec. 14-25. Regulatory flood protection elevation.

The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(Ord. No. 156, § 2(2.4), 12-22-2015)

Sec. 14-26. Interpretation of district boundaries.

The boundaries of the zoning districts are determined by scaling distances on the flood insurance rate map.

- (1) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The zoning administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
- (2) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the planning and zoning commission and town board, and to submit technical evidence.

(Ord. No. 156, § 2(2.5), 12-22-2015)

Sec. 14-27. Abrogation and greater restrictions.

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

(Ord. No. 156, § 2(2.6), 12-22-2015)

Sec. 14-28. Warning and disclaimer of liability.

This article does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This article does not create liability on the part of the town or its officers or employees for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 156, § 2(2.7), 12-22-2015)

Sec. 14-29. Floodplain annexations and detachments.

- (a) *Annexations.* The flood insurance rate map panels adopted by reference into section 14-24 may include floodplain areas that lie outside of the corporate boundaries of the town at the time of adoption of the ordinance from which this article is derived. If any of these floodplain land areas are annexed into the town after the date of adoption of the ordinance from which this article is derived, the newly annexed floodplain lands will be subject to the provisions of this article immediately upon the date of annexation.
- (b) *Detachments.* The flood insurance rate map panels adopted by reference into section 14-24 will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of the ordinance from which this article is derived. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of the town after the date of adoption of the ordinance from which this article is derived, the newly detached floodplain lands will be subject to the provisions of this article immediately upon the date of detachment.

(Ord. No. 156, § 2(2.10), 12-22-2015)

Sec. 14-30. Penalties and enforcement.

- (a) *Violation constitutes a misdemeanor.* Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.
- (b) *Other lawful action.* Nothing in this article restricts the town from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the zoning administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this article and will be prosecuted accordingly.
- (c) *Enforcement.* Violations of the provisions of this article will be investigated and resolved in accordance with the provisions of chapter 30, zoning. In responding to a suspected ordinance violation, the zoning administrator and town board may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(Ord. No. 156, § 12, 12-22-2015)

Secs. 14-31—14-48. Reserved.

DIVISION 2. ADMINISTRATION

Subdivision I. In General

Sec. 14-49. Zoning administrator.

A zoning administrator or other official designated by the town must administer and enforce this division.

(Ord. No. 156, § 10(10.1), 12-22-2015)

Sec. 14-50. Certificate of zoning compliance for a new, altered, or nonconforming use.

No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the zoning administrator stating that the use of the building or land conforms to the requirements of this division.

(Ord. No. 156, § 10(10.2(10.23)), 12-22-2015)

Sec. 14-51. Notifications.

- (a) *Watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the zoning administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S.A. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- (b) *Notification to FEMA when physical changes increase or decrease base flood elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(Ord. No. 156, § 10(10.2(10.26), (10.27)), 12-22-2015)

Sec. 14-52. Certification.

The applicant is 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 division. Floodproofing measures must be certified by a registered professional engineer or registered architect.

(Ord. No. 156, § 10(10.2(10.24)), 12-22-2015)

Sec. 14-53. Record of first floor elevation.

The zoning administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The zoning administrator

must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(Ord. No. 156, § 10(10.2(10.25)), 12-22-2015)

Secs. 14-54—14-79. Reserved.

Subdivision II. Permit

Sec. 14-80. Required.

A permit must be obtained from the zoning administrator prior to conducting the following activities:

- (1) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this subdivision.
- (2) The use or change of use of a building, structure, or land.
- (3) The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in section 14-21.
- (4) The change or extension of a nonconforming use.
- (5) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- (6) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- (7) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.
- (8) Any other type of development as defined in section 14-21.

(Ord. No. 156, § 10(10.2(10.21)), 12-22-2015)

Sec. 14-81. Application for permit.

Permit applications must be submitted to the zoning administrator on forms provided by the zoning administrator. The permit application must include the following as applicable:

- (1) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
- (2) Location of fill or storage of materials in relation to the stream channel.
- (3) Copies of any required municipal, county, state or federal permits or approvals.
- (4) Other relevant information requested by the zoning administrator as necessary to properly evaluate the permit application.

(Ord. No. 156, § 10(10.2(10.22)), 12-22-2015)

Secs. 14-82—14-105. Reserved.

Subdivision III. Variances

Sec. 14-106. Applications.

An application for a variance to the provisions of this article will be processed and reviewed in accordance with applicable state statutes and chapter 30, zoning.

(Ord. No. 156, § 10(10.3(10.31)), 12-22-2015)

Sec. 14-107. Adherence to state floodplain management standards.

A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

(Ord. No. 156, § 10(10.3(10.32)), 12-22-2015)

Sec. 14-108. Additional variance criteria.

The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- (1) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (2) Variances may only be issued by a community upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(Ord. No. 156, § 10(10.3(10.33)), 12-22-2015)

Sec. 14-109. Flood insurance notice.

The zoning administrator must notify the applicant for a variance that:

- (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and

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- (2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

(Ord. No. 156, § 10(10.3(10.34)), 12-22-2015)

Sec. 14-110. General considerations.

The town may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

- (1) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others;
- (3) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
- (4) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- (5) The importance of the services to be provided by the proposed use to the community;
- (6) The requirements of the facility for a waterfront location;
- (7) The availability of viable alternative locations for the proposed use that are not subject to flooding;
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (9) The relationship of the proposed use to the comprehensive land use plan and floodplain management program for the area;
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

(Ord. No. 156, § 10(10.3(10.35)), 12-22-2015)

Sec. 14-111. Submittals.

- (a) *Submittal of hearing notices to the department of natural resources (DNR).* The planning and zoning administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (b) *Submittal of final decisions to the DNR.* A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(Ord. No. 156, § 10(10.3(10.36), (10.37)), 12-22-2015)

Sec. 14-112. Recordkeeping.

The zoning administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(Ord. No. 156, § 10(10.3(10.38)), 12-22-2015)

Secs. 14-113—14-137. Reserved.

Subdivision IV. Conditional Uses

Sec. 14-138. Administrative review.

An application for a conditional use permit under the provisions of this subdivision will be processed and reviewed in accordance with chapter 30, zoning.

(Ord. No. 156, § 10(10.4(10.41)), 12-22-2015)

Sec. 14-139. Factors used in decision-making.

In passing upon conditional use applications, the planning and zoning commission and town board must consider all relevant factors specified in other sections of this division, and those factors identified in section 14-110.

(Ord. No. 156, § 10(10.4(10.42)), 12-22-2015)

Sec. 14-140. Conditions attached to conditional use permits.

The town board may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this subdivision. Such conditions may include, but are not limited to, the following:

- (1) Modification of waste treatment and water supply facilities.
- (2) Limitations on period of use, occupancy, and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (5) Floodproofing measures, in accordance with the state building code and this article. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(Ord. No. 156, § 10(10.4(10.43)), 12-22-2015)

Sec. 14-141. Submittals.

- (a) *Submittal of hearing notices to the department of natural resources (DNR).* The planning and zoning administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (b) *Submittal of final decisions to the DNR.* A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(Ord. No. 156, § 10(10.4(10.44), (10.45)), 12-22-2015)

Secs. 14-142—14-165. Reserved.

DIVISION 3. AMENDMENTS

Sec. 14-166. Floodplain designation; restrictions on removal.

The floodplain designation on the official zoning map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the commissioner of the department of natural resources (DNR) if the commissioner determines that, through other measures, lands are adequately protected for the intended use.

(Ord. No. 156, § 13(13.1), 12-22-2015)

Sec. 14-167. Amendments require DNR approval.

All amendments to this division must be submitted to and approved by the commissioner of the department of natural resources (DNR) prior to adoption. The commissioner must approve the amendment prior to community approval.

(Ord. No. 156, § 13(13.2), 12-22-2015)

Sec. 14-168. Map revisions require ordinance amendments.

The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in section 14-24.

(Ord. No. 156, § 13(13.3), 12-22-2015)

Secs. 14-169—14-189. Reserved.

DIVISION 4. NONCONFORMITIES

Sec. 14-190. Application and continuance of nonconformities.

A use, structure, or occupancy of land which was lawful before the passage or amendment of this division but which is not in conformity with the provisions of this article may be continued subject to the conditions in this division. Historic structures, as defined in section 14-21 under subsection (2) of the definition of the term "substantial improvement," are subject to the limitations and conditions in this division.

(Ord. No. 156, § 11(11.1), 12-22-2015)

Sec. 14-191. Expansion or enlargement prohibited.

Expansion or enlargement of uses, structures or occupancies within the floodway district is prohibited.

(Ord. No. 156, § 11(11.1(11.11)), 12-22-2015)

Sec. 14-192. Additions and structural alterations protected by regulatory flood protection elevation.

Any addition or structural alteration to a nonconforming structure or nonconforming use which would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the state building code, except as further restricted in sections 14-193 and 14-197.

(Ord. No. 156, § 11(11.1(11.12)), 12-22-2015)

Sec. 14-193. Cost for alterations and additions.

If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, then the entire structure must meet the standards of division 6 or 7 of this article for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

(Ord. No. 156, § 11(11.1(11.13)), 12-22-2015)

Sec. 14-194. Discontinuance of any nonconforming use or structure.

If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this division. The assessor must notify the zoning administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

(Ord. No. 156, § 11(11.1(11.14)), 12-22-2015)

Sec. 14-195. Reconstructed substantially damaged nonconformities.

If any nonconformity is substantially damaged, as defined in section 14-21, it may not be reconstructed except in conformity with the provisions of this division. The applicable provisions for establishing new uses or new structures in division 6 or 7 of this article will apply depending upon whether the use or structure is in the floodway or flood fringe, respectively.

(Ord. No. 156, § 11(11.1(11.15)), 12-22-2015)

Sec. 14-196. Repetitive loss.

If any nonconforming use or structure experiences a repetitive loss, as defined in section 14-21, it must not be reconstructed except in conformity with the provisions of this division.

(Ord. No. 156, § 11(11.1(11.16)), 12-22-2015)

Sec. 14-197. Substantial improvement to nonconforming structures.

Any substantial improvement, as defined in section 14-21, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of division 6 or 7 of this article for new structures, depending upon whether the structure is in the floodway or flood fringe district.

(Ord. No. 156, § 11(11.1(11.17)), 12-22-2015)

Secs. 14-198—14-217. Reserved.

DIVISION 5. DISTRICTS GENERALLY

Sec. 14-218. Floodplain districts established.

- (a) *Floodway district.* The floodway district includes those areas designated as floodway on the flood insurance rate map adopted in section 14-24. For lakes, wetlands and other basins, the floodway district includes those areas designated as Zone A and Zone AE without a floodway on the flood insurance rate map that are at or below the ordinary high water level as defined in M.S.A. § 103G.005, subd. 14.
- (b) *Flood fringe district.* The flood fringe district includes those areas designated as floodway fringe on the flood insurance rate map adopted in section 14-24, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins (that do not have a floodway designated), the flood fringe district includes those areas designated as Zone AE on the flood insurance rate map panels adopted in section 14-24 that are below the one percent annual chance (100-year) flood elevation but above the ordinary high water level as defined in M.S.A. § 103G.005, subd. 14.
- (c) *General floodplain district.* The general floodplain district includes those areas designated as Zone A or Zone AE without a floodway on the flood insurance rate map adopted in section 14-24, but not subject to the criteria in subsections (a) and (b) of this section.

(Ord. No. 156, § 3(3.1), 12-22-2015)

Sec. 14-219. Compliance.

Within the floodplain districts established in this article, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the subdivision of land must comply with the terms of this division and other applicable regulations. All uses not listed as permitted uses or conditional uses in divisions 6, 7, and 8 of this article, respectively, are prohibited. In addition, it is provided herein that:

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- (1) New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this division and specifically division 11 of this article.
 - (2) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this division and specifically division 4 of this article.
 - (3) All structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (4) As-built elevations for elevated or floodproofed structures must be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this division and specifically as stated in division 2 of this article.
 - (5) Critical facilities, as defined in section 14-21, are prohibited in all floodplain districts.

(Ord. No. 156, § 3(3.2), 12-22-2015)

Secs. 14-220—14-246. Reserved.

DIVISION 6. FLOODWAY DISTRICT (FW)

Sec. 14-247. Permitted uses.

The following uses, subject to the standards set forth in section 14-248, are permitted uses in the Floodway District (FW) if otherwise allowed in the underlying zoning district or any applicable overlay district:

- (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- (2) Industrial-commercial loading areas, parking areas, and airport landing strips.
- (3) Open space uses, including, but not limited to, private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- (4) Residential lawns, gardens, parking areas, and play areas.
- (5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the department of natural resources' area hydrologist is notified at least ten days prior to issuance of any permit, and that the standards in sections 14-250 and 14-252(a) and (d) are met.

(Ord. No. 156, § 4(4.1), 12-22-2015)

Sec. 14-248. Standards for Floodway District (FW) permitted uses.

The standards for the Floodway District (FW) permitted uses are as follows:

- (1) The use must have a low flood damage potential.

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- (2) With the exception of the uses listed in section 14-247(5), the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.
 - (3) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (one percent chance) flood.

(Ord. No. 156, § 4(4.2), 12-22-2015)

Sec. 14-249. Conditional uses.

The following uses may be allowed as conditional uses in the Floodway District (FW) following the standards and procedures set forth in subdivision IV of division 2 of this article and further subject to the standards set forth in sections 14-250 through 14-252, if otherwise allowed in the underlying zoning district or any applicable overlay district:

- (1) Structures accessory to the uses listed in section 14-247 and the uses listed in subsections (2) through (7) of this section.
- (2) Extraction and storage of sand, gravel, and other materials.
- (3) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- (4) Storage yards for equipment, machinery, or materials.
- (5) Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in section 14-21, are permitted uses.
- (6) Travel-ready recreational vehicles meeting the exception standards in section 14-382.
- (7) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(Ord. No. 156, § 4(4.3), 12-22-2015)

Sec. 14-250. Standards for Floodway District (FW) conditional uses.

The standards for the Floodway District (FW) conditional uses are as follows: A conditional use must not cause any increase in the stage of the one percent chance or regional flood or cause an increase in flood damages in the reach affected.

(Ord. No. 156, § 4(4.4(4.41)), 12-22-2015)

Sec. 14-251. Fill; storage of materials and equipment.

- (a) The storage or processing of materials that are, in times of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (b) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

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- (c) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the one percent chance or regional flood may only be allowed if the town board has approved a plan that ensures removal of the materials from the floodway based upon the flood warning time available.

(Ord. No. 156, § 4(4.4(4.42)), 12-22-2015)

Sec. 14-252. Accessory structures.

- (a) Requirements for accessory structures.
- (1) Accessory structures must not be designed for human habitation.
 - (2) Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters:
 - a. Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - b. So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.
 - (3) Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. All floodproofed accessory structures must meet the following additional standards:
 - a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and
 - b. Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
 - (4) As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the state building code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:
 - a. To allow for the equalization of hydrostatic pressure, there must be a minimum of two automatic openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - b. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (b) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of M.S.A. § 103G.245.
- (c) A levee, dike or floodwall constructed in the floodway must not cause an increase to the one percent chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- (d) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(Ord. No. 156, § 4(4.4(4.43)), 12-22-2015)

Secs. 14-253—14-282. Reserved.

DIVISION 7. FLOOD FRINGE DISTRICT (FF)

Sec. 14-283. Permitted uses.

Permitted uses are those uses in the Flood Fringe District (FF) of land or structures allowed in the underlying zoning districts that comply with the standards in section 14-284. If no preexisting, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use in the Flood Fringe District (FF), provided it does not constitute a public nuisance.

(Ord. No. 156, § 5(5.1), 12-22-2015)

Sec. 14-284. Standards for Flood Fringe District (FF) permitted uses.

The standards for the Flood Fringe District (FF) permitted uses are as follows:

- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
 - a. All service utilities, including ductwork, must be elevated or watertight to prevent infiltration of floodwaters.
 - b. As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with section 14-252.
- (2) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with subsection (1) of this section, or if allowed as a conditional use under section 14-285(3).
- (3) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
- (4) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (5) Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- (6) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the town.
- (7) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (one percent chance) flood.

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- (8) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.
 - (9) Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
 - (10) Manufactured homes and recreational vehicles must meet the standards of division 11 of this article.

(Ord. No. 156, § 5(5.2), 12-22-2015)

Sec. 14-285. Conditional uses.

The following uses and activities may be allowed in the Flood Fringe District (FF) as conditional uses, if allowed in the underlying zoning districts or any applicable overlay district, following the procedures in subdivision IV of division 2 of this article. Conditional uses must meet the standards in sections 14-284(4)—(10) and 14-286.

- (1) Any nonresidential structure that is not elevated on fill or floodproofed in accordance with section 14-284(1).
- (2) Storage of any material or equipment below the regulatory flood protection elevation.
- (3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with section 14-284(1).

(Ord. No. 156, § 5(5.3), 12-22-2015)

Sec. 14-286. Standards for Flood Fringe District (FF) conditional uses.

- (a) The standards listed in section 14-284(4)—(10) apply to all conditional uses in the Flood Fringe District (FF).
- (b) Basements, as defined by section 14-21, are subject to the following:
 - (1) Residential basement construction is not allowed below the regulatory flood protection elevation.
 - (2) Nonresidential basements may be allowed below the regulatory flood protection elevation, provided the basement is structurally dry floodproofed in accordance with subsection (c) of this section.
- (c) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the state building code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the state building code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.
- (d) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - (1) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (one percent chance) flood event.
 - (2) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the town.

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- (3) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
 - (e) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

(Ord. No. 156, § 5(5.4), 12-22-2015)

Secs. 14-287—14-305. Reserved.

DIVISION 8. GENERAL FLOODPLAIN DISTRICT (GF)

Sec. 14-306. Permitted uses.

The permitted uses in the General Floodplain District (GF) are as follows:

- (1) The uses listed in section 14-247 are permitted uses.
- (2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in section 14-307. Division 6 of this article applies if the proposed use is determined to be in the floodway district. Division 7 of this article applies if the proposed use is determined to be in the flood fringe district.

(Ord. No. 156, § 6(6.1), 12-22-2015)

Sec. 14-307. Procedures for floodway and flood fringe determinations.

- (a) Upon receipt of an application for a permit or other approval within the General Floodplain District (GF), the zoning administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
- (b) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the floodway or flood fringe district. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in subsection (c) of this section.
- (c) The determination of floodway and flood fringe must include the following components, as applicable:
 - (1) Estimate the peak discharge of the regional (one percent chance) flood.
 - (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - (3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half foot. A lesser stage increase than one-half foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
- (d) The zoning administrator will review the submitted information and assess the technical evaluation and the recommended floodway and/or flood fringe district boundary. The assessment must include the cumulative effects of previous floodway encroachments. The zoning administrator may seek technical assistance from a designated engineer or other expert person or agency, including the department of natural resources. Based on this assessment, the zoning administrator may approve or deny the application.

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- (e) Once the floodway and flood fringe district boundaries have been determined, the zoning administrator must process the permit application consistent with the applicable provisions of divisions 6 and 7 of this article.

(Ord. No. 156, § 6(6.2), 12-22-2015)

Secs. 14-308—14-332. Reserved.

DIVISION 9. LAND DEVELOPMENT STANDARDS

Sec. 14-333. Application of standards.

Recognizing that floodprone areas may exist outside of the designated floodplain districts, the requirements of this division apply to all land within the town.

(Ord. No. 156, § 7(7.1), 12-22-2015)

Sec. 14-334. Subdivision.

No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this division.

- (1) All lots within the floodplain districts must be able to contain a building site outside of the floodway district at or above the regulatory flood protection elevation.
- (2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (one percent chance) flood has been approved by the planning and zoning commission and town board. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
- (3) For all subdivisions in the floodplain, the floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
- (4) In the general floodplain district, applicants must provide the information required in section 14-307 to determine the regional flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.
- (5) If a subdivision proposal or other proposed new development is in a floodprone area, any such proposal must be reviewed to ensure that:
 - a. All such proposals are consistent with the need to minimize flood damage within the floodprone area;
 - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - c. Adequate drainage is provided to reduce exposure of flood hazard.

(Ord. No. 156, § 7(7.2), 12-22-2015)

Sec. 14-335. Building sites.

If a proposed building site is in a floodprone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- (1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) Constructed with materials and utility equipment resistant to flood damage;
- (3) Constructed by methods and practices that minimize flood damage; and
- (4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. No. 156, § 7(7.3), 12-22-2015)

Secs. 14-336—14-358. Reserved.*DIVISION 10. PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES***Sec. 14-359. Public utilities.**

All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the state building code or elevated to the regulatory flood protection elevation.

(Ord. No. 156, § 8(8.1), 12-22-2015)

Sec. 14-360. Public transportation facilities.

Railroad tracks, roads, and bridges to be located within the floodplain must comply with divisions 6 and 7 of this article. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(Ord. No. 156, § 8(8.2), 12-22-2015)

Sec. 14-361. On-site water supply and sewage treatment systems.

Where public utilities are not provided:

- (1) On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and
- (2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment

system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this section.

(Ord. No. 156, § 8(8.3), 12-22-2015)

Secs. 14-362—14-380. Reserved.

DIVISION 11. MANUFACTURED HOMES, MANUFACTURED HOME PARKS AND RECREATIONAL VEHICLES

Sec. 14-381. Manufactured homes.

New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

- (1) Placement or replacement of manufactured home units is prohibited in the floodway district.
- (2) If allowed in the flood fringe district, placement or replacement of manufactured home units is subject to the requirements of division 7 of this article and the following standards:
 - a. New and replacement manufactured homes must be elevated in compliance with division 7 of this article and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
 - b. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in section 14-334(2).

(Ord. No. 156, § 9(9.1), 12-22-2015)

Sec. 14-382. Recreational vehicles.

New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this division.

- (1) Recreational vehicles are exempt from the provisions of this division if they are placed in any of the following areas and meet the criteria listed in subsection (2) of this section:
 - a. Individual lots or parcels of record.
 - b. Existing commercial recreational vehicle parks or campgrounds.
 - c. Existing condominium-type associations.
- (2) Criteria for exempt recreational vehicles:
 - a. The vehicle must have a current license required for highway use.
 - b. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

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Recodification codified through Ord. No. 188, adopted on February 23, 2021

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- c. No permanent structural type additions may be attached to the vehicle.
 - d. The vehicle and associated use must be permissible in any preexisting, underlying zoning district.
 - e. Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in this subsection.
 - f. An accessory structure must constitute a minimal investment.
- (3) Recreational vehicles that are exempt in subsection (2) of this section lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of division 7 of this article. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(Ord. No. 156, § 9(9.2), 12-22-2015)

Chapter 16 MISCELLANEOUS OFFENSES

ARTICLE I. IN GENERAL

Secs. 16-1—16-18. Reserved.

ARTICLE II. HUNTING ON TOWN PROPERTY

Sec. 16-19. Purpose.

The town board finds that as a result of the increasing density of population and use of town property, it is contrary to the general welfare to permit the hunting of game on town property.

(Code 2004, § 703.01(subd. 1))

Sec. 16-20. Definitions.

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

Designated means bearing posting or signage to indicate a particular use is allowed.

Game means any wildlife creature normally killed for food, sport, or pelt.

Hunting means the pursuit with intent to kill by weapon, trap, or snare, any animal or fowl.

Own owned by means ownership of legal or equitable title or ownership of an easement granting use of the property.

(Code 2004, § 703.01(subd. 2))

Sec. 16-21. Hunting prohibited.

No person shall hunt game at any time on property owned or leased by the town.

(Code 2004, § 703.01(subd. 3))

Secs. 16-22—16-45. Reserved.

ARTICLE III. FIREARMS¹⁷

Sec. 16-46. Authority.

The town board, pursuant to authority granted under state law, enacts the following rules and regulations for the purpose of protecting the health, safety and welfare of the citizens in the town by prohibiting the occurrence and maintenance of a public nuisance relating to the discharge of firearms.

(Ord. No. 158, § 703.02(subd. 1), 5-23-2017)

Sec. 16-47. Policy.

It is the policy of the town board to protect the safety and welfare of persons within the town by regulating the discharge of firearms within the town.

(Ord. No. 158, § 703.02(subd. 2), 5-23-2017)

Sec. 16-48. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any term not defined below shall have its ordinary accepted meaning within the context it is used. Each of the following terms shall have the meaning ascribed to it below:

Dangerous weapon means that which is defined by M.S.A. § 609.02, subd. 6.

Firearm means a gun that discharges shot, bullet or other projectile by means of an explosive, a gas, compressed air, or other propellant and includes pistols. For the purposes of this section, a gun that discharges a shot or projectile measuring 0.25 inches or less in diameter, commonly known as a "BB, pellet, or air gun," by compressed air or spring is not considered a firearm.

Owner means a person having a right or interest in the subject property, evidence of which is filed and recorded in the office of the county recorder or registrar of title.

Pistol means a weapon designed to be fired by the use of a single hand and with an overall length less than 26 inches, or having a barrel or barrels of a length less than 18 inches in the case of a shotgun or having a barrel of a length of less than 16 inches in the case of a rifle:

¹⁷State law reference(s)—Authority to regulate the discharge of firearms identical to state law, M.S.A. § 471.633.

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- (1) From which may be fired or ejected one or more solid projectiles by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances; or
 - (2) For which the propelling force is a spring, elastic band, carbon dioxide, air or other gas, or vapor.

The term "pistol" does not include a device firing or ejecting a shot measuring 0.25 inches or less in diameter and commonly known as a "BB gun," a scuba gun, a stud gun or nail gun used in the construction industry or children's pop guns or toys.

(Ord. No. 158, § 703.02(subd. 3), 5-23-2017)

Sec. 16-49. Applicability.

The terms of this article shall apply to all persons within the town whether or not such persons may have a firearm permit from the United States or the state or any political subdivision of the state.

(Ord. No. 158, § 703.02(subd. 4), 5-23-2017)

Sec. 16-50. Exclusions and exemptions.

- (a) *Generally.* The provisions of this article shall not apply to the following:
 - (1) *Law enforcement officers.* Notwithstanding section 16-49, this article shall not apply to on-duty law enforcement officers of the United States or on-duty peace officers as defined by state law.
 - (2) *Defense of person or family.* This article shall not apply to a person discharging a firearm in the lawful defense of his person or family.
- (b) *Approved firearms discharge by town board.* The town board may approve an exemption to this section, with reasonable conditions to protect public health, safety and welfare, to allow the discharge of firearms and bows for the following:
 - (1) *Controlling wildlife.* For the purpose of managing and controlling wildlife populations, provided the hunt has received support from the state department of natural resources.
 - (2) *Target shooting.* For target shooting as an accessory use to a retail business or as a special event or competition.
 - (3) *Honor guards.* Duly authorized persons engaged in the U.S. Military and/or veterans' organizations in firing blank honor salutes over the graves of military personnel or in other designated memorial areas.

(Ord. No. 158, § 703.02(subd. 5), 5-23-2017)

Sec. 16-51. Discharge of firearms prohibited.

No person shall discharge a firearm within the town as follows:

- (1) *Near buildings.* No person shall use, fire or discharge a firearm in the town within 300 feet of any dwelling, house, or commercial or industrial building. A person, however, may use, fire or discharge a firearm within such distance of a dwelling, house, or commercial or industrial building which is owned by that person or if the person has the written consent of the owner of the property to so use, fire, or discharge a firearm.
- (2) *Dangerous weapons.* No person shall keep, carry, or have in his possession, concealed or otherwise, any dangerous weapon when on any public street or in any public place, or when they are trespassing

upon the premises or property of another person, within the town. This does not apply to military or police personnel engaged in their duties or those who hold legal permits to possess and carry on their person said weapon.

- (3) *Explosives.* It is prohibited to set off explosives of any type, including Tannerite or other target explosives. Fireworks displays are allowed. Further, no person shall discharge a firearm at any time within the town at explosives.
- (4) *Shoreland area.* It is prohibited to discharge a firearm in a shoreland area with lots of less than one acre unless shooting at a varmint or other animal which is causing harm or potential loss of life.
- (5) *Transportation of firearms and dangerous weapons.* All firearms must be transported in the fashion as described by Minnesota Statute. No person shall transport a dangerous weapon in a motor vehicle unless: the dangerous weapon is in a closed and fastened container or securely tied package; in the locked trunk of the vehicle being used to transport the dangerous weapon or, if the vehicle does not have a trunk, in the farthest rear portion of the vehicle in an area not normally occupied by the driver or passenger; and it is unloaded, disassembled, or otherwise rendered incapable of immediate operation, if possible.

(Ord. No. 158, § 703.02(subd. 6), 5-23-2017)

Sec. 16-52. Permitted discharges; restrictions.

The following restrictions are imposed on permitted discharges of firearms:

- (1) *Projectile limited to property line.* When discharging a firearm, the projectile shall be stopped, and not carry beyond the property line.
- (2) *Compliance with state law.* All state game and hunting laws or regulations shall be complied with, but if there is any conflict between this article and state laws or regulations, the more restrictive shall apply, with the exception of hunting hours.
- (3) *Time restriction on discharges.* Firearm discharges which are not prohibited herein and are not associated with legal hunting activities are only permitted from one hour after sunrise to one hour prior to sunset. Further, firearms discharges which are not prohibited herein and are not associated with legal hunting activities are only permitted on any given property for a maximum of four hours in any given 24-hour period and a maximum of 12 hours in any seven-day period.

(Ord. No. 158, § 703.02(subd. 7), 5-23-2017)

Sec. 16-53. Discharge of firearm so as to endanger.

No person shall discharge a firearm at any time within the town in such a way that may endanger the health or safety of any person or that may endanger any other person's property. Further, it is unlawful for any person to recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another.

(Ord. No. 158, § 703.02(subd. 8), 5-23-2017)

Sec. 16-54. Penalties for violation.

Violations of this article are a misdemeanor and are punishable by the current maximum allowed by state law. In addition, the cost of prosecution may be added.

(Ord. No. 158, § 703.02(subd. 9), 5-23-2017)

Secs. 16-55—16-81. Reserved.

ARTICLE IV. SEXUAL OFFENDERS AND SEXUAL PREDATORS

Sec. 16-82. Findings and intent.

- (a) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Current information indicates that sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large and specifically to the town, while incalculable, clearly exorbitant.
- (b) It is the intent of this article to serve the town's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the town by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

(Ord. No. 145, § 1(810.01), 10-8-2013)

Sec. 16-83. Definitions.

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

Designated offender means any person who has been convicted of a designated sexual offense, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, or who has been categorized as a Level III sex offender under M.S.A. § 244.052 or successor or amended statute.

Designated sexual offense means a conviction, adjudication of delinquency, commitment under M.S.A. § 253B.01 et seq., or admission of guilt under oath without adjudication involving any of the following offenses: M.S.A. §§ 609.342, 609.343, 609.344, 609.345, 609.352, 609.365, 617.23, 617.246, 617.247, 617.293, successor or amended statutes, or a similar offense from another state.

Permanent residence means a place where the person abides, lodges, or resides for 14 or more consecutive days. The term "permanent residence" does not require an ownership interest by the person in such residence.

Temporary residence means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

(Ord. No. 145, § 1(810.02), 10-8-2013)

Sec. 16-84. Sexual offender and sexual predator residence prohibition; exceptions.

- (a) *Prohibited location of residence.* It is unlawful for any designated offender to establish a permanent or temporary residence:
 - (1) Within 2,000 feet of any school, licensed day care center, park, or playground; or

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- (2) Within 1,000 feet of any designated public school bus stop, place of worship which provides regular educational programs (i.e., Sunday school), or other places where children are known to congregate.
 - (b) *Prohibited activity.* It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this subsection.
 - (c) *Measurement of distance.*
 - (1) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of a school, designated public school bus stop, day care center, park, playground, place of worship, or other place where children regularly congregate.
 - (2) The town clerk shall maintain an official map showing prohibited locations as defined by this article. The clerk shall update the map at least annually to reflect any changes in the location of prohibited zones. The map shall not be deemed conclusive or all-encompassing since prohibited zones change from time to time including, but not limited to, designated public school bus stops or other places where children are known to congregate.
 - (d) *Penalties.* Each day a person maintains a residence in violation of this article constitutes a separate violation.
 - (e) *Exceptions.* A designated offender residing within a prohibited area as described in subsection (a) of this section does not commit a violation of this section if any of the following apply:
 - (1) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S.A. § 243.166 or 243.167, or successor statute, prior to enactment of this section.
 - (2) The person was a minor when he committed the offense and was not convicted as an adult.
 - (3) The person is a minor.
 - (4) The school, designated public school bus stop or day care center within 2,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to M.S.A. § 243.166 or 243.167.
 - (5) The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children.
 - (6) The residence is a property owned or leased by the state department of corrections.

(Ord. No. 145, § 1(810.03), 10-8-2013)

Sec. 16-85. Property owners prohibited from renting real property to certain sexual offenders and sexual predators.

- (a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this section, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in this article.

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- (b) A property owner's failure to comply with provisions of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions and procedures as provided in this Code.
 - (c) If a property owner discovers or is informed that a tenant is a designated offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager may evict the offender.

(Ord. No. 145, § 1(810.04), 10-8-2013)

Chapter 18 SOLID WASTE

ARTICLE I. IN GENERAL

Sec. 18-1. Purpose.

It is the intent of the town board, by means of this chapter, to establish a system of complete regular garbage, refuse, recyclables, and yard waste collection throughout the town in order to ensure that the disposal of such materials is accomplished in a sanitary manner, safeguarding the health of the residents of the town, and to implement the state's recycling and solid waste reduction mandates.

Sec. 18-2. Definitions.

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

Commercial establishment means any premises where a commercial or industrial enterprise of any kind is carried on and includes restaurants, grocery stores, schools, churches.

Compost means yard waste and other biodegradable matter that, under proper conditions, will be converted to a soil-like substance used as a soil.

Construction waste means waste which is created during the construction of a building or residence, such as wood cutoffs, sheetrock scraps, etc.

Curbside recycling means haulers pick up recyclables from their customers at least two times per month. Picking up the following materials constitutes the minimum for a curbside recycling program: green, brown, and clear glass jars and bottles; newspaper; aluminum and bi-metal food and beverage cans; PETE (polyethylene terephthalate) and HDPE (high density polyethylene) plastic beverage containers; and corrugated cardboard.

Demolition debris means debris which is created by the demolition of a structure, either commercial, industrial, or residential, such as lumber, shingles, concrete blocks, sheetrock, etc.

Garbage means animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Manufactured home park means an area in which lots are rented for the placement of non-transient occupied mobile manufactured homes.

Mixed municipal solid waste (MSW) means garbage, other refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining wastes, sludges, tree and

agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams, but does include source-separated compostable materials.

Recyclables means materials which may be recycled or reused through recycling processes including targeted recyclables.

Refuse includes all solid wastes normal to a society of persons and a byproduct of residential, commercial and industrial operations, including garbage, rubbish, ashes, animals, animal offal and agricultural waste.

Residential dwelling means any dwelling unit that is inhabited.

Roll off container means any dumpster of the type that is used for large waste removal tasks in the order of 15 cubic yards to 60 cubic yards. These containers are usually rolled off of a truck and picked up within a few days and hauled away.

Rubbish means all inorganic solid wastes, such as ashes and other non-reusable waste.

Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, and rocks; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, as amended; dissolved materials in irrigation return flows; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

Targeted recyclables means metal beverage containers, tin cans, glass containers (clear, green and brown glass containers and excludes all window pane glass), newsprint, glossy magazines, corrugated cardboard, car/tractor batteries, or other materials as defined by council resolution.

Tree waste means tree limbs, trunks, and hard brush.

Yard waste means the garden waste, leaves, lawn cuttings, weeds, and prunings generated at residential and commercial properties.

(Code 2004, § 507.09)

Secs. 18-3—18-20. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 18-21. Violations.

Any person violating any provision of this article shall be guilty of a petty misdemeanor and shall be punished as for a petty misdemeanor in accordance with section 1-13. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Sec. 18-22. Storage.

- (a) Garbage shall be kept in an approved container which is durable, rust-resistant, watertight and easily cleanable with tightfitting covers and adequate handles to facilitate collection.
- (b) Containers shall have a capacity of not less than five nor more than 30 gallons and shall only be filled or used so as to be easily handled by one man, except that so-called dumpers with closefitting covers may be substituted in commercial establishments and manufactured home parks.
- (c) Containers shall be provided in sufficient number to hold all garbage and refuse accumulating between collections. They shall be kept in a clean condition so as to prevent a nuisance. They shall be placed in an accessible location to facilitate collection.
- (d) Refuse shall not be allowed to accumulate on any property so as to constitute a nuisance because of appearance, odor, sanitation, or so as to create a fire hazard.

Sec. 18-23. Disposal.

- (a) Each residential dwelling, commercial establishment and manufactured home park are required to make adequate provisions for the sanitary disposal of mixed municipal solid waste (MSW) by means of a licensed private collector unless they have provided for adequate means of disposal which meets the approval of the town, and which comply with all ordinances and regulations of the town, county, and state.
- (b) The discharging or depositing of mixed municipal solid waste (MSW) on any street, alley, drive, park, playground, or other public place or any privately owned lot in the town by any person is unlawful. MSW is the responsibility of the property owner until such time as trash is collected by a licensed hauler.
- (c) It shall be unlawful for any person to dispose of yard and tree waste into the MSW waste stream. Yard waste shall be disposed of by:
 - (1) Contracting with a licensed private collector to haul the yard waste to a county-approved compost site.
 - (2) The resident transporting the yard waste to an approved compost site.
 - (3) Composting the yard waste on the resident's property.
 - (4) Burning to be in compliance with ordinance.
- (d) It is unlawful for any person to deposit refuse from any source any rubbish, offal or the body of a dead animal any place other than an approved solid waste facility.
- (e) The burying or accumulation of certain solid wastes is prohibited. No person shall bury any refuse, recyclables, garbage or rubbish within the town unless the site has been approved and licensed as a solid waste landfill or solid waste disposal site by the county.

(Code 2004, § 507.08)

Secs. 18-24—18-43. Reserved.*DIVISION 2. FEES, RATES AND CHARGES***Sec. 18-44. Solid waste collection fees.**

All solid waste collection fees, rates and charges are on file in the town offices.

Secs. 18-45—18-74. Reserved.

ARTICLE III. GENERAL COLLECTION STANDARDS

Sec. 18-75. Solid waste collection standards and requirements.

Solid waste collection standards and requirements are on file in the town offices.

Secs. 18-76—18-91. Reserved.

ARTICLE IV. RECYCLING STANDARDS

DIVISION 1. GENERALLY

Secs. 18-92—18-110. Reserved.

DIVISION 2. UNAUTHORIZED COLLECTION AND SCAVENGING

Sec. 18-111. Purpose.

- (a) This division is designed to prevent the unauthorized collection of recyclable materials which are set out as a part of a designated recycling program.
- (b) Unauthorized collection or scavenging may reduce the volume of material collected as part of a designated program and thereby threaten the economic liability of the authorized program.
- (c) Scavenging may also disrupt the publicity and education processes of an authorized program. This section is also designed to ensure that a designated recycling program will be implemented in an orderly fashion to avoid adverse effects on the public health, welfare, safety, and environment.

(Code 2004, § 507.07(subd. 1))

Sec. 18-112. Ownership of recyclable materials.

- (a) Ownership of recyclable materials set out for the purpose of participating in curbside recycling programs shall remain with the person who set out the materials until removed by the authorized collector.
- (b) Until the recyclable materials are removed by the authorized collector, the person who set out the materials is totally responsible for their proper preparation, handling and storage.

(Code 2004, § 507.07(subd. 2))

Sec. 18-113. Unauthorized collection.

- (a) It shall be unlawful for any person who is not authorized by the town to take or collect or scavenge recyclable material set out for authorized collection programs within the town.
- (b) The first violation of this section shall constitute a petty misdemeanor. The second and subsequent violations shall be misdemeanors.

(Code 2004, § 507.07(subd. 3))

Chapter 20 STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY¹

ARTICLE I. IN GENERAL

Sec. 20-1. Definitions.

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

Apron means a driveway area providing access to the property of an owner or occupant extending from a public street to the boundary of the property of said owner or occupant.

Driveway/driveway access means the area of the right-of-way between the traveled surface of the road and the adjacent property that is intended to provide access for vehicles or equipment from the road to the adjacent property.

Headwall means rock, concrete, masonry, metal, timber or other similar materials placed on the sides of an approach as support, to prevent erosion, or for decorative purposes.

Junk means old or scrap hazard signs, copper, brass, rope, rags, batteries, paper, synthetic or organic trash, garbage, waste materials, rubbish, rubber debris, appliances, waste, or junked, dismantled, or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

Right-of-way means the entire width between boundary lines of any way or place under the jurisdiction of the town when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular traffic and is maintained by the town.

Roadway means that portion of a right-of-way improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder.

Shoulder means the portion that supports the edge of the driving surface. The shoulder supporting a gravel road is integral with the driving surface of a gravel-surfaced road.

Vehicle means any device for carrying passengers, goods, or equipment, whether self-propelled or not.
(Code 2004, §§ 301.02(subd. 4), 303.02; Ord. No. 157, § 1, 5-23-2016)

Secs. 20-2—20-18. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

¹State law reference(s)—Town roads, M.S.A. § 164.01 et seq.

Sec. 20-19. Town and contractors.

The prohibitions, requirements, and restrictions contained in this article do not apply to town officers, employees, or agents while operating within the course and scope of their duties for the town, or contractors while performing services within the scope of a contract with the town.

(Code 2004, § 303.10)

Secs. 20-20—20-41. Reserved.

DIVISION 2. PERMITS AND PERMISSION

Sec. 20-42. Permission.

Any person receiving permission or a permit from the town board as provided in this division must comply with all applicable federal, state, and local laws and rules as well as all applicable town ordinances, resolutions, specifications, regulations, and policies. Any person receiving permission or a permit must comply with all conditions, requirements, and limitations the town board expresses as part of the permission or permit. Failure to comply with any of the conditions, requirements, or limitations shall void the permission or permit and could place the person in violation of this division.

(Code 2004, § 303.11)

Secs. 20-43—20-72. Reserved.

DIVISION 3. ENFORCEMENT AND PENALTY

Sec. 20-73. Enforcement.

The town board, or its representative, shall enforce the provisions of this division.

(Code 2004, § 303.12(1); Ord. No. 143, § 2(1), 3-12-2013)

Sec. 20-74. Correction order.

Upon discovery of a violation of this division, the town board may issue a correction order to the violator ordering the person to correct the violation by a time certain. If the violator fails to comply with the correction order by the time indicated in the order, the town board may provide for the correction of the violation. Issuance of a correction order does not preclude imposition of the penalty set forth in this division.

(Code 2004, § 303.12(2); Ord. No. 143, § 2(2), 3-12-2013)

Sec. 20-75. Immediate correction.

If the town board determines that the violation creates an immediate threat to public safety, the town board will make a good faith effort to notify the violator to immediately correct the situation. If the town board is not

able to promptly reach the violator, or if the violator fails to immediately correct the situation upon notification, the town board will provide for the correction of the violation.

(Code 2004, § 303.12(3); Ord. No. 143, § 2(3), 3-12-2013)

Sec. 20-76. Cost of correction.

The cost of correcting a violation shall be the responsibility of the violator. If the town board provides for the correction of the violation, all expenses incurred, including reasonable attorney's fees, shall be billed to the violator. If the bill is not paid by the due date, the town board may exercise any lawful options available to it to collect the amount due.

(Code 2004, § 303.12(4); Ord. No. 143, § 2(4), 3-12-2013)

Sec. 20-77. Penalty.

Any person who violates this article shall be guilty of a misdemeanor and subject to the penalties for such as provided in state law. Each day of existence of such violation shall constitute a separate offense. If convicted, the person may be assessed costs of prosecution as allowed by M.S.A. § 366.01, subd. 10.

(Code 2004, § 303.12(5); Ord. No. 143, § 2(5), 3-12-2013)

Secs. 20-78—20-97. Reserved.

ARTICLE III. STREETS

DIVISION 1. GENERALLY

Secs. 20-98—20-123. Reserved.

DIVISION 2. PARKING²

Sec. 20-124. General parking restrictions.

- (a) No vehicle, or any portion of a vehicle, shall be allowed to remain parked upon the roadway in such a manner or place that obstructs or impedes emergency vehicles or general traffic.
- (b) No vehicle, or any portion of a vehicle, shall be allowed to remain parked upon the shoulder or non-driving portion of a right-of-way continuously, without being moved, for more than 72 hours.
- (c) These provisions include those vehicles believed to constitute a potential traffic hazard, as determined by the local authority.

(Code 2004, § 301.02(subd. 1); Ord. No. 157, § 1, 5-23-2016)

²State law reference(s)—Stopping, standing and parking regulations, M.S.A. § 169.32 et seq.

Sec. 20-125. Seasonal parking restrictions.

Additionally, during the period of November 1 through May 1 of any calendar year, no vehicle, or any portion of a vehicle, shall be allowed to remain parked within the road right-of-way of any town road or street in such a manner or place that obstructs or impedes town snow removal vehicles during snow removal conditions.

(Code 2004, § 301.02(subd. 2); Ord. No. 157, § 1, 5-23-2016)

Sec. 20-126. Vehicles may be towed.

Any vehicle found by any law enforcement officer to be in violation of this section shall be tagged, and the owner of the vehicle shall be charged by citation, and if the vehicle constitutes a public safety hazard, it may be towed to a place of storage, at the owner's expense, and not released to the owner until all expenses of the towing have been paid.

(Code 2004, § 301.02(subd. 3); Ord. No. 157, § 1, 5-23-2016)

Secs. 20-127—20-137. Reserved.

ARTICLE IV. RIGHTS-OF-WAY

DIVISION 1. GENERALLY

Sec. 20-138. Purpose and authority.

- (a) *Purpose.* The primary objectives of this article are to protect public safety, reduce interferences with public travel, protect the public's interest in the town rights-of-way, and to provide for the efficient and uniform administration of the town's road rights-of-way. The town board finds that the regulations, requirements, and restrictions, as set forth in this article, are in the best interests of the health, safety, and welfare of the town's citizens.
- (b) *Authority.* As a road authority, the town board has broad authority to regulate what occurs within the town's road rights-of-way. This authority is found in M.S.A. § 365.10, subd. 17, a variety of sections in M.S.A. chs. 160, 164, 165, 169, 222, 237, and other chapters, as well as the rules associated with those chapters.

(Code 2004, § 303.01)

Sec. 20-139. Cultivation and landscaping.

- (a) *Cultivation.* No person may cultivate, plant, harvest, or maintain agricultural crops, trees, bushes, or shrubs within a right-of-way.
- (b) *Landscaping.* No person may cultivate, plant, or maintain grasses, flowers, vegetables, or other vegetation in any manner that obstructs visibility of a road or otherwise interferes with, obstructs, or renders dangerous for passage a right-of-way. No person may place watering systems or sprinkler heads within a right-of-way.

(Code 2004, § 303.03)

Sec. 20-140. Obstructions and junk.

- (a) *Obstructions.* No person may place, maintain, or allow any obstruction in a right-of-way other than those specifically permitted by this article, by state law or rule, or by written approval of the town board. Items prohibited by this section include, but are not limited to, fences, posts, structures, piled materials, hay bales, vehicles, trailers, campers, equipment, or any other items that interfere with the safe use or the maintenance of the right-of-way. No person shall park a functioning vehicle in a right-of-way in such a way as to unreasonably interfere with the safe use of a road or the maintenance of the right-of-way.
- (b) *Junk.* No person shall place or maintain junk in a right-of-way.
- (Code 2004, § 303.04)

Sec. 20-141. Alteration of grade.

No person may alter or change the depth or contour of any portion of any ditch or embankment in a right-of-way without written approval of the town board.

(Code 2004, § 303.05)

Sec. 20-142. Unauthorized maintenance.

No person may work, maintain, improve, or repair the traveled portion of a right-of-way without the written approval of the town board.

(Code 2004, § 303.06)

Sec. 20-143. Doing damage.

No person shall cause any excavation or construction to a right-of-way without the written approval of the town board. Any person doing damage within a right-of-way with approval of the town board shall return the right-of-way to at least the same condition it was in prior to the damage.

(Code 2004, § 303.07)

Secs. 20-144—20-176. Reserved.

DIVISION 2. DRIVEWAY ACCESSES AND HEADWALLS

Sec. 20-177. Driveway accesses.

- (a) No person may construct or reconstruct any driveway access to a road without first obtaining a permit from the town.
- (b) All aprons and driveway accesses shall be constructed to conform to town driveway design standards.
- (c) All off-street parking spaces shall have access off driveway accesses and not directly off the public streets.
- (Code 2004, § 303.09(1))

Sec. 20-178. Culverts.

A person constructing or reconstructing a driveway access may be required to install a culvert meeting the specifications set out by the town board if the town board determines a culvert is necessary for suitable driveway access to the road and to promote adequate drainage of the right-of-way.

(Code 2004, § 303.09(2))

Sec. 20-179. Costs.

A person constructing or reconstructing a driveway access to an existing road shall be responsible for paying all of the costs related thereto, including the cost of seeking all necessary approvals and the cost of a culvert if one is required. Property owners are responsible for maintaining all driveway accesses and associated culverts on their property at their own cost.

(Code 2004, § 303.09(3))

Sec. 20-180. Headwalls.

No person may construct or reconstruct any headwall in a way that interferes with the safe use or maintenance of a right-of-way.

(Code 2004, § 303.09(4))

Secs. 20-181—20-193. Reserved.*DIVISION 3. MAILBOXES, SIGNS AND NEWSPAPER BOXES***Sec. 20-194. Mailboxes.**

- (a) Mailboxes and newspaper boxes are permitted within a right-of-way if they do not interfere with, obstruct, or render dangerous for passage, a road. Mailboxes placed within a right-of-way must comply with all of the standards in Minn. R. ch. 8818. The town board may remove and replace mailboxes that do not comply with the standards as provided in M.S.A. § 169.072.
- (b) All mailboxes installed within the street width or right-of-way of a cul-de-sac street or dead-end street in the town shall be installed on the right-hand side of the cul-de-sac street as one exits from the same.

(Code 2004, §§ 301.01, 303.08(1))

Sec. 20-195. Address markers.

All improved parcels shall have a permanently posted address, which shall be visible and legible from both directions of travel along the road on which the address is located. Address signs along one-way roads shall be visible from both the intended direction of travel and the opposite direction. Where multiple addresses are required at a single driveway, they shall all be mounted on the same post. Where a roadway provides access solely to a single commercial or industrial business, the address sign shall be placed at the nearest road intersection providing access to that site.

(Code 2004, § 801.02(subd. 5.1); Ord. No. 143, §§ 5, 6, 3-12-2013)

Sec. 20-196. Signs.

No sign of any nature may be placed or allowed to remain in any right-of-way except an official traffic sign placed by a governmental authority or other signage expressly permitted by state law. (See also chapter 30, article VII.)

(Code 2004, § 303.08(2))

Secs. 20-197—20-216. Reserved.

ARTICLE V. USE OF PUBLIC PROPERTY

DIVISION 1. GENERALLY

Secs. 20-217—20-274. Reserved.

DIVISION 2. PERMIT

Sec. 20-275. Required.

No person, firm or corporation shall open or disturb the surface of any public ground, right-of-way or easement for any purpose without first having obtained a permit from the town.

(Code 2004, § 508.01(intro. ¶ 1))

Sec. 20-276. Application.

The permit application shall reflect the type of facilities to be installed and the proposed location and depth within the right-of-way or easement.

(Code 2004, § 508.01(intro. ¶ 1))

Sec. 20-277. Installation.

The facilities are to be installed pursuant to such permit and shall be located as directed by the town, taking into account existing and planned underground facilities.

(Code 2004, § 508.01(intro. ¶ 1))

Sec. 20-278. Previously installed facilities require no permit.

No permit shall be required for repairs and maintenance of previously installed facilities.

(Code 2004, § 508.01(intro. ¶ 1))

Sec. 20-279. Issuance.

The permit shall be issued by the town clerk after consultation with the town board and/or town engineer and/or road supervisor. Each application shall be accompanied by a fee as set by the town adopted fee schedule. (Code 2004, § 508.01(intro. ¶ 1); Ord. No. 184, § A, 7-28-2020)

Sec. 20-280. Construction work; permits.

If construction work is not commenced within 90 days after the issuance of a permit, it shall be null and void. In addition, a new permit must be obtained if construction under a permit is not completed within six months of the date of permit issuance.

(Code 2004, § 508.01(intro. ¶ 2))

Secs. 20-281—20-308. Reserved.

DIVISION 3. STANDARDS

Sec. 20-309. Permitted relocation of existing utilities or facilities.

Location of new or relocation of existing utilities or facilities shall be permitted in town rights-of-way and easements only after the requirements in this division have been satisfactorily completed.

(Code 2004, § 508.02(intro. ¶))

Sec. 20-310. Applicant submits scaled map.

The applicant shall submit for review to the town clerk, or designee, two copies of a scaled map with proposed utility or facility location with dimensions and size of pipe, conduit, cable, or other facilities.

(Code 2004, § 508.02(1); Ord. No. 184, § B, 7-28-2020)

Sec. 20-311. Utility lines maintained.

In areas where one or more utilities have already been installed or where maintenance, relocation, or upgrading is necessary, locations of utility lines as shown on exhibits A and B in section 20-318 shall be maintained.

(Code 2004, § 508.02(2))

Sec. 20-312. Location of utility installations.

In new plats or subdivisions, or in areas where no utilities have previously been extended, utilities shall be installed in the right-of-way in locations and depths as shown on exhibits C and D in section 20-318. Where possible, when relocation is required or major upgrading is to be done on existing lines, utilities shall be located as shown on exhibits C and D in section 20-318.

(Code 2004, § 508.02(3))

Sec. 20-313. Performance bond required.

The town board shall have the option to require a performance bond for a minimum of six months from the date of commencing construction, should the proposed construction have the potential to damage the street facilities, including, but not limited to, the street section, turf, drainage facilities and private property within the street right-of-way or easements. The amount of the bond shall be set by the town board in each case on the basis of the recommendation of the town engineer and/or road supervisor.

(Code 2004, § 508.02(4))

Sec. 20-314. Approval to begin construction.

The applicant shall not begin construction until approval is given by the town board, town engineer or road supervisor. If written approval is not received within 45 days, the applicant may assume approval.

(Code 2004, § 508.02(5))

Sec. 20-315. Appeals.

Should the town board, town engineer, or road supervisor deny construction, the applicant may appeal. The appeal shall be received in writing ten days prior to the date of a regularly scheduled town board meeting.

(Code 2004, § 508.02(6))

Sec. 20-316. Location of existing facilities in right-of-way.

The applicant shall be responsible for locating existing facilities and/or utilities in the right-of-way. Any damage to existing facilities and/or utilities in the right-of-way shall be the responsibility of the applicant.

(Code 2004, § 508.02(7))

Sec. 20-317. Town map provided annually.

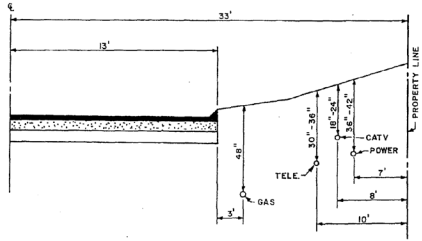
Each utility company shall provide an annual revised town map showing location of all its utilities in the town.

(Code 2004, § 508.02(8))

Sec. 20-318. Exhibits.

The exhibits referenced in this division are as follows:

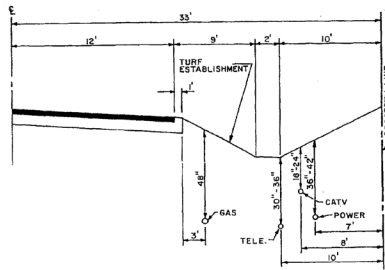
Exhibit A



**TYPICAL STREET LOCATION
BITUMINOUS BERM - TYPICAL UTILITY LOCATIONS**

NO SCALE

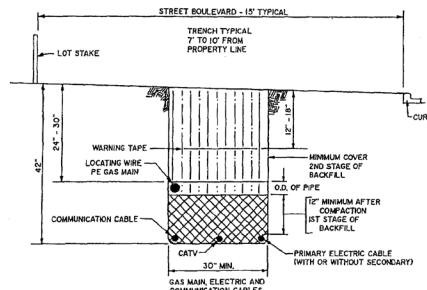
Exhibit B



**TYPICAL STREET LOCATION
BITUMINOUS BERM - TYPICAL UTILITY LOCATIONS**

NO SCALE

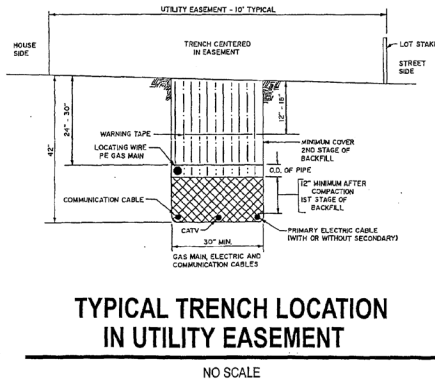
Exhibit C



**TYPICAL TRENCH LAYOUT
IN STREET BOULEVARD**

NO SCALE

Exhibit D



(Code 2004, § 508.02(exhs. A—D))

Chapter 22 SUBDIVISIONS AND OTHER LAND DIVISIONS³

ARTICLE I. IN GENERAL

Sec. 22-1. Short title.

This chapter shall be known as the "Subdivision Ordinance of the Township of Linwood, Anoka County," and will be referred to herein as "this chapter."

(Code 2004, § 806.01(subd. 1))

Sec. 22-2. Purpose.

This chapter is adopted in order to safeguard the best interests of the town and to assist the subdivider in harmonizing his interests with those of the town at large so that the adherence to it will bring results beneficial to both parties. It is the purpose of this chapter to make certain regulations and requirements for the platting of land pursuant to the authority contained in Minnesota Statutes, which regulations the town board deems necessary for the health, safety and general welfare of this community.

(Code 2004, § 806.01(subd. 2))

Sec. 22-3. Scope.

The rules, regulations and standards governing subdivision of land as contained herein shall apply to all land within the town limits. Except in the case of re-subdivision, this chapter shall not apply to any lot forming a part of a subdivision recorded in the office of the county recorder prior to September 20, 1979, nor is it intended by this chapter to repeal, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by or in conflict with this chapter or with private restrictions placed upon property by deed, covenant or other private agreement or with restrictive covenants governing the land. Where

³State law reference(s)—Authority to adopt subdivision regulations, M.S.A. § 462.358; plats and platting, M.S.A. § 505.01 et seq.

this chapter imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

(Code 2004, § 806.01(subd. 3))

Sec. 22-4. Definitions.

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

Alley means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

Applicant means the owner or representative of land proposed to be subdivided. Consent shall be required from the legal owner of the premises.

Attorney means the attorney employed by the Township of Linwood, Anoka County, Minnesota, unless otherwise stated.

Block means an area of land within a subdivision that is entirely bordered by streets or by streets and the entire boundary of the subdivision or a combination of the above with a river or lake.

Boulevard means the portion of the street right-of-way between the curblin and the property line.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and includes any structure.

Comprehensive plan means the group of maps, charts and texts that make up the comprehensive long-range plan of the town.

Design standards means the specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating, among other things, the optimum, minimum or maximum dimensions of such items as rights-of-way, blocks, easements and lots.

Easement means a grant by a property owner for the use of a strip of land and for the purpose of constructing and maintaining drives, utilities including, but not limited to, wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways and gas lines.

Engineer means the registered engineer employed by the Township of Linwood, Anoka County, Minnesota.

Final plat means a drawing or map of a subdivision meeting all of the requirements of the town and in such form as required by the county for the purpose of recording.

Individual sewage disposal system means a septic tank, seepage tile sewage disposal system or any other approved sewage treatment device.

Lot means land occupied or to be occupied by a building and its accessory building, together with such open spaces as are required under the provisions of the current town zoning regulations having not less than the minimum area required by said zoning chapter for a building site in the district in which such lot is situated and having its principal frontage on a street.

Lot, corner, means a lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

Lot improvement means any building, structure, place, work of art or other object or improvements of the land on which they are situated constituting a physical betterment of real property or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

Outlot means a lot remnant or parcel of land left over after platting which is intended as open space or other use for which no development is intended and for which no building permit shall be issued.

Owner includes the plural as well as the singular and, where appropriate, includes a natural person, partnership, firm association, public or quasi-public corporation, private corporation or a combination of them.

Parks and playgrounds mean public land and open spaces in the town dedicated or reserved for recreation purposes.

Pedestrian way means a public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

Percentage of grade means on street centerline, meaning the distance vertically from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

Pine grove means any land, which is, at least ten percent stocked by coniferous trees of any size. The percentage of coverage for a given property shall be determined by multiplying the number of stems on the property by the maximum expected crown size of 700 square feet and dividing by the area of the property in question.

Planning and zoning commission means the planning and zoning commission of the Township of Linwood.

Preliminary plat means a tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.

Protective covenants means contracts made between private parties as to the manner in which land may be used with the view of protecting and preserving the physical and economic integrity of any given area.

Public improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the town may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

Setback means the distance between a building and the property line nearest thereto.

Street means a public right-of-way affording primary access by pedestrian or vehicles or both to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue or boulevard.

Streets, arterial, means those streets carrying larger volumes of traffic and serving as links between various sub areas of the community. Arterial streets are intended to provide for collection and distribution of traffic between highways and collector streets; hence regulation of direct access to property is critical.

Streets, collector, means those streets which carry traffic from local streets to the major system of arterials and highways. Collector streets primarily provide principal access to residential neighborhoods including, to a lesser degree, land access.

Streets, cul-de-sac, means a local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement. (See section 22-9.)

Streets, local, means those streets which are used primarily for access to abutting properties and for traffic movement.

Streets, marginal access, means those local streets which are parallel and adjacent to thoroughfares and highways and which provide access to abutting properties and protection from through traffic.

Street width means the shortest distance between lines of lots delineating the street's right-of-way.

Subdivider means any individual, firm, association, syndicate, co-partners, corporation, trust or 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.

Subdivision means the division of land resulting in a parcel of land less than five acres in area or less than 300 feet in width for the purpose of transfer of ownership or building development or, if a new street is involved, any division of land. The term "subdivision" includes re-subdivision and, when appropriate to the context, shall relate to the process of the land subdivided.

(Code 2004, § 806.03)

Sec. 22-5. Conditions for recording.

No plat of any subdivision shall be entitled to record in the county recorder's office or have any validity until the plat thereof has been prepared, approved and acknowledged in the manner prescribed by this chapter.

(Code 2004, § 806.01(subd. 4))

Sec. 22-6. Building permits.

No building permits shall be considered for issuance by the town for the construction of any building, structure or improvement to the land or to any lot in a subdivision, as defined herein, until all requirements of this chapter have been complied with fully.

(Code 2004, § 806.01(subd. 5))

Sec. 22-7. Conflict.

Whenever there is a difference between minimum standards or dimensions specified herein and contained in other official regulations, resolutions or ordinances of the town, the most restrictive standards shall apply.

(Code 2004, § 806.01(subd. 8))

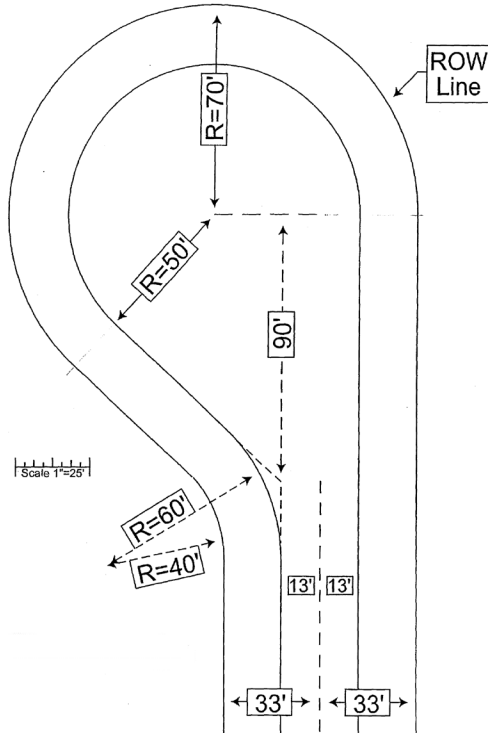
Sec. 22-8. Misrepresentation as to construction, supervision or inspection of improvements unlawful.

It shall be unlawful for any person, firm or corporation owning an addition or subdivision of land within the town to represent that any improvement upon any of the streets, alleys or avenues of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the town board or has been supervised or inspected by the town when such improvements have not been so constructed, supervised or inspected.

(Code 2004, § 806.12)

Sec. 22-9. Cul-de-sac diagram.

Exhibit 'A': Cul-de-Sac



(Code 2004, ch. VIII, pt. 6, exh. A)

Secs. 22-10—22-34. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 22-35. Procedures for filing and review.

In order to ensure that all applicants are informed of the procedural requirements and minimum standards of this article and the requirements or limitations imposed by other town ordinances or plans, prior to the development of a preliminary plat, all applicants shall present a sketch plan to the town clerk prior to filing a preliminary plat.

(Code 2004, § 806.04(subd. 1))

Secs. 22-36—22-58. Reserved.

DIVISION 2. PRELIMINARY PLAT

Sec. 22-59. Filing.

An electronic copy plus 20 printed copies of the preliminary plat and a list obtained from the county of property owners located within one-half mile of the subject property shall be submitted to the town clerk. Any necessary applications for variances from the provisions of this division shall be submitted with the required fee. The proposed plat shall be placed on the agenda of the first possible planning and zoning commission meeting occurring after ten days from the date of submission. The plan shall be considered as being officially submitted when all the information requirements are complied with.

(Code 2004, § 806.04(subd. 2(1)))

Sec. 22-60. Filing fee.

A cash filing fee as provided in section 2-249 for each lot shall be paid at the time the preliminary plat is submitted to cover town expenses incurred in processing, reviewing and approving or disapproving the proposed plat; the subdivider shall be responsible for all town expenses in excess of those covered by the initial filing fee, and such excess expenses shall be estimated and placed in escrow with the town. Any balance after final plat approval shall be refunded to the subdivider 90 days after such approval.

(Code 2004, § 806.04(subd. 2(2)))

Sec. 22-61. Hearing.

The planning and zoning commission, upon receipt of said application, shall instruct the town clerk to set a public hearing for public review of the preliminary plat. Said hearing shall be established once adequate time has been allowed for staff and advisory body review of the plat. The planning and zoning commission shall conduct the hearing and report its findings and make recommendations to the town board. Notice of said hearing shall consist of a legal property description, description of request and map detailing property location and shall be published in the official newspaper at least ten days prior to the hearing and written notification of said hearing shall be mailed at least ten days prior to all owners of land within 350 feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such hearing proceeding as set forth in this division.

(Code 2004, § 806.04(subd. 2(3)))

Sec. 22-62. Technical assistance reports.

After the public hearing has been set, the town clerk shall instruct the appropriate staff persons to prepare technical reports where appropriate and provide general assistance preparing a recommendation on the action to the town board.

(Code 2004, § 806.04(subd. 2(4)))

Sec. 22-63. Review by other commissions or jurisdictions.

The town clerk shall refer copies of the preliminary plat to county, state or other public jurisdictions for their review and comments, where appropriate and when required.

(Code 2004, § 806.04(subd. 2(5)))

Sec. 22-64. Planning and zoning commission action.

The planning and zoning commission shall make a recommendation to the town board immediately following the close of the public hearing. If the planning and zoning commission has not acted upon the preliminary plat within 60 days from the opening of the public hearing, the town board may act on the preliminary plat without the planning and zoning commission's recommendation.

(Code 2004, § 806.04(subd. 2(6)))

Sec. 22-65. Town board action.

- (a) If all requirements of this division and as additionally imposed by the planning and zoning commission are complied with, the town board shall act upon the preliminary plat and may impose conditions and restrictions which are deemed necessary within 60 days of the date of the close of the planning and zoning commission's public hearing or within 120 days of the planning and zoning commission's opening of the public hearing.
- (b) If the preliminary plat is not approved by the town board, the reasons for such action shall be recorded in the proceedings of the town board and transmitted to the applicant. If the preliminary plat is approved, such approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements, as specified by this division, to be indicated on the final plat. The town board may require such revisions in the preliminary plat and final plat as it deems necessary for the health, safety, general welfare and convenience of the town.
- (c) If the preliminary plat is approved by the town board, the subdivider must submit the final plat within 100 days after said approval or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the town board.

(Code 2004, § 806.04(subd. 2(7)))

Secs. 22-66—22-88. Reserved.

DIVISION 3. FINAL PLAT

Sec. 22-89. Filing.

After the preliminary plat has been approved, final plat shall be submitted for review as set forth in the sections which follow.

(Code 2004, § 806.04(subd. 3(1)))

Sec. 22-90. Approval of the planning and zoning commission.

Twenty copies of the final plat shall be submitted to the town clerk for distribution to the planning and zoning commission, town board and appropriate town staff 20 days prior to a commission meeting at which consideration is requested. During the said 20 days, the town staff shall examine the final plat and prepare a recommendation to the planning and zoning commission. Nature of this recommendation for approval, disapproval or any delay in decision of the final plat will be conveyed to the subdivider within ten days after the meeting of the town planning and zoning commission at which such plat was considered. In the case that such plat

is recommended for disapproval, the subdivider shall be notified in writing of the reasons for such action and what requirements shall be necessary to meet the approval of the commission.

(Code 2004, § 806.04(subd. 3(2)))

Sec. 22-91. Approval of the town board.

After review of the final plat by the planning and zoning commission, such final plat, together with the recommendations of the planning and zoning commission, shall be submitted to the town board for action. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all agreements for basic improvements, public dedication and other requirements as indicated by the town board. Following its adoption, the resolution shall become an appendix to the final plat and shall, therefore, be accepted as a part of the plat document. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the town board and reported to the person applying for such approval. The town board's decision shall be made within 60 days after the first meeting at which it received the final plat.

(Code 2004, § 806.04(subd. 3(3)))

Sec. 22-92. Special assessments.

When any existing special assessments which have been levied against the property described are to be divided and allocated to the respective lots in the proposed lot, the town clerk shall estimate the clerical cost of preparing a revised assessments roll, filing the same with the county auditor and making such division and allocation, and upon approval by the town board of such cost, the same shall be paid to the town clerk before the final plat approval.

(Code 2004, § 806.04(subd. 3(4)))

Sec. 22-93. Street addresses.

With submission of the final plat, ten copies of the plat map showing all addresses correctly labeled in conformance with all applicable county and town ordinances and policies shall be supplied to the town clerk for subsequent distribution to the utility companies and local school districts.

(Code 2004, § 806.04(subd. 3(5)))

Sec. 22-94. Recording final plat.

If the final plat is approved by the town board, the subdivider shall record it with the county recorder within 100 days after said approval or approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the town board. The subdivider shall, immediately upon recording, furnish the town clerk with a print and reproducible tracing of the final plat showing evidence of the recording. No building permits shall be let for construction of any structure on any lot in said plat until the town has received evidence of the plat being recorded by the county.

(Code 2004, § 806.04(subd. 3(6)))

Sec. 22-95. Abstracts and title opinions.

A registered property abstract or abstract of title showing ownership of all the subject property shall be submitted by the subdivider prior to final plat approval, and the town attorney shall examine the same and submit his opinion of title to the town board before final approval; all requirements of said opinion shall be satisfied before final approval.

(Code 2004, § 806.04(subd. 3(7)))

Secs. 22-96—22-118. Reserved.

DIVISION 4. PREMATURE SUBDIVISIONS

Sec. 22-119. Preliminary plats deemed premature are denied.

Any preliminary plat of a proposed subdivision deemed premature for development shall be denied by the town board.

(Code 2004, § 806.05(intro. ¶))

Sec. 22-120. Conditions establishing premature subdivisions.

A subdivision may be deemed premature should any of the conditions set forth in the following sections exist.

(Code 2004, § 806.05(subd. 1(intro. ¶)))

Sec. 22-121. Lack of adequate drainage.

A condition of inadequate drainage may be deemed to exist if:

- (1) Surface for subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures.
- (2) The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.
- (3) The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.
- (4) Factors to be considered in making these determinations may include average rainfall for the area; the relation of the land to floodplains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.

(Code 2004, § 806.05(subd. 1(1)))

Sec. 22-122. Lack of adequate water supply.

A proposed subdivision may be deemed to lack an adequate water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depletion of existing water supplies for surrounding areas.

(Code 2004, § 806.05(subd. 1(2)))

Sec. 22-123. Lack of adequate roads or highways to serve the subdivision.

A proposed subdivision may be deemed to lack adequate roads or highways to serve the subdivision when:

- (1) Roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition and when, with due regard to the advice of the county and/or the state department of transportation, said roads are inadequate for the intended use.
- (2) The traffic volume generated by the proposed subdivision would create unreasonable highway congestion or unsafe conditions on highways existing at the time of the application or proposed for completion within the next two years.

(Code 2004, § 806.05(subd. 1(3)))

Sec. 22-124. Lack of adequate waste disposal system.

A proposed subdivision may be deemed to lack an adequate waste disposal system if there is inadequate on-site sewer capacity potential to support the subdivision if developed to its maximum permissible density.

(Code 2004, § 806.05(subd. 1(4)))

Sec. 22-125. Inconsistency with comprehensive plan.

The proposed subdivision is inconsistent with the purposes, objectives and recommendations of the duly adopted comprehensive plan of the town, as may be amended.

(Code 2004, § 806.05(subd. 1(5)))

Sec. 22-126. Providing public improvements.

Public improvements, such as recreational facilities or other public facilities, reasonably necessitated by the subdivision which must be provided at public expense, cannot be reasonably provided for within the next two years.

(Code 2004, § 806.05(subd. 1(6)))

Sec. 22-127. State environmental quality council policy compliance.

The proposed subdivision is inconsistent with the policies of the state environmental quality council, MEQC 25, as may be amended, and could adversely impact critical environmental areas or potentially disrupt or destroy

historic areas which are designated or officially recognized by the town board in violation of federal and state historical preservation laws.

(Code 2004, § 806.05(subd. 1(7)))

Sec. 22-128. Burden of establishing.

The burden shall be upon the applicant to show that the proposed subdivision is not premature.

(Code 2004, § 806.05(subd. 2))

Secs. 22-129—22-154. Reserved.

DIVISION 5. PLAT AND DATA REQUIREMENTS

Sec. 22-155. Sketch plan.

Sketch plans shall contain, at a minimum, the following information:

- (1) Plat boundary;
- (2) North arrow;
- (3) Scale;
- (4) Street layout on and adjacent to plat;
- (5) Designation of land use and current or proposed zoning;
- (6) Significant topographical or physical features;
- (7) General lot locations and layout; and
- (8) Preliminary evaluation by the applicant that the subdivision is not classified as premature based upon criteria established in division 4 of this article.

(Code 2004, § 806.06(subd. 1))

Sec. 22-156. Preliminary plat.

The subdivider shall prepare and submit a preliminary plat, together with any necessary supplementary information. The preliminary plat shall contain the information set forth in the sections which follow.

- (1) *General requirements.*
 - a. Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions.
 - b. Location of boundary lines in relation to known section, quarter section or quarter-quarter section lines comprising a legal description of the property.
 - c. Names and addresses of all persons having property interest, the developer, designer and surveyor, together with his registration number.
 - d. Graphic scale or plat, not less than one inch to 100 feet.

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- e. Date and north arrow.
- (2) *Existing conditions.*
- a. Boundary line and total acreage of proposed plat clearly indicated.
 - b. Existing zoning classifications for land within and abutting the subdivision.
 - c. Location, width and names of all existing or previously platted streets or other public ways showing type, width and condition of improvements, if any, railroad and utility rights-of-way, parks and other public open spaces, permanent building and structures, easements and section and corporate lines within the tract and to a distance of 350 feet beyond the tract.
 - d. Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations and locations of catchbasins, manholes and hydrants shall also be shown.
 - e. Boundary lines of adjoining unsubdivided or subdivided land within 350 feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.
 - f. Topographic data, water, courses, wetlands, rock outcrops, power transmission poles and lines and other significant features shall also be shown.
 - g. The subdivider shall file a report prepared by a registered civil engineer on the feasibility of individual on-site sewer and water systems on each lot and shall include soil boring analysis and percolation tests to verify conclusions and other necessary information as regulated by town's on-site sewer ordinance as may be amended. Said report and finding shall be subject to the review and approval of the town consulting engineer.

(Code 2004, § 806.06(subd. 2(1), (2)))

Sec. 22-157. Proposed design features.

- (a) Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross sections and proposed names of streets in conformance with town and county street identification policies. The name of any street heretofore used in the town or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used.
- (b) Locations and widths of proposed alleys and pedestrian lots and blocks.
- (c) Location and size of proposed sewer and water systems.
- (d) Location, dimension and purpose of all easements.
- (e) Layout, numbers, lot areas and preliminary dimensions of lots and blocks.
- (f) Minimum front and side street building setback lines.
- (g) When lots are located on a curve, the width of the lot at the required front yard setback line.
- (h) Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area in acres.
- (i) Water supply. Individual wells shall be provided on each lot, properly placed in relationship to the individual sewage disposal facilities on the same and adjoining lots. Well plans must comply with the state code, as may be amended, and be submitted and subject to the approval of the town consulting engineer.
- (j) Sewage disposal, private. All on-site septic systems shall be installed in accordance with all applicable state pollution control agency regulations and town ordinances.

(Code 2004, § 806.06(subd. 2(3)))

Sec. 22-158. Supplementary information.

Any or all of the supplementary information requirements set forth in this division shall be submitted when deemed necessary by the town staff, consultants, advisory boards and/or town board.

- (1) Proposed protective covenants.
- (2) An accurate soil survey of the subdivision.
- (3) A survey identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density and spacing.
- (4) Statement of the proposed use of lots stating types of buildings with number of proposed dwelling units or type of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population.
- (5) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any rights in the applicant.
- (6) Provision for surface water disposal, ponding, drainage and flood control.
- (7) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, it shall be required that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be required to relate well with existing or potential adjacent subdivisions and it shall be the applicant's responsibility to demonstrate such potential relationship.
- (8) Where structures are to be placed on large or excessively deep lots which are subject to potential replatting, the preliminary plat shall indicate a logical way in which the lots could possibly be re-subdivided in the future.
- (9) A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures and landscaping of the erosion and sediment control system.
- (10) A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain and the types and locations of trees and other vegetation to be planted.
- (11) A financial statement for the developer satisfactory to the town.
- (12) Topographical data consisting of two-foot vertical contours.
- (13) Such other information as may be required.

(Code 2004, § 806.06(subd. 2(4)))

Sec. 22-159. Final plat.

The owner or subdivider shall submit a final plat together with any necessary supplementary information. The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota Statutes and the county regulations and such final plat shall contain the following information:

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- (1) Names of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.
 - (2) Location by section, town, range, county and state, including descriptive boundaries of the subdivision, based on an accurate traverse giving angular and linear dimensions which must be mathematically close. The allowable error closure or any portion of a final plat shall be one foot in 7,500 feet.
 - (3) The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments.
 - (4) Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length and radii and/or arcs of all curves and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.
 - (5) Lots shall be numbered clearly. Blocks are to be numbered with numbers shown clearly in the center of the block.
 - (6) The exact locations, widths and names of all streets to be dedicated.
 - (7) Location and width of all easements to be granted.
 - (8) Name and address of surveyor making the plat.
 - (9) Scale of plat (the scale to be shown graphically on a bar scale), date and north arrow.
 - (10) Statement granting all easements as follows: Easement for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked utility easements.
 - (11) Statement dedicating all streets, alleys and other public areas not previously dedicated as follows:
Streets, alleys and other public areas shown on this plat and not heretofore dedicated to the public use are hereby so dedicated.

(Code 2004, § 806.06(subd. 3))

Sec. 22-160. Address map.

The address map shall be prepared in accordance with town and county policy and shall include all addresses of lots as platted.

(Code 2004, § 806.06(subd. 4))

Sec. 22-161. Certification required.

- (a) Certification by registered surveyor in the form required by Minnesota Statutes, as amended.
- (b) Execution by all owners of any interest in the land and any holders of a mortgage thereon of the certificates required by Minnesota Statutes, as amended, and said dedication of the utility easements and other public areas in such form as approved by the town board.
- (c) Space for certificates of approval and review to be filled in by the signature of the chair of the town planning and zoning commission and the chair of the town board and the town clerk. The form of certificate by the planning and zoning commission is as follows:

Reviewed by the Planning and Zoning Commission of the Town of Linwood, Anoka County, Minnesota.

This day of , 20__.

Signed Chair	
Attest Secretary	

The form of approval of the town board is as follows:

Approval by the Town of Linwood, Anoka County, Minnesota.

This day of , 20__.

Signed Chair of the Town Board	
Attest Town Clerk	

(Code 2004, § 806.06(subd. 5))

Secs. 22-162—22-190. Reserved.

DIVISION 6. VARIANCES

Sec. 22-191. Finding.

- (a) The planning and zoning commission may recommend a variance from the minimum standards of this division other than procedural provisions when, in its opinion, practical difficulties (as defined by M.S.A. § 462.357, subd. 6) may result from strict compliance.
- (b) In recommending any variance, the planning and zoning commission shall prescribe any conditions that it deems necessary to or desirable for the public interest. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the terms of the variance are consistent with the comprehensive plan. When evaluating variance requests, the planning and zoning commission shall consider:
 - (1) Is the variance in harmony with the purposes and intent of this chapter?
 - (2) Is the variance consistent with the comprehensive plan?
 - (3) Does the proposal put property to use in a reasonable manner?
 - (4) Are there unique circumstances to the property not created by the landowner?
 - (5) Will the variance, if granted, alter the essential character of the locality?

(Code 2004, § 806.11(subd. 1); Ord. No. 150, § 1, 5-13-2014)

Sec. 22-192. Application.

Requests for a variance or appeal shall be filed with the town clerk or designee on an official application form. Such application shall be accompanied by a fee as set by the town's adopted fee schedule.

(Code 2004, § 806.11(subd. 2(1)); Ord. No. 165, § A, 4-24-2018)

Sec. 22-193. Standards to be addressed with application.

Such application shall also be accompanied by three copies of detailed written and graphic materials necessary for the explanation of the request and narrative statement addressing the following standards:

- (1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
- (2) That a literal interpretation of the provisions of this division would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this division;
- (3) That special conditions and circumstances do not result from the action of the applicant;
- (4) That granting the variance will not alter the essential character of the area or community;
- (5) That granting the variance will not result in a use that is otherwise not permitted in the zoning district; and
- (6) That the applicant proposes to use the property in a reasonable manner.

(Ord. No. 165, § 806.11(subd. 2(2)), 4-24-2018)

Sec. 22-194. Staff report and recommendation.

Upon receiving a complete application, the town clerk or designee shall refer the application, along with all related information, to the planning and zoning administrator for a staff report and recommendation to the planning and zoning commission.

(Code 2004, § 806.11(subd. 2(2)); Ord. No. 165, § C, 4-24-2018)

Sec. 22-195. Planning and zoning commission considers variance.

The planning and zoning commission shall consider the variance at its next regular meeting unless the date that the application is determined to be complete falls within 25 days of said meeting, in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting.

(Code 2004, § 806.11(subd. 2(3)); Ord. No. 165, § D, 4-24-2018)

Sec. 22-196. Applicant appears before planning and zoning commission.

The applicant or a representation thereof shall appear before the planning and zoning commission in order to answer questions concerning the proposed variance request.

(Code 2004, § 806.11(subd. 2(4)); Ord. No. 165, § D, 4-24-2018)

Sec. 22-197. Site visit; request of additional information.

The planning and zoning commission and town staff shall have the authority to conduct a site visit and request additional information from the applicant concerning the variance or to retain expert testimony with the consent and at the expense of the applicant concerning said variance where said information is declared necessary to ensure the preservation of health, safety and general welfare.

(Code 2004, § 806.11(subd. 2(6)); Ord. No. 165, § E, 4-24-2018)

Sec. 22-198. Public hearing.

(a) The town clerk or designee shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper at least ten days prior to said hearing and individual notices shall be mailed not less than ten days nor more than 30 days prior to the hearing to all owners of property within 500 feet of the parcel included in the request.

(b) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this division.

(Code 2004, § 806.11(subd. 2(7), (8)); Ord. No. 165, § F, 4-24-2018)

Sec. 22-199. Finding of fact; recommendation to town board.

The planning and zoning commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this chapter. Such recommendation to the town board shall be in writing.

(Code 2004, § 806.11(subd. 2(9)); Ord. No. 165, § G, 4-24-2018)

Sec. 22-200. Recommendation placed on agenda for next meeting.

Upon receiving the recommendation of the planning and zoning commission, the town clerk shall place the recommendation on the agenda for the next regular meeting. Such recommendations shall be entered in and made part of the permanent written record of the town board meeting.

(Code 2004, § 806.11(subd. 2(11)); Ord. No. 165, § I, 4-24-2018)

Sec. 22-201. Recorded finding of fact; imposition of conditions.

Upon receiving the recommendation of the planning and zoning commission, the town board shall make a recorded finding of fact and impose any condition it considers necessary to protect the public health, safety and welfare.

(Code 2004, § 806.11(subd. 2(12)); Ord. No. 165, § I, 4-24-2018)

Sec. 22-202. Approval or denial of request.

The town board shall decide whether to approve or deny a request for a variance at its next regular meeting.

(Code 2004, § 806.11(subd. 2(13)); Ord. No. 165, § I, 4-24-2018)

Sec. 22-203. Granting of variance or appeal by majority vote.

A variance of this division, chapter or grant of an appeal shall be by majority vote of the town board.
(Code 2004, § 806.11(subd. 2(14)); Ord. No. 165, § J, 4-24-2018)

Sec. 22-204. Notification of decision.

The town clerk or designee shall notify the originator of the variance request or appeal of the town board's decision in writing.
(Code 2004, § 806.11(subd. 2(15)); Ord. No. 165, § K, 4-24-2018)

Secs. 22-205—22-231. Reserved.

ARTICLE III. DESIGN STANDARDS

DIVISION 1. GENERALLY

Secs. 22-232—22-256. Reserved.

DIVISION 2. LOTS AND BLOCKS

Sec. 22-257. Lots.

- (a) *Area.* The minimum lot area, width and depth shall not be less than that established by the zoning chapter in effect at the time of adoption of the final plat.
- (b) *Corner lots.* Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the zoning chapter.
- (c) *Side lot lines.* Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- (d) *Frontage.* Every lot must have the minimum frontage on a town approved street other than an alley as required in the zoning chapter.
- (e) *Setback lines.* Setback or building lines shall be shown on the preliminary plat for all lots intended for residential use and shall not be less than the setback required by the zoning chapter, as may be amended.
- (f) *Watercourses.* Lots abutting a watercourse, wetland, ponding area or stream shall have additional depth and width as required under the provisions of the zoning chapter.
- (g) *Features.* In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- (h) *Lot remnants.* All remnants of lots below minimum size left over after subdividing a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels.

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- (i) *Political boundaries.* No singular plat shall extend over a political boundary or school district line without documented notification to the affected units of government.
 - (j) *Frontage on two streets.* Double-frontage, or lots with frontage on two parallel streets, shall not be permitted except where lots back on arterial streets or highways or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting along the back lot line.
 - (k) *Turn around access.* Where proposed residential lots abut a collector or arterial street, they should be platted in such a manner as to encourage turn-around access and egress on each lot.

(Code 2004, § 806.07(subd. 2))

Sec. 22-258. Blocks.

- (a) *Block length.* In general, intersection streets determining block lengths shall be provided at such intervals so as to serve cross-traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions should not exceed 1,320 feet nor be less than 400 feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than 800 feet, pedestrian ways and/or easements of at least ten feet in width through the block may be required near the center of the block.
- (b) *Block width.* The width of the block shall normally be sufficient to allow two tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such widths as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

(Code 2004, § 806.07(subd. 1))

Secs. 22-259—22-279. Reserved.

DIVISION 3. STREETS AND ALLEYS

Sec. 22-280. Streets, continuous.

Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions or provide for future connections to adjoining unsubdivided tracts or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of stormwater, to public convenience and safety and in their appropriate relation to the proposed uses of the area to be served.

(Code 2004, § 806.07(subd. 3(1)))

Sec. 22-281. Local streets and dead-end streets.

Local streets should be so planned so to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Cul-de-sacs shall not be longer than 1,000 feet, including a terminal turn-around, which shall be provided at the closed end, in the configuration and the dimensions shown on exhibit A (see section 22-9).

(Code 2004, § 806.07(subd. 3(2)))

Sec. 22-282. Street plans for future subdivisions.

Where the plat to be submitted includes only a part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

(Code 2004, § 806.07(subd. 3(3)))

Sec. 22-283. Temporary cul-de-sac.

In those instances where a street is terminated pending future extension in conjunction with a future subdivision, a temporary turn-around facility shall be provided at the closed end in conformance with cul-de-sac requirements.

(Code 2004, § 806.07(subd. 3(4)))

Sec. 22-284. Provisions for re-subdivision of large lots and parcels.

When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate re-subdivision with provision for adequate utility connections for such re-subdivision.

(Code 2004, § 806.07(subd. 3(5)))

Sec. 22-285. Street intersections.

Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of streets shall be eight degrees. Street intersection jogs with an offset of less than 150 feet shall be avoided.

(Code 2004, § 806.07(subd. 3(6)))

Sec. 22-286. Subdivisions abutting major rights-of-way.

Wherever the proposed subdivision contains or is adjacent to the right-of-way of a U.S. or state highway or thoroughfare, provision may be made for a marginal access street approximately parallel and adjacent to the boundary of such right-of-way, provided that due consideration is given to proper circulation design or for a street at a distance suitable for the appropriate use of land between such street and right-of-way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations or for lot depths.

(Code 2004, § 806.07(subd. 3(7)))

Sec. 22-287. Sidewalks.

In those cases where the town board deems appropriate and necessary, sidewalks of not less than five feet in width shall be provided. In all cases where sidewalks are provided, provisions shall be made for handicapped access.

(Code 2004, § 806.07(subd. 3(8)))

Sec. 22-288. Service access, alleys.

Service access shall be provided in commercial and industrial districts for off-street loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than 30 feet wide. Dead-end alleys shall be avoided wherever possible but if unavoidable, such dead-end alleys may be approved if adequate turn-around facilities are provided at the closed end.

(Code 2004, § 806.07(subd. 3(9)))

Sec. 22-289. Half streets.

Dedication of half streets shall not be considered for approval except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations or where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided. No building permit shall be issued to property adjoining undedicated half streets.

(Code 2004, § 806.07(subd. 3(10)))

Sec. 22-290. Street grades.

Except when, upon the recommendations of the town's consulting engineer, the topography warrants a greater maximum, the grades in all streets, thoroughfares, collector streets, local streets and alleys in any subdivision shall not be greater than seven percent. In addition, there shall be a minimum grade on all streets and thoroughfares of not less than 0.5 percent.

(Code 2004, § 806.07(subd. 3(11)))

Sec. 22-291. Curb radius.

The minimum curb radii for thoroughfares, collector streets, local streets and alleys shall be as follows:

Curb Radii

Arterial, collectors and local streets	10 feet
Alleys	5 feet

(Code 2004, § 806.07(subd. 3(12)))

Sec. 22-292. Reverse curves.

Minimum design standards for collector and arterial streets shall comply with state aid standards.

(Code 2004, § 806.07(subd. 3(13)))

Sec. 22-293. Reserve strips.

Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the town board.

(Code 2004, § 806.07(subd. 3(14)))

Sec. 22-294. Street right-of-way width.

Street right-of-way widths shall conform with the following standards:

Street Right-of-Way Widths

Arterial street	As defined by road authority
Collector street	66 feet
Local street	66 feet

(Code 2004, § 806.07(subd. 3(15)))

Sec. 22-295. Existing streets.

Street access to all subdivisions and plats must be provided via existing streets which meet minimum town design standards and construction specifications for the type of street. No subdivision or plat will be approved which requires access from a street which does not meet the minimum town design standards and construction specifications for the type of street or which, in the opinion of the town engineer, is otherwise inadequate to support the traffic that will be generated by the subdivision or plat. The timing for approval of such subdivisions will be based upon the town's ability to finance and correct substandard conditions. Alternatively, a subdivider may elect to correct substandard conditions, when authorized by the town.

(Code 2004, § 806.07(subd. 3(16)))

Secs. 22-296—22-323. Reserved.

DIVISION 4. EASEMENTS

Sec. 22-324. Width and location.

An easement for utilities at least ten feet wide shall be provided in accordance with town policy. If necessary for the extension of water main or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.

(Code 2004, § 806.07(subd. 4(1)))

Sec. 22-325. Continuous utility.

Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the town board after a public hearing.

(Code 2004, § 806.07(subd. 4(2)))

Sec. 22-326. Guy wires.

Additional easements for pole guys should be provided, where appropriate, at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.

(Code 2004, § 806.07(subd. 4(3)))

Secs. 22-327—22-355. Reserved.

DIVISION 5. EROSION AND SEDIMENT CONTROL

Sec. 22-356. Development shall conform to natural limitations.

The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(Code 2004, § 806.07(subd. 5(1)))

Sec. 22-357. Erosion and siltation control measures.

Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(Code 2004, § 806.07(subd. 5(2)))

Sec. 22-358. Land developed in increments.

Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(Code 2004, § 806.07(subd. 5(3)))

Sec. 22-359. Soil exposure.

When soil is exposed, the exposure shall be for a feasible period of time.

(Code 2004, § 806.07(subd. 5(4)))

Sec. 22-360. Topsoil removed; restored.

Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. Topsoil shall be restored or provided to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.

(Code 2004, § 806.07(subd. 5(5)))

Sec. 22-361. Protection of natural vegetation.

Natural vegetation shall be protected wherever practical.

(Code 2004, § 806.07(subd. 5(6)))

Sec. 22-362. Runoff water diverted.

Runoff water shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system.

(Code 2004, § 806.07(subd. 5(7)))

Sec. 22-363. Storm drainage.

All subdivision designs shall incorporate adequate provisions for stormwater runoff and be subject to review and approval of the town's consulting engineer.

(Code 2004, § 806.07(subd. 5(8)))

Secs. 22-364—22-384. Reserved.

DIVISION 6. PROTECTED AREAS

Sec. 22-385. Protection of environmentally sensitive land.

Where land proposed for subdivision is deemed environmentally sensitive by the town due to the existence of wetlands, drainageways, watercourses, floodable areas or steep slopes, the design of said subdivisions shall clearly reflect all necessary measures of protection to ensure against adverse environmental impact.

(Code 2004, § 806.07(subd. 6(¶ 1)))

Sec. 22-386. Maintenance of sensitive areas; lot redesign; outlots.

Based on the necessity to control and maintain certain sensitive areas, the town board, based upon the review of the town's consulting engineer, shall determine whether said protection will be accomplished through lot redesign and enlargement with easements or dedication of those sensitive areas in the form of outlots.

(Code 2004, § 806.07(subd. 6(¶ 2)))

Sec. 22-387. Measures of protection should involve minimum alteration to sensitive areas.

In general, measures of protection shall include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the subdivider shall be required to demonstrate that the proposed design will not require construction on slopes over 18 percent, or result in significant alteration to the natural drainage system such that adverse impacts cannot be contained within the plat boundary.

(Code 2004, § 806.07(subd. 6(¶ 3)))

Secs. 22-388—22-417. Reserved.

DIVISION 7. PINE GROVE DEVELOPMENT

Sec. 22-418. Land proposed for pine grove development shall conform to standards.

Based upon the necessity to provide fire protection to people and property, where land proposed for subdivision is determined to be a pine grove development, the design of said subdivision shall conform to the standards in this division.

(Code 2004, § 806.07(subd. 7(intro. ¶)))

Sec. 22-419. Tree removal.

All trees shall be removed from within 25 feet of the perimeter of any dwelling to allow free movement of men and equipment around the building.

(Code 2004, § 806.07(subd. 7(1)))

Sec. 22-420. Solid portion of pine grove removed; single trees left in buffer area.

The solid portion of the pine grove shall be removed for a distance of 75 feet from the cleared zone referred to above. Single trees, spaced no closer than 30 feet stem to stem may be left in this buffer area.

(Code 2004, § 806.07(subd. 7(2)))

Sec. 22-421. Alternate access drives.

In addition to the ordinary access drive, an alternate access drive shall be installed to provide an escape route to inhabitants of the building should one become blocked by fire. Driveways shall be at least 25 feet in width and shall be kept as straight as possible to allow for free movement of traffic and to serve as firebreaks.

(Code 2004, § 806.07(subd. 7(3)))

Sec. 22-422. Firebreaks.

Firebreaks constructed of mineral soil and no less than 16 feet in width shall be maintained between public roads and pine groves. All vegetation shall periodically be removed from firebreaks.

(Code 2004, § 806.07(subd. 7(4)))

Sec. 22-423. Trees to be pruned.

Where possible, trees in the pine groves shall be pruned to the height of 12 feet to deter ground fire from jumping to the tops of trees.

(Code 2004, § 806.07(subd. 7(5)))

Sec. 22-424. Power lines installed underground.

Power lines serving the site shall be installed underground.

(Code 2004, § 806.07(subd. 7(6)))

Secs. 22-425—22-446. Reserved.

ARTICLE IV. DEDICATIONS

DIVISION 1. GENERALLY

Secs. 22-447—22-475. Reserved.

DIVISION 2. PARK LAND DEDICATION

Sec. 22-476. Requirements.

In every subdivision that is to be developed for residential use, or as a planned unit development which includes residential and commercial uses, the subdivider, as a prerequisite to the approval of the plat, must convey or dedicate to the town a reasonable amount of the land to be subdivided for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, wetlands or open space. As a general rule, a reasonable amount of land to be conveyed or dedicated for such use is five percent of the land to be subdivided. This general rule is only a guide, and the town board has the discretion to alter the amount of land to be so conveyed or dedicated based on the anticipated needs of the town that the proposed subdivision will bring about. The town will have the option to require a subdivider to contribute an equivalent amount in cash based on the fair market value of the undeveloped land within the proposed subdivision at the time of approval of the final plat, and such contribution will be in lieu of conveyance or dedication of land for conservation purposes or such public uses. If the fair market value cannot be readily ascertained, the contribution will be as set in the town's adopted fee schedule. Such cash payments will be placed in a special fund by the town and used only for the acquisition of land for conservation purposes, parks, recreational facilities, playgrounds, trails, wetlands, open space, development of existing park and playground sites or debt retirement in connection with land previously acquired for public purposes.

(Code 2004, § 806.08(subd. 1); Ord. No. 164, § A, 4-24-2018)

Sec. 22-477. Land dedication for parks and recreational purposes.

Land to be dedicated shall be reasonably adaptable for use for an active park and recreational purposes 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.

(Code 2004, § 806.08(subd. 2))

Sec. 22-478. Recommendation for conveyance and dedication of parkland.

The subdivider shall meet with the park and recreation commission to discuss parkland dedication. The park and recreation commission shall recommend to the planning and zoning commission the location and amount of land to be conveyed or dedicated, or it shall recommend an equivalent cash contribution be accepted in lieu of land. The planning and zoning commission shall consider the recommendation of the park and recreation commission and make its recommendation to the town board.

(Code 2004, § 806.08(subd. 3))

Sec. 22-479. Parkland dedication fee.

When the subdivision is too small for practical dedication of public land or if no land in the subdivision is suitable for such use, the subdivider will be required to pay a parkland dedication fee based on the fair market value of the underlying land at the time of final approval, and if such value cannot be readily ascertained, then the fee will be as set in the town's adopted fee schedule. Such cash payments will be placed in a special fund and used only for those public purposes and uses set forth in section 22-476. Lots created in any manner that are larger than five acres and 300 feet in width may be subject to the above requirements if in the opinion of the town board the lots will not be re-subdivided.

(Code 2004, § 806.08(subd. 4); Ord. No. 164, § B, 4-24-2018)

Sec. 22-480. Designation of proposed public site.

Where a proposed park, playground or other recreational area, proposed school site or other public ground that has been indicated in the comprehensive plan is located in whole or in part within a proposed subdivision, such proposed public site should be designated as such and should be dedicated to the town, school district or other proper governmental unit. If the subdivider chooses not to dedicate an area in excess of the land required hereunder for such proposed public site, the town shall not be required to act to approve or disapprove the preliminary plat of the subdivision for a period of 60 days after the subdivider meets all the provisions of this chapter in order to permit the town board, school board or other appropriate governmental unit to consider the proposed plat and to consider taking steps to acquire, through purchase or condemnation, all or part of the public site proposed under the comprehensive plan.

(Code 2004, § 806.08(subd. 5))

Sec. 22-481. Land area conveyed or dedicated not included by subdivider as allowance.

Land area conveyed or dedicated hereunder may not be included by a subdivider as an allowance for purposes of calculating the density requirements of the subdivision as set out in the zoning chapter and shall be in addition to and not in lieu of open space requirements for planned unit developments pursuant to the zoning chapter.

(Code 2004, § 806.08(subd. 6))

Sec. 22-482. Standards for dedication of park and recreation space for credit.

Where private open space for park and recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas may be used for credit at the discretion of the town board against the requirement of dedication for park and recreation

purposes, provided the town board finds it is in the public interest to do so and that the following standards are met:

- (1) That yards, court areas, setbacks and other open space required to be maintained by the zoning and building regulations shall not be included in the computation of such private open space;
- (2) That the private ownership and maintenance of is adequately provided for by written agreement;
- (3) That the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the town board;
- (4) That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, hydrology, geology, access and location of the private open space land;
- (5) That facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the comprehensive plan and are approved by the town board; and
- (6) That where such credit is granted, the amount of credit shall not exceed 25 percent of the park land dedication requirements for the development.

(Code 2004, § 806.08(subd. 7))

Secs. 22-483—22-502. Reserved.

DIVISION 3. CONSERVATION DEDICATION

Sec. 22-503. Town to maintain fund for contributions received from owners or developers in lieu of conveyance.

The town will maintain a separate fund into which all cash contributions received from owners or developers in lieu of conveyance or dedication of land for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, wetlands or open space will be deposited and will make, from time to time, appropriations from such fund for acquisition of land for such purposes and uses, for developing existing parks, recreational facilities, playgrounds, trails, wetlands or open space or for debt retirement in connection with land previously acquired for such purposes and uses.

(Code 2004, § 806.08(subd. 8))

Sec. 22-504. Time of payment or contribution.

The scheduling of dedication and/or cash payments shall be established in a development agreement between the town and subdivider.

(Code 2004, § 806.08(subd. 9))

Sec. 22-505. Changes in density of approved plats; parkland dedication review.

Changes in density of approved plats shall be reviewed by the planning and zoning commission for reconsideration of park dedication requirements.

(Code 2004, § 806.08(subd. 10))

Secs. 22-506—22-533. Reserved.

ARTICLE V. IMPROVEMENTS

DIVISION 1. GENERALLY

Sec. 22-534. Payment of fees; submittal of agreement to town board before final plat delivered.

Before a final plat is delivered by the town to the subdivider, the subdivider of the land covered by said plat shall pay all applicable fees and execute and submit to the town board a developer's agreement which shall be binding on his or its heirs, personal representatives and assigns, a part of which agreement shall be set forth that the subdivider will cause no private construction to be made on the lands within said plat, nor shall the subdivider file or cause to be filed any application for building permits for such construction until all improvements required under this article have been made or arranged for in the manner and conforming to the requirements as set forth herein.

(Code 2004, § 806.09(subd. 1(1)))

Sec. 22-535. Prior to approved final plat, subdivider shall deposit amount to town treasurer.

Prior to the delivery of the approved final plat, the subdivider shall deposit with the town treasurer an amount equal to a minimum of 125 percent of the town's consulting engineer's estimated cost of the required improvements within the plat, either in a cash escrow fund, performance and indemnity bond or letter of credit. The surety involved in said financial guarantees shall be approved by the town.

(Code 2004, § 806.09(subd. 1(2)(intro. ¶)))

Sec. 22-536. Cash escrow letter of credit or performance and indemnity bond conditions.

The cash escrow letter of credit or performance and indemnity bond shall be conditioned upon:

- (1) The making and installing of all improvements required by the terms and conditions set forth by the town within one year.
- (2) Satisfactory completion of the work and payment therefore, which work was undertaken by the subdivider in accordance with the developer's agreement referred to above.
- (3) The payment by the subdivider to the town of all expenses incurred by the town, which expenses shall include, but not be limited to, expenses for engineering, fiscal, legal, construction and administration. In instances where a cash escrow is submitted in lieu of a letter of credit or performance and indemnity bond, there shall be a cash escrow agreement which shall provide that in the event the required improvements are not completed within one year, all amounts held under the cash escrow agreement shall be automatically turned over and delivered to the town and applied by the town to the cost of completing the required improvements. If the funds available within said cash escrow agreement are not sufficient to complete the required improvements, the necessary additional cost to the town shall

be assessed against the subdivision. Any balance remaining in the cash escrow fund after such improvements have been made and all expenses therefore have been paid, shall be returned to the subdivider. In instances where a letter of credit is used in lieu of a cash escrow or performance and indemnity bond, the said letter of credit shall be a form satisfactory to the town and the terms thereof shall substantially comply with the procedure as set forth for a cash escrow fund. In instances where a performance and indemnity bond is used in lieu of a cash escrow or letter of credit, the said bond shall be in a form acceptable to the town and shall comply with all requirements as set forth in Minnesota Statutes as amended, which statutes relate to surety bonds.

(Code 2004, § 806.09(subd. 1(2)(A)—(C)))

Sec. 22-537. No final plat approved without receiving signed report.

No final plat shall be approved by the town board without first receiving a report signed by the town's consulting engineer and attorney certifying that the improvements described therein, together with the agreements and documents required under this section, meet the requirements of the town. The town treasurer shall also certify that all fees required to be paid to the town in connection with the plat have been paid.

(Code 2004, § 806.09(subd. 1(3)))

Sec. 22-538. Submission of warranty/maintenance bond for one year following final acceptance.

The town shall, where appropriate, requirement of a subdivider submission of a warranty/maintenance bond in the amount equal to the original cost of the improvements, which shall be in force for one year following the final acceptance of any required improvements and shall guarantee satisfactory performance of the said improvements.

(Code 2004, § 806.09(subd. 1(4)))

Sec. 22-539. As-built drawings.

Reproducible as-built drawings as required by the town's consulting engineer shall be furnished to the town as the subdivider of all required improvements. Such as-built drawings shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.

(Code 2004, § 806.09(subd. 1(5)))

Sec. 22-540. Required improvements approved by and subject to inspection by town engineer.

All of the required improvements to be installed under the provisions of this chapter shall be approved by and subject to the inspection of the town's consulting engineer. All of the town's expenses incurred as the result of the required improvements shall be paid either directly or indirectly or by reimbursement to the town by the subdivider.

(Code 2004, § 806.09(subd. 1(6)))

Sec. 22-541. Election by town to install improvements.

In accordance with town policy, the town may assume the responsibility to install all required improvements, however, the town reserves the right to allow or require the subdivider to install all or any part of the improvements required under the provisions of this article pursuant to M.S.A. ch. 429, as may be amended.

(Code 2004, § 806.09(subd. 5))

Secs. 22-542—22-597. Reserved.

DIVISION 2. MONUMENTS

Sec. 22-598. Official monuments.

Official monuments shall be as designated and adopted by the county surveyor's office and approved by the county district court for use as judicial boundary of the final plat or in accordance with a plan as approved by the town's consulting engineer. The boundary line of the property to be included with the plat shall be fully dimensioned. All angles of the boundary excepting the closing angle shall be indicated. All monuments and surveyor's irons shall be indicated. Each angle point of the boundary perimeter shall be monumented.

(Code 2004, § 806.09(subd. 2(1)))

Sec. 22-599. All official benchmarks, monuments or triangular stations adjacent to property preserved and recorded on plat.

Pipes or steel rods shall be placed at each lot and at each intersection of street centerlines. All United States, state, county or other official benchmarks, monuments or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and blocks, as an aid to future surveys shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.

(Code 2004, § 806.09(subd. 2(2)))

Sec. 22-600. Second monumentation.

To ensure that all irons and monuments are correctly in place following the final grading of a plat, a second monumentation shall be required. Proof of the second monumentation shall be in the form of a surveyor's certificate and this requirement shall additionally be a condition of a certificate of occupancy as provided for in the zoning chapter.

(Code 2004, § 806.09(subd. 2(3)))

Secs. 22-601—22-618. Reserved.

DIVISION 3. STREET IMPROVEMENTS

Sec. 22-619. Width of right-of-way.

The full width of the right-of-way shall be graded in accordance with the provisions for construction as outlined in article III of this chapter, design standards.

(Code 2004, § 806.09(subd. 3(1)))

Sec. 22-620. Standards and specifications

All streets shall be improved in accordance with the standards and specifications for street construction as required by the town board.

(Code 2004, § 806.09(subd. 3(2)))

Sec. 22-621. Surfaced streets.

All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the town board. The portion of the right-of-way outside the area surfaced shall be sodded or riprapped by the developer if deemed necessary.

(Code 2004, § 806.09(subd. 3(3)))

Sec. 22-622. Curb and gutter.

Where required, the curb and gutter shall be constructed in accordance to the standards and specifications for street construction as set forth and approved by the town board.

(Code 2004, § 806.09(subd. 3(4)))

Sec. 22-623. Grade and drainage requirements; stormwater disposal plan.

The grade and drainage requirements for each plat shall be reviewed and subject to the approval of the town's consulting engineer at the expense of the applicant. Every plat presented for final signature shall be accompanied by a certificate of the town's consulting engineer that the grade and drainage requirements have been met. In an area not having a municipal storm sewer trunk, the applicant shall be responsible, before platting, to provide for a stormwater disposal plan, clearly indicating the method to prevent damage to properties outside the platted area, and said stormwater disposal plan shall be submitted to the town's consulting engineer who shall report to the town board on the feasibility of the plan presented. No plat shall be approved before an adequate stormwater disposal plan is presented and approved by the town's consulting engineer and town board. The use of dry wells for the purpose of stormwater is prohibited. In the event that there is not an approved overall stormwater disposal plan, an escrow account on a per unit charge for future installation shall be established by the applicant and held by the town.

(Code 2004, § 806.09(subd. 3(5)))

Sec. 22-624. Trees and boulevard sodding.

Trees and boulevard sodding shall be planted in conformance with the standards and specifications as required by the town board.

(Code 2004, § 806.09(subd. 3(6)))

Sec. 22-625. Street signs installed.

Street signs of the design approved by the town board shall be installed at each street intersection.

(Code 2004, § 806.09(subd. 3(7)))

Sec. 22-626. Driveway approaches, sidewalks and pedestrian pathways.

Driveway approaches and sidewalks of standard design or pedestrian pathways, as may be required by the town board, shall be installed; all driveways installed after the effective date of the ordinance from which this division is derived, whether in connection with subdivisions or otherwise, shall have a level grade for at least 15 feet from the edge of the traveled surface of the street toward the abutting property.

(Code 2004, § 806.09(subd. 3(8)))

Sec. 22-627. Street lighting fixtures.

Street lighting fixtures as may be required by the town board shall be installed.

(Code 2004, § 806.09(subd. 3(9)))

Secs. 22-628—22-657. Reserved.

DIVISION 4. PUBLIC UTILITIES

Sec. 22-658. Telephone, electric and gas service lines placed underground.

Telephone, electric and/or gas service lines are to be placed underground in accordance with the provisions of all applicable town ordinances.

(Code 2004, § 806.09(subd. 4))

Secs. 22-659—22-689. Reserved.

ARTICLE VI. ADMINISTRATIVE SUBDIVISIONS

DIVISION 1. GENERALLY

Sec. 22-690. Intent.

The provisions of this article shall apply only to those subdivisions classified as administrative subdivisions where the intent is to adjust a lot line in a manner that does not create any new lots, divide one existing lot of record (platted or metes and bounds) into no more than four lots, or to combine up to four lots of record.

(Ord. No. 161, § 1(806.10(subd. 1)), 11-2-2017)

Sec. 22-691. Application.

The administrative subdivision is an abbreviated review process; however, all standards and requirements of this article shall apply to the proposed subdivision.

(Ord. No. 161, § 1(806.10(subd. 1)), 11-2-2017)

Sec. 22-692. Approval authority.

The zoning administrator and town clerk shall have the authority to approve the lot line adjustment, provided that it complies with applicable provisions of this article. For purposes of this section, the zoning administrator shall be the zoning administrator appointed by the town board or his designated representative.

(Ord. No. 161, § 1(806.10(subd. 1)), 11-2-2017)

Secs. 22-693—22-708. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 22-709. Filing and review of application.

Whenever any subdivision of land is proposed under this section, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure on such proposed subdivision shall be granted, the subdividing owner or his authorized agent, shall file an application and secure approval of an administrative subdivision. The administrative subdivision application shall be considered to be officially filed when the zoning administrator has received the application and has determined that the application is complete and all application fees have been paid.

(Ord. No. 161, § 1(806.10(subd. 2)), 11-2-2017)

Secs. 22-710—22-725. Reserved.

DIVISION 3. QUALIFICATION AND REQUIREMENTS

Sec. 22-726. Qualification.

- (a) Sections 22-727 through 22-736 describe the qualifications and requirements to be considered an administrative subdivision.
- (b) In the event circumstances warrant platting of the administrative subdivision, the zoning administrator and town clerk may require the subdivision to be processed as a plat in accordance with this chapter.

(Ord. No. 161, § 1(806.10(subd. 3(intro. ¶))), 11-2-2017)

Sec. 22-727. Required findings.

The zoning administrator and town clerk may authorize approval of the administrative subdivision upon finding:

- (1) The property to be subdivided is a lot of record in the office of the county recorder;
- (2) The lot shall not have been part of an administrative subdivision within the last five years;
- (3) The division will not result in more than four lots;
- (4) All newly created lots must meet the minimum standards of the zoning district in which they are located;
- (5) The subdivision will not cause any structure on the land to be in violation of the zoning chapter;
- (6) In the event a new lot is created, a park dedication fee shall be paid; and
- (7) Any drainage, utility, trail, right-of-way or access easements required by the town must be granted.

(Ord. No. 161, § 1(806.10(subd. 3(1))), 11-2-2017)

Sec. 22-728. Lot line adjustments.

(a) *Lot line adjustment defined.*

- (1) A lot line adjustment provides for the alteration of property lines on plats, where no additional lots for development are created and agreement exists among the parties involved.
- (2) A lot line adjustment can be used to correct survey or description problems on existing properties.
- (3) A lot line adjustment can be used to meet lot size, setback, or other state or town land use requirements.
- (4) A lot line adjustment can be used to lessen or eliminate a nonconformity.
- (5) Lot line adjustments shall be submitted to the zoning administrator and town clerk for review and approval.
- (6) Lot line adjustments shall only be allowed when accompanied by an executed conveyance among the parties involved.
- (7) The proposed adjustment shall not create any new nonconformity, nor shall it increase an existing nonconformity.
- (8) Lot of record status shall not be affected by adding additional property to a lot that does not meet the current dimensional standards.
- (9) Adequate land for treatment and disposal of sewage, when it exists, shall not be diminished by the adjustment.
- (10) The result is not contrary to a decision of the town board.

(b) *Content and data requirements for lot line adjustments.*

- (1) The requested lot line adjustment shall be prepared by a registered land surveyor in the form of a certificate of survey meeting all the requirements of this section. Exceptions, stipulated in writing, may be granted with the approval of both the zoning administrator and town clerk.

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- (2) Design standards. The lot line adjustment shall conform to all design standards as stipulated in this Code. Any proposed deviation from said standards requires the processing of a variance request.

(Ord. No. 161, § 1(806.10(subd. 3(2))), 11-2-2017)

Sec. 22-729. Minor subdivisions.

(a) *Minor subdivision defined.*

- (1) In the case of a request to divide a portion of a lot where the division is to permit the adding of a parcel of land to an abutting lot so that no additional lots are created and both new lots conform to the zoning chapter, lot size standards;
- (2) In the case of a request to combine two existing platted lots;
- (3) In the case of a request to divide no more than one lot from a larger tract of land thereby creating no more than four lots. To qualify, the parcel of land must not have been a part of a minor subdivision within the last five years.

(b) *Content and data requirements for minor subdivisions.*

- (1) The requested minor subdivision shall be prepared by a registered land surveyor in the form of a certificate of survey meeting all of the requirements of this section. Exceptions, stipulated in writing, may be granted with the approval of both the zoning administrator and town clerk.
- (2) Design standards. The minor subdivision shall conform to all design standards as stipulated in this Code. Any proposed deviation from said standards requires the processing of a variance request.

(Ord. No. 161, § 1(806.10(subd. 3(3))), 11-2-2017)

Sec. 22-730. Submittal requirements.

The following shall be submitted with an application for an administrative subdivision unless waived by the zoning administrator and town clerk:

- (1) Complete application form.
- (2) Application fee.
- (3) Acreage calculations for the existing and proposed lots.
- (4) A certificate of survey (full size and an 11-inch by 17-inch reduction) prepared by a licensed land surveyor identifying the following:
 - a. Scale (engineering only) at not larger than one inch equals 100 feet.
 - b. Name and address, including telephone number, of legal owner and/or agent of property.
 - c. North point indication.
 - d. Boundaries, dimensions, and area of existing lots being subdivided and new lots to be created.
 - e. Legal descriptions of both existing and proposed new lots.
 - f. Easements of record.
 - g. Watercourses including delineated wetlands. The ordinary high-water level (OHWL) of any public waters, stormwater ponds and 100-year flood elevations of all watercourses (wetlands, ponds, lakes, streams, etc.).

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- h. All encroachments, easements, or rights-of-way encumbering the property.
 - i. Existing buildings, structures, and improvements within the lot to be platted and those 100 feet outside the boundaries of the subject parcel.
 - j. Locations, widths and names of all public streets and rights-of-way showing type, width and condition of the improvements, if any, which pass through and/or are within 100 feet of the subject site.
 - k. Proposed driveway locations and locations of existing driveways within 100 feet of the subject site.
 - l. Location of any wells.
 - m. Additional data requirements determined appropriate by the zoning administrator to ensure compliance with town requirements.
 - n. Drainage and utility easements, minimum ten feet wide, along all lot lines if required by the zoning administrator, along with legal descriptions for all such easements to be dedicated to the public. These easements may be centered on a lot line shared between lots created by the administrative subdivision.
 - o. Any required right-of-way dedication along with a legal description of the right-of-way to be dedicated to the public.
 - p. A copy of percolation tests and soil borings for all lots, if required by the zoning administrator.
 - q. The existing and proposed lot corners shall be staked at the site for review by the zoning administrator.

(Ord. No. 161, § 1(806.10(subd. 4)), 11-2-2017)

Sec. 22-731. Application submittal and review.

- (a) An administrative subdivision application form with required fees shall be submitted to the town.
- (b) The zoning administrator shall request input by the town's planning, engineering, and legal staff, as appropriate, and shall forward copies of the application to agencies and utility companies, if applicable, responsible for review of the application.
- (c) Administrative subdivision of land abutting upon any existing or proposed trunk highway, county road or highway or county state-aid highway shall be subject to review of the state department of transportation and/or the county highway department. Written notice and a copy of the proposed administrative subdivision shall be filed with the state department of transportation and/or the county highway department for review and comment 30 days prior to formal action to approve the application. Final action on an administrative subdivision shall not be taken until the minimum 30-day review period has elapsed.
- (d) Administrative subdivision of land located within a shoreland management overlay district or floodplain overlay district shall be subject to review of the state department of natural resources. Written notice and a copy of the proposed administrative subdivision shall be filed with the state department of natural resources. Final action on an administrative subdivision shall not be taken until the minimum ten-day review period has elapsed.
- (e) The zoning administrator shall have the authority to request additional information pertinent to the administrative subdivision. Failure to provide the necessary supportive information may be grounds for denial of the application.

(Ord. No. 161, § 1(806.10(subd. 5(1)—(5))), 11-2-2017)

Sec. 22-732. Decision.

- (a) Approval of both the zoning administrator and the town clerk is required for an administrative subdivision. The zoning administrator and town clerk may approve the administrative subdivision with conditions that must be met to ensure the administrative subdivision is compliant with the regulations of the town's subdivision and zoning chapters, as may be amended, and other applicable requirements. In the absence of the town clerk, the deputy clerk may approve the administrative subdivision.
- (b) The zoning administrator shall prepare findings and deny a subdivision if the administrative subdivision is found to be premature as defined by the criteria of division 4 of article II of this chapter (premature subdivisions) or fails to comply with regulations of the town's subdivision and zoning chapters, or is inconsistent with the comprehensive plan, or other applicable requirements.

(Ord. No. 161, § 1(806.10(subd. 5(6))), 11-2-2017)

Sec. 22-733. Appeal of decision to deny.

The applicant may appeal an administrative subdivision denial by filing a written appeal to the town which informs the town board in ordinary and concise language that specific order, notice or action of the town that is being protested and the reasons therefore, together with any material facts claimed to support the contentions of the appellant. The written appeal shall comply with the following procedures:

- (1) The appeal shall be filed within 14 days of the date of mailing of the notice or order being protested by the applicant.
- (2) The town shall provide the appealing party with a notice of a hearing no less than 20 days in advance of the scheduled hearing, unless a shorter period of time is agreed upon. Service shall be deemed complete upon depositing the notice of hearing in the U.S. Mail, properly addressed to the last known address of the person requesting the hearing. The notice shall be delivered in person to the appealing party or by mail to the permanent residential address listed on the subdivision application, or if no address is provided, to the address used by the county auditor for mailing tax statements to the property which is the subject of the proposed subdivision.
- (3) The hearing will be in front of the town board. At the hearing, the party appealing shall have the opportunity to present testimony and question any witnesses, but the strict rules of evidence shall not apply. The town board shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.
- (4) The town board shall issue a notice of decision in writing to the appealing party within ten days of the hearing. The town board's notice of decision shall be delivered in person to the appealing person or by mail to the permanent residential address listed on the subdivision application, if no address is provided, to the address used by the county auditor for mailing tax statements to the property which is the subject of the proposed subdivision.

(Ord. No. 161, § 1(806.10(subd. 5(7))), 11-2-2017)

Sec. 22-734. Applicant to supply deed granting easements and/or right-of-way to town attorney.

Prior to certification by the town of the approval of the administrative subdivision, the applicant shall supply the deed granting to the town the easements and/or right-of-way required by the town and in a form acceptable to the town attorney.

(Ord. No. 161, § 1(806.10(subd. 5(8))), 11-2-2017)

Sec. 22-735. Recording.

- (a) If the administrative subdivision is approved by the zoning administrator and town clerk, the applicant shall record the deed, and the accompanying survey and easements or other applicable documents, in the office of the county recorder within 60 days after the date of approval, otherwise the approval of the administrative subdivision shall be considered void.
- (b) When the land for which the administrative subdivision abuts a state highway, county road, or county highway, a certificate or other evidence showing submission of the administrative subdivision to the state department of transportation and/or the county highway department shall be filed with the office of the county recorder, with the administrative subdivision.

(Ord. No. 161, § 1(806.10(subd. 6(intro. ¶), (1))), 11-2-2017)

Sec. 22-736. Land for administrative subdivision located within shoreland management overlay; department of natural resources notified.

When the land for which the administrative subdivision is located within a shoreland management overlay district or floodplain overlay district, the department of natural resources shall be notified of the disposition of the administrative subdivision application within ten days of the decision to approve, deny or conditionally approve the application.

(Ord. No. 161, § 1(806.10(subd. 6(2))), 11-2-2017)

Chapter 24 TELECOMMUNICATIONS

ARTICLE I. IN GENERAL

Secs. 24-1—24-18. Reserved.

ARTICLE II. CABLE COMMUNICATIONS FRANCHISES

DIVISION 1. GENERALLY

Sec. 24-19. Short title.

This article will be known and cited as the "Cable Communication Franchise Ordinance."

Sec. 24-20. Findings.

The town finds that multiple providers may be interested in providing cable service in the town. The town is authorized to grant one or more nonexclusive franchises to provide cable service in the town.

Sec. 24-21. Intent.

The town's intent in adopting this article is to further the public interest in the delivery of cable service and ensure that all providers of cable service are subject to comparable burdens consistent with applicable law. This article may encourage further development of, and competitive choices for, cable service and related communications services in the town. Such a development could contribute significantly to the communication needs and desires of residents of the town, benefit local economic development, and improve public and municipal services.

Sec. 24-22. Definitions and interpretation.

For the purposes of this article, the following terms, phrases, words, and their derivations must have the meanings given herein. Terms, phrases and words contained in this article that are not defined herein or in a franchise will have their normal and customary meanings. When not inconsistent with the context, words in the singular number include the plural number; the words "must" and "will" are always mandatory and not merely directory; the word "may" is directory and discretionary and not mandatory.

Basic cable service means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by a franchise.

Cable programming service means any video programming regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

- (1) Basic cable service;
- (2) Video programming offered on a pay per channel or pay per program basis; or
- (3) A combination of multiple channels of pay per channel or pay per program video programming offered on a multiplexed or time shifted basis so long as the combined service consists of commonly identified video programming and is not bundled with any regulated tier of service.

Cable service means:

- (1) The one-way transmission to subscribers of:
 - a. Video programming; or
 - b. Other programming service; and
- (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

Cable system or system means a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, terminal devices, equipment, or facilities located in whole, or in part, in the town and designed and constructed for the purpose of producing, receiving, transmitting, amplifying, or distributing cable service in the

town. The term "cable system" may be designed and constructed to be capable of delivering services in addition to cable services.

Channel means a portion of the electromagnetic frequency spectrum which is used in a system and which is capable of delivering a television channel (as defined by the FCC).

Competition means the offering of cable service to substantially the same potential customers in the town by two or more providers pursuant to franchises.

Drop means the cable that connects the ground block on the subscriber's terminal device to the nearest feeder cable of the system.

FCC means the Federal Communications Commission, or its lawful successor.

Franchise, cable franchise or franchise agreement means an agreement between the town and any provider of cable service pursuant to this article granting an initial authorization, or renewal thereof, to provide cable service or operate a system in the town.

Franchise fee means the fee or assessment imposed by the town on a grantee solely because of its status as a recipient of a franchise. The term "franchise fee" does not include:

- (1) Any tax, fee or assessment of general applicability;
- (2) Capital costs which are required by the franchise related to the provision of public, educational, or governmental access facilities;
- (3) Requirements or charges incidental to awarding or enforcing the franchise, including payments for bonds, security funds or letters of credit, insurance, indemnification, penalties or liquidated damages;
- (4) Any fee imposed under title 17 of the United States Code.

Grantee means any recipient of a franchise, and its agents and employees, lawful successors, transferees or assignees.

Gross revenues means all revenues received by a grantee, or its affiliates, from the sale or provision of cable service in the town. By way of example and not limitation, the term "gross revenues" shall include all carriage revenues received by a grantee or its affiliates from unaffiliated video programming providers, and any advertising revenues received by a grantee or its affiliates in connection with the provision of cable service. The term "gross revenues" shall not include bad debt, any taxes or fees on services furnished by grantee imposed by any municipality, state, or other governmental unit and collected by grantee for such governmental unit, or revenues received by a grantee or its affiliates from the provision of non-cable services in the town.

Installation means the connection of the system with the subscriber terminal device.

Lockout device means an optional mechanical or electrical accessory to a terminal device which inhibits the viewing of a certain channel provided over the cable system.

Normal business hours means those hours during which most similar businesses in the community are open to serve customers. In all cases, the term "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

Normal operating conditions means those service conditions which are within the control of a grantee. Those conditions which are not within the control of a grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of a grantee include, but are not limited to, special promotions, pay per view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of a grantee's facilities.

Pay television means the delivery of pay per channel or pay per program audiovisual signals to subscribers for a fee or charge, in addition to the charge for basic cable service or cable programming services.

PEG access facilities means public, educational, and governmental programming channels, or any equipment or facilities for use of such channels.

Right-of-way ordinance means an ordinance adopted by the town creating requirements regarding regulation, management and use of rights-of-way, including registration and permitting requirements.

Right-of-way or rights-of-way means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the local government unit has an interest, including other dedicated rights-of-way for travel purposes and utility easements of local government units. The term "right-of-way" does not include the airwaves above a right-of-way with regard to wireless or other non-wire telecommunications or broadcast service.

Standard installation means any residential installation that can be completed using a drop of 150 or less.

Subscriber means any person who lawfully receives cable service via a system.

Telecommunications services shall have the meaning ascribed in 47 USC 153(46), as may be explained or interpreted by final action of the FCC.

Terminal device means an electronic device that converts signals to a form accessible by the subscriber.

Sec. 24-23. Nonexclusive franchise.

All franchises shall be nonexclusive, and the town may grant additional franchises at any time. To the extent required by applicable law, the town will not grant a franchise for an area included in an existing franchise on terms and conditions more favorable or less burdensome than those in the existing franchise pertaining to:

- (1) The area served;
- (2) Public, educational, or governmental access requirements; or
- (3) Franchise fees, unless the area in which the additional franchise is being sought is not actually being served by any existing grantee. The town may impose additional terms and conditions on any additional franchises.

Sec. 24-24. Compliance with federal and state laws; time constraints.

- (a) This article and franchises granted pursuant hereto are intended to comply with M.S.A. ch. 238. Any applicable requirement established by M.S.A. § 238.084 not expressly incorporated in this article or a franchise shall be deemed incorporated by reference in the franchise as though fully set forth therein.
- (b) The town and grantee will conform to state laws and rules regarding cable service or the system not later than one year after they become effective, unless otherwise stated, and conform to federal laws and regulations regarding cable as they become effective.

Sec. 24-25. Term of franchise.

Franchises will be granted for a term established in the franchise agreement. No franchise may be granted for a period exceeding 15 years from the date of acceptance by grantee.

Sec. 24-26. Regulation of cable service.

The requirements of this article define the town's regulatory authority over cable services and cable systems. All grantees are subject to all lawful exercise of the town's police power, ordinance making authority, and power of eminent domain. The terms of a franchise agreement define the contractual rights and obligations of the town and the grantee thereunder.

Secs. 24-27—24-55. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 24-56. Initial franchise applications.

- (a) *Initiation and filing of application.* Upon request or its own initiative, the town may initiate the cable franchise application process required by M.S.A. § 238.081. Any person desiring an initial franchise must file an application with the town.
- (b) *Fee.* The town board, by resolution, will establish an application fee in an amount to offset the costs of processing applications and awarding a franchise. Such application fees will not constitute a franchise fee.
- (c) *Report and recommendations.* Upon receipt of an application for a franchise, town staff will prepare a report and recommendations to the town board regarding the application.
- (d) *Hearing.* A public hearing concerning applications will be held prior to rejection or acceptance of applications and award of any franchises.

Sec. 24-57. Franchise fee.

- (a) A grantee shall pay an annual franchise fee to the town, a franchise fee in the amount established in the franchise agreement.
- (b) Franchise fee payments are payable monthly. Franchise fee payments must be made within 60 days of the end of each calendar quarter.
- (c) Each franchise fee payment must be accompanied by a report approved by an employee of the grantee in form reasonably acceptable to the town, detailing the computation of the payment. All amounts paid must be subject to audit and re-computation by the town and acceptance of any payment must not be construed as an accord that the amount paid is in fact the correct amount.
- (d) A grantee may designate that portion of a subscriber's bill attributable to the franchise fee as a separate line item on the bill.

Sec. 24-58. Renewal of franchise.

Franchise renewals will be conducted in accordance with applicable laws.

Sec. 24-59. Periodic evaluation of grantee.

The performance of any grantee is subject to periodic evaluation by the town upon reasonable notice to the grantee.

Sec. 24-60. Access to records.

- (a) The town may, upon reasonable notice and during normal business hours, and subject to the privacy provisions of 47 USC 521 et seq., inspect any records maintained by a grantee which relate to its franchise or system operations, including, specifically, a grantee's gross revenue records. Grantees must make copies of documents upon the town's reasonable request but may identify and label any such documents as a confidential trade secret in accordance with section 24-133.
- (b) Grantees must prepare and furnish to the town such reports with respect to the operations, affairs, transactions or property, as they relate to this franchise or cable services, as the town may reasonably request.

Secs. 24-61—24-78. Reserved.

DIVISION 3. OVERSIGHT AND ENFORCEMENT

Sec. 24-79. Administration and enforcement of franchise.

- (a) *Administrative authority.*
 - (1) The town administrator will have continuing regulatory authority over cable systems, cable services, and franchise compliance; provided, however, the town board shall have the sole authority to hold hearings and take final enforcement action as provided in subsections (b)(3) and (b)(4) of this section or revoke a franchise as provided in subsection (c) of this section.
 - (2) The town administrator may delegate this regulatory supervision by giving written notice of such delegation to affected grantees. Grantees must cooperate with any such delegates of the town administrator.
- (b) *Violations.*
 - (1) *Notice of violation.* In order to take enforcement action pursuant to this division or a franchise, the town must provide the grantee with written notice of the violation or other occurrence giving rise to the town's action.
 - (2) *Remedy of violation.* The grantee shall have 30 days, subsequent to receipt of the notice, to cure the violation or occurrence giving rise to the town's action. Alternatively, the grantee may, within seven days of receipt of notice from the town, notify the town in writing that there is a dispute as to whether a violation or failure has in fact occurred. Such written notice by the grantee to the town shall specify with particularity the matters disputed by the grantee.
 - (3) *Hearing.* In the event a grantee does not timely cure, to the town's satisfaction, the violation or other occurrence giving rise to the town's action, or timely disputes whether a violation has occurred, the town will schedule a public hearing affording the grantee due process. The town will endeavor to schedule the hearing for a date within 90 days of the initial violation notice. Notice of the hearing must be provided to the grantee.
 - (4) *Determinations.* At the completion of the hearing, the town will issue written findings of fact and its final determination. A grantee may not initiate legal proceedings until the town's final determination is issued. In the event the town determines that no violation has taken place, the town will rescind the notice of violation in writing.
- (c) *Revocation of franchise.*

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- (1) In addition to all other rights and remedies that the town possesses pursuant to law, equity and the terms of the franchise agreement, the town may revoke or terminate the franchise and all rights and privileges pertaining thereto, in accordance with subsection (b) of this section if the town determines that:
 - a. The grantee has violated any material requirement or provision of this division or a franchise and has failed to timely cure;
 - b. The grantee has attempted to evade any of the material provisions of this division or a franchise;
 - c. The grantee has practiced fraud or deceit upon the town or a subscriber; or
 - d. The grantee has filed for bankruptcy.
 - (2) During any revocation proceeding and any appeal period, the franchise will remain in full force and effect unless the term thereof sooner expires.

Secs. 24-80—24-101. Reserved.

DIVISION 4. INDEMNIFICATION AND INSURANCE

Sec. 24-102. Indemnity and insurance coverage.

(a) *Indemnification of town.*

- (1) A grantee must indemnify, defend and hold harmless the town, its officers, boards, committees, commissions, elected officials, employees and agents from and against any loss or damage to any real or personal property of any person, or for any injury to or death of any person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to a system or other facilities used by a grantee to deliver cable service.
- (2) A grantee must indemnify, defend, and hold the town, its officers, boards, committees, commissions, elected officials, employees and agents, harmless from and against all lawsuits, claims, actions, liability, damages, costs, expenses or penalties incurred as a result of the award or enforcement of a franchise.
- (3) A grantee shall not be required to provide indemnification or defense for any intentional misconduct, willful neglect or negligence by an indemnified party, for any enforcement action taken by the town against a grantee, or for any claim based solely on the town's operation of PEG access facilities, delivery of PEG access programming, or EAS messages originated by the town. Subject to the limitations in M.S.A. ch. 466, the town shall indemnify, defend and hold a grantee harmless from any damage resulting from any intentional misconduct, willful neglect or negligence by the town, its officers, boards, committees, commissions, elected officials, employees and agents, in utilizing PEG access facilities or channels, delivering EAS messages originated by the town, or in connection with work performed on or adjacent to the system.
- (4) With respect to each claim for indemnification:
 - a. The town must promptly notify the grantee in writing of any suit, claim or proceeding which gives rise to such right;
 - b. The grantee must afford the town an opportunity to participate in any compromise, settlement or other resolution or disposition of any suit, claim or proceeding; and
 - c. The town must cooperate with reasonable requests of the grantee, at grantee's expense, in its participation in a suit, claim or proceeding.

(b) *Insurance.*

- (1) A grantee must obtain and maintain in full force and effect, at its sole expense, a comprehensive general liability insurance policy, in protection of the grantee, and the town, its officers, elected officials, boards, commissions, agents and employees for damages which may arise as a result of operation of the system or delivery of cable service.
- (2) The policies of insurance must be in the sum of not less than \$1,000,000.00 for personal injury or death of any one person, and \$2,000,000.00 for personal injury or death of two or more persons in any one occurrence, \$500,000.00 for property damage to any one person and \$2,000,000.00 for property damage resulting from any one act or occurrence.
- (3) The insurance policy must be maintained by a grantee in full force and effect during the entire term of the franchise. Each policy of insurance must contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of a grantee or for other reasons, except after 60 days' advance written notice has been provided to the town.

Secs. 24-103—24-132. Reserved.

DIVISION 5. USE OF RIGHT-OF-WAY

Sec. 24-133. Use, maintenance, and placement of fixtures within rights-of-way.

- (a) Use of the rights-of-way to provide cable service and operate a cable system must not be inconsistent with the terms and conditions by which such rights-of-way were created or dedicated and is subject to all legal requirements related to the use of such rights-of-way.
- (b) The town may adopt and enforce a right-of-way ordinance, and all grantees shall be subject to such right-of-way ordinance. To the extent that rights, duties and obligations regarding the use of rights-of-way are specifically addressed in a franchise, such franchise terms shall prevail over any conflicting provisions of a right-of-way ordinance. The terms of the cable ordinance shall be subordinate to any conflicting provisions of a right-of-way ordinance. A grantee shall not, through adoption or amendment of a right-of-way ordinance, be subject to additional burdens or obligations with respect to usage of the right-of-way which exceed the burdens on other users of the right-of-way under a right-of-way ordinance.
- (c) The town may construct, maintain, repair or relocate sewers; grade, pave, maintain, repair, relocate and/or alter any right-of-way; construct, repair, maintain or relocate water mains; or construct, maintain, relocate, or repair any sidewalk or other public work.
- (d) All system facilities, lines and equipment in the town must be located so as not to obstruct or interfere with the proper use of rights-of-way, alleys and other public ways and places, and cause minimum interference with the rights of property owners who abut any of the said rights-of-way, alleys and other public ways and places, and not interfere with existing public utility installations.
- (e) Upon 30 days' prior written notice, the grantee shall make available for inspection by the town maps, plats, or other record of the location and character of facilities constructed in the town, including underground facilities, as the town may need for the management of any portion of its rights-of-way. Consistent with applicable state law, grantee may identify such maps, plats or other records as a confidential trade secret, and the town shall comply with all state laws regarding the protection and dissemination of such materials.
- (f) If the town alters or changes the grade or location of any right-of-way, alley or other public way, a grantee shall, at its own expense, upon reasonable notice by town, remove and relocate poles, wires, cables,

conduits, manholes and other system fixtures, and in each instance comply with the standards and specifications of the town. If the town reimburses other occupants of the right-of-way, the affected grantee will be likewise reimbursed.

- (g) Grantees shall not place poles, conduits, or other system fixtures where the same will interfere with any gas, electric, telephone, water or other utility fixtures, and all such poles, conduits, or other fixtures placed in any right-of-way shall be so placed as to comply with all lawful requirements of the town.
- (h) A grantee will, on request of any person holding a moving permit issued by the town, temporarily move wires or fixtures to permit the moving of buildings, with the expense of such temporary removal to be paid by the person requesting the same, and the grantee will be given no less than ten business days' advance notice to arrange for such temporary changes.
- (i) A grantee will be liable for the failure to exercise reasonable care during construction, operation or maintenance of a system.

Secs. 24-134—24-164. Reserved.

DIVISION 6. CONSTRUCTION STANDARDS

Sec. 24-165. Construction, installation and inspection of system equipment and facilities.

- (a) *Registration, permits and construction codes.*
 - (1) Within 90 days of acceptance of a franchise, a grantee shall apply for any necessary governmental permits, licenses, certificates, and authorizations to construct, repair, replace, relocate, operate, maintain or reconstruct a system. Grantees may submit permit applications as construction progresses, as agreed upon, with the town. Grantees must strictly adhere to all state and local laws and building and zoning codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the facilities used to provide cable service in the town.
 - (2) The town may inspect any construction or installation work performed pursuant to the provisions of a franchise. The town may make such tests as it must find reasonably necessary to ensure compliance with the terms of this division, the franchise, and applicable provisions of local, state and federal law.
- (b) *Repair of rights-of-way and property.*
 - (1) Any rights-of-way or other property disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of a cable system shall be promptly and fully restored by the grantee performing such work, at its expense, to a condition as good as that prevailing prior to such work.
 - (2) If a grantee fails to promptly perform the restoration required herein, the town shall have the right, following ten business days' written notice to the grantee, to restore rights-of-way and other public property to a condition as good as that prevailing prior to the grantee's work. The town shall be fully reimbursed by the grantee for its actual costs relating to such restoration.
- (c) *Undergrounding of facilities.*
 - (1) In all areas of the town where utility facilities are required to be placed underground, or where all other utility lines are underground, all grantees must construct and install system facilities underground.

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- (2) Amplifier boxes and pedestal mounted terminal boxes may be placed above ground, but such facilities shall be of such size, design, and location as not to be unsightly or unsafe, as approved by the town.
 - (3) A grantee must bury new drops within a reasonable time period. In the event the ground is frozen, a grantee will be permitted to delay burial until the ground is suitable for burial.
- (d) *Erection, removal and joint use of poles.*
- (1) In any area of the town where facilities may be located above ground, a grantee must make use of existing poles and other facilities to the extent technically and economically feasible.
 - (2) No poles, above-ground conduits, amplifier boxes, similar structures, or other wireholding structures may be erected or installed by the grantee on public property without prior approval of the town with regard to location, height, type and other pertinent aspects.
 - (3) All facilities are subject to applicable zoning and other land use regulations.
- (e) *Safety requirements.*
- (1) A grantee must at all times employ ordinary and reasonable care in the construction, installation and maintenance of system facilities and must use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. All system facilities must at all times be kept and maintained in good condition, order, and repair so that the same must not menace or endanger the life or property of the town or any person.
 - (2) A grantee must install and maintain equipment and facilities in accordance with all applicable federal, state and local laws and regulations, and the requirements of the National Electrical Code and in such manner that they will not interfere with private radio, police and fire communications or any installations of the town or of any public utility serving the town.

Secs. 24-166—24-183. Reserved.

DIVISION 7. SYSTEM DESIGN AND EXTENSION STANDARDS

Sec. 24-184. System design and extension provisions.

- (a) *System capacity and channels.* At a minimum, any franchise granted hereunder shall describe the grantee's network in terms of the total system capacity such as the total number of analog and digital video channels which can be provided, and the minimum number of video channels which will be offered.
- (b) *Cable service availability.*
 - (1) Any franchise granted hereunder may authorize cable service throughout the town, or a portion thereof.
 - (2) Each franchise will identify a required service area. A grantee will be required to offer cable service to all dwellings, homes and businesses within its required service area. Franchises may authorize and require cable service throughout the corporate boundaries of the town, as it exists from time to time, or such smaller area as the town reasonably and lawfully deems appropriate and is agreeable to the grantee.
 - (3) Any franchise granted hereunder may establish requirements for the extension of the system and provision of cable service beyond the initially required service area.

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- (4) Cable service shall not be denied to any group of potential residential cable subscribers because of the income of the residents of the area in which such group resides.
 - (c) *Nonstandard installations.* A grantee must provide cable service to any person requesting other than a standard installation; except that a grantee may charge for the incremental increase in material and labor costs incurred above the cost of making a standard installation.
 - (d) *Technical standards.* Any system offering cable service in the town must comply, at a minimum, with the technical standards promulgated by the FCC relating to cable systems pursuant to 47 USC 76.601—76.617, as may be amended or modified from time to time.
 - (e) *System testing.*
 - (1) In the event the town finds that there are signal or system performance difficulties which may constitute violations of applicable FCC technical standards, the grantee will be notified and afforded ten days to correct problems or complaints. If the performance difficulty is not resolved within ten days in the town's sole determination, the town may require the grantee to demonstrate compliance via testing or other means selected by the grantee.
 - (2) If the performance difficulty is not timely resolved, the town may test any system or facilities used to provide cable service in the town. The town will seek to arrange its testing so as to minimize hardship or inconvenience to the grantee and subscribers. In the event that testing reveals that the source of the technical difficulty is within the grantee's control, the cost of the testing must be borne by the grantee. If the testing reveals the difficulties to be caused by factors that are beyond the grantee's control, the cost of the testing must be borne by the town.
 - (f) *FCC reports.* Grantees must, upon written request from the town, file all required FCC technical reports with the town.
 - (g) *Nonvoice return capability.* Grantees are required to provide a system with capacity and technical capability to provide nonvoice return communications.
 - (h) *Lockout device.* Grantees shall provide, by sale or lease, a lockout device to any requesting subscriber.
 - (i) *Emergency alert system.* Grantee shall provide emergency alert override capabilities in a manner consistent with the FCC's Emergency Alert System (EAS) rules and consistent with any applicable state and regional EAS plans adopted in response thereto.

Secs. 24-185—24-206. Reserved.

DIVISION 8. CONSUMER PROTECTION AND CUSTOMER SERVICE STANDARDS

Sec. 24-207. Consumer protectionism and provision of customer service.

- (a) *Enforcement of customer service standards.* This section shall be fully applicable except during periods when competition exists in the town. The town will stay and not enforce this section during periods when competition exists in the town; except, that the town may initiate enforcement of this section while competition exists in the event the town receives, in any 30-day period, at least five written complaints with respect to each competitor concerning similar customer service issues. In such case, the town board may initiate enforcement of this section by adopting a resolution indicating the basis for initiating enforcement.
- (b) *Regulation of cable service rates.*

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- (1) The town may regulate rates for the provision of cable service to the extent allowed under federal or state laws.
 - (2) Grantees must give the town and subscribers written notice of any change in a cable service rate or charge no less than 30 days prior to the effective date of the change.
- (c) *Sales procedures.* A grantee may not exercise deceptive sales procedures when marketing any of its cable services within the town. Grantees may conduct marketing consistent with local ordinances and other applicable laws and regulations.
- (d) *Telephone inquiries and complaints.*
- (1) Grantees must maintain local, toll free or collect call telephone access lines which will be available to its subscribers 24 hours a day, seven days a week.
 - (2) During normal business hours, trained representatives of the grantee must be available to respond to subscriber inquiries. Grantees must ensure that:
 - a. An adequate number of trained company representatives will be available to respond to customer telephone inquiries during normal business hours; and
 - b. After normal business hours, the access line will be answered by a trained company representative or a service or an automated response system such as an answering machine.
 - (3) Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
- (e) *Telephone answer time and busy signals.*
- (1) Under normal operating conditions, telephone answer time by a customer representative, including wait time, must not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time must not exceed 30 seconds.
 - (2) These standards must be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis. Under normal operating conditions, the customer must receive a busy signal less than three percent of the time.
- (f) *Installation, outage and service calls.* Under normal operating conditions, each of the following standards will be met no less than 95 percent of the time, measured on a quarterly basis:
- (1) Excluding conditions beyond the control of a grantee which prevent performance, grantees will begin working on service interruptions promptly, and in no event later than 24 hours after the interruption becomes known, and grantees must begin actions to correct other service problems the next business day after notification of the service problem and resolve such problems as soon as is reasonably possible.
 - (2) The appointment window alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. Grantees may schedule service calls and other installation activities outside of normal business hours for the convenience of the customer.
 - (3) A grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
 - (4) If a representative of a grantee is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time during normal business hours which is convenient for the customer.

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- (g) *Complaint and other service records.*
- (1) Upon written request by the town, and subject to a grantee's obligation to maintain the privacy of certain information, grantees must prepare and maintain written records of all complaints received and the resolution of such complaints, including the date of such resolution.
 - (2) Written complaint records must be on file at the office of a grantee. Upon written request by the town, grantees must provide the town with a written summary of such complaints and their resolution on a quarterly basis and in a form mutually agreeable to the town and the grantee.
 - (3) Upon written request by the town, grantees must provide detailed compliance reports on a quarterly basis with respect to the objectively measurable service standards required in this subsection. A grantee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards contained in this section unless a historical record of complaints indicates a failure to comply.
- (h) *Subscriber contracts.* Grantees must provide to the town upon request any standard form subscriber contract utilized. If no such written contract exists, the grantee must provide a document completely and concisely stating the length and terms of the subscriber contract offered to customers.
- (i) *Video programming.* All franchises will identify the initial video channels to be provided by a grantee. In accordance with 47 USC 544(b), prior town approval is required for any change in the broad categories of video programming provided. Individual programming decisions may be made in the discretion of a grantee.
- (j) *Billing and subscriber communications.*
- (1) A grantee must give the town and subscribers 30 days' advance written notice of any changes in rates, programming services, or channel alignments.
 - (2) Bills must be clear, concise, and understandable. Bills must clearly delineate all activity during the billing period, including optional charges, rebates, and credits. In case of a billing dispute, the grantee must respond to a written complaint from a subscriber within 30 days.
- (k) *Additional customer service requirements.* The town may adopt additional or modified customer service requirements to address subscriber concerns or complaints.

Secs. 24-208—24-237. Reserved.

DIVISION 9. REQUIREMENTS

Sec. 24-238. Franchise and compliance required; scope.

No person may provide cable service in the town, nor operate a cable system in the town, unless and until such person is granted a franchise. All franchises must be granted pursuant to the provisions of this division, and any franchise granted hereunder will authorize the grantee to deliver cable service and construct, operate and maintain a cable system in the rights-of-way in the town.

Sec. 24-239. Community services.

- (a) *PEG access facilities.* Franchises will establish obligations to provide PEG access facilities to meet the community's needs and interests.
- (b) *Service to public or educational institutions.* Franchises will establish obligations for the provision of free or reduced cost services to identified public or educational institutions.

Sec. 24-240. Protection of individual rights.

- (a) *Discriminatory practices prohibited.* No grantee may deny cable service or otherwise discriminate against citizens or businesses on the basis of race, color, religion, national origin, sex, age, status as to public assistance, sexual preference, or disability.
- (b) *Subscriber privacy.*
 - (1) Grantees must comply with the subscriber privacy related requirements of 47 USC 551.
 - (2) No signals of a Class IV channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written authorization of the subscriber.
 - (3) No lists of the names and addresses of subscribers or any lists that identify the viewing habits of subscribers may be sold or otherwise made available to any party other than to the grantee and its employees for internal business use, and also to the subscriber subject of that information, without the express written authorization of the subscriber.
 - (4) Written subscriber authorization is limited to a period not to exceed one year. Subscriber authorization may be renewed at the option of the subscriber. No penalty may be invoked for a subscriber's failure to provide or renew such authorization. The authorization must be revocable at any time by the subscriber without penalty of any kind whatsoever.
 - (5) Written authorization from a subscriber is not required for conducting systemwide or individually addressed electronic sweeps to verify system integrity or monitor for billing purposes. This information must be kept confidential subject to the provisions set forth in subsection (b)(2) of this section.

Secs. 24-241—24-258. Reserved.***DIVISION 10. OTHER REGULATIONS AND STANDARDS*****Sec. 24-259. Tree trimming.**

A grantee is authorized to trim any trees upon and overhanging the rights-of-way, alleys, sidewalks, or public easements of the town so as to prevent the branches of such trees from coming in contact with wires and cables of a system. The town may supervise tree trimming activities and condition the authority to trim trees as it deems appropriate.

Sec. 24-260. Unauthorized connections and modifications.

- (a) It is unlawful for any person, without the express consent of the grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a grantee's system.
- (b) It is unlawful for any person to willfully interfere with, tamper with, remove, obstruct, or damage, or assist thereto, any part or segment of a system for any purpose.
- (c) Any person found guilty of violating this section may be fined as established in section 1-13 for each and every subsequent offense.

Secs. 24-261—24-283. Reserved.

DIVISION 11. TRANSFER, TERMINATION OR ABANDONMENT OF FRANCHISE

Sec. 24-284. Transfer, termination or abandonment of franchise.

(a) *Termination or abandonment of service.*

- (1) A grantee may not abandon the system without having first given three months' written notice to the town.
- (2) In the event of termination or forfeiture of the franchise or abandonment of the system, the town may require the grantee to remove all or any portion of its system from all rights-of-way and public property within the town; provided, however, that the grantee will not be required to remove its system to the extent it lawfully provides other services over the system.
- (3) If the grantee has failed to commence removal of its system, or such part thereof as was designated by the town, within 120 days after written demand for removal is given, or if the grantee has failed to complete such removal within 24 months after written demand for removal is given, the town may apply funds secured by the franchise toward removal and/or declare all right, title, and interest in the system to be in the town with all rights of ownership including, but not limited to, the right to operate the system or transfer the system to another for operation by it pursuant to the provisions of 47 USC 547.

(b) *Sale or transfer of franchise.*

- (1) No sale or transfer of ownership of a grantee or fundamental corporate change in a grantee, as defined in M.S.A. § 238.083, nor sale or transfer of a franchise is permitted without town approval. Any sale or transfer of stock in a grantee creating a new controlling interest constitutes a sale or transfer of ownership. A controlling interest includes majority stock ownership or a lesser amount sufficient to confer actual working control in whatever manner exercised. Town approval is not required where a grantee grants a security interest in its franchise or system to secure an indebtedness.
- (2) A grantee must file a written request with the town prior to any transaction described above. The town will approve or deny a transfer request within 120 days of receipt of a written request. The town will not unreasonably withhold its approval.
- (3) In no event will a transaction be approved unless the transferee becomes a signatory to, and assumes all rights and obligations under, the franchise.
- (4) In the event of any proposed transaction described above, the town will have the right to purchase the system. In the event a grantee has received a bona fide offer for purchase of its system, the town shall have the right to purchase for the price which the proposed assignee or transferee agreed to pay. The town will be deemed to have waived its right to purchase the system in the following circumstances:
 - a. The town does not notify the grantee in writing, within 90 days of notice, that it intends to exercise its right of purchase; or
 - b. The town approves the transaction.

Secs. 24-285—24-303. Reserved.

ARTICLE III. TOWERS

DIVISION 1. GENERALLY

Sec. 24-304. Purpose.

In order to accommodate the communication needs of residents and businesses (while protecting the public health, safety, and general welfare of the community), the town board finds that these regulations are necessary in order to:

- (1) Facilitate the provision of wireless telecommunication services to the residents and the businesses of the town;
- (2) Minimize adverse visual effects of towers through artful design and siting standards;
- (3) Avoid potential damage to adjacent properties from tower failure, falling ice, high winds, adverse weather, and other safety hazards through location, size, height, and development standards and setback requirements;
- (4) Maximize the use of existing and approved towers and buildings to accommodate multiple antennas in order to reduce the number of towers needed to serve the community;
- (5) Preserve the quality of living in residential areas which are in close proximity to radio, television, and other broadcast facilities;
- (6) Ensure that a competitive and broad range of telecommunications services and high quality telecommunications infrastructure are provided to serve the community, as well as serve an important and effective part of the town's emergency response network; and
- (7) Place telecommunication facilities in suitable locations with residential locations being a last resort.

(Code 2004, § 809.01)

Sec. 24-305. Definitions.

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

Amateur radio antenna means any equipment or device used to transmit, receive, or transmit/receive electromagnetic signals for "Amateur Radio Service" communications as defined in 47 CFR 97.3(4) and as used in 47 CFR 97.15(a).

Antenna means any device which by use of any means is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves, of any type, for any purpose.

Antenna support structure means any building, pole, telescoping mast, tower, tripod, or any other structure which supports an antenna.

Height means height above grade at a given location.

Instrument calibration means, for all measurements made to ensure compliance with this article, evidence must be submitted showing that the instrument or instruments used were calibrated within the manufacturer's suggested periodic calibration interval and that the calibration is by methods traceable to the National Bureau of Standards. A letter must also be submitted stating that the measurements were made in accordance with good engineering practices and verifying the accuracy of the results of the measurements.

Measurements by engineer means RF measurements required in this article must be made by a qualified registered professional electrical engineer with a Federal Communications Commission First Class Radio-Telephone License.

Method of measurement means measurements to be made in accord with the latest version of American National Standards Institute's (ANSI) Standard C95.3, Techniques and Instrumentation for the Measurement of Potentially Hazardous Electromagnetic Radiation at Microwave Frequencies or by similar methods considered appropriate by the registered engineer.

Registered engineer means an engineer who is registered in accordance with the laws of the state.

Satellite dish means any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow, dish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROS, and satellite microwave antennas.

Structure, public, means an edifice or building of any kind, or any piece of work artificially built up or comprised of parts jointed together in some definite manner which is owned, or rented and operated by, a federal, state, or local government agency.

(Code 2004, § 809.02)

Sec. 24-306. Preferences for antenna and support structure locations.

When selecting sites for the construction of new antenna support structures and/or for the placement of new antenna, the following preferences shall be followed:

- (1) *Preferred land use areas.*
 - a. Land located within the general business district.
 - b. Public land or structures.
 - c. Within the easement of a high power overhead transmission line or within 50 feet of the transmission line easement on the same side of the road. The term "high power" means 69,000 volts or more.
 - d. Parking lots if the monopole replicates, incorporates, or substantially blends with the overall lighting standards of the lot.
 - e. Athletic complexes, public parks, and golf courses.
- (2) *Preferred support structures.*
 - a. Water towers.
 - b. Co-location on existing antenna support structures.
 - c. Church steeples.
 - d. Sides of buildings over two stories high.
 - e. Existing power, lighting, or phone poles.

(3) *Prohibitions.*

- a. No new support structures shall be approved at any location other than a preferred land use area, unless the applicant shows to the reasonable satisfaction of the town that such other locations are not feasible from an engineering standpoint.
- b. No new support structures shall be approved for construction unless the applicant shows, to the reasonable satisfaction of the town, that a preferred support structure is not feasibly available for use from an engineering standpoint.

(Code 2004, § 809.03)

Sec. 24-307. Exemptions and modifications.

An exemption or modification to any requirement of this article shall be heard by the town board. An exemption or modification shall only be granted if it can be shown by the presentation of appropriate engineering data that personal wireless services cannot be provided to a specific area without the granting of an exemption or modification.

(Code 2004, § 809.12)

Sec. 24-308. Letter of intent.

A letter of intent committing the tower owner, property owner, and their successors to allow the shared use of the tower shall be submitted to the town at the time of application. Pursuant to the terms of the letter of intent, the tower owner, property owner, and their successors shall, in good faith, lease space on an antenna support structure to other users. In the case of a dispute regarding the lease of space to other users, the existing permit holder and the current applicant shall submit their dispute to binding arbitration. Said binding arbitration shall be completed within 60 days of notification that a dispute exists. The costs of arbitration shall be borne equally by the applicant and the permit holder. Failure to abide by the arbitrator's decision shall result in termination of the permit for the tower, and said tower shall be removed within 90 days and the site shall be restored to its original condition as provided in section 24-354(b). All permits shall be subject to review and termination if it is determined by the town that a permitted tower owner, property owner, or successor is not in good faith offering antenna space to other users.

(Code 2004, § 809.13)

Secs. 24-309—24-329. Reserved.

DIVISION 2. ADMINISTRATION

Subdivision I. In General

Secs. 24-330—24-352. Reserved.

Subdivision II. Permits

Sec. 24-353. Permit requirements.

- (a) *General rule.* Except as indicated in this section, an interim use permit is required before any antenna or antenna support structure is installed or constructed. Applications for interim use permits shall be made on forms available from the town and shall be processed in the same manner as are other interim use permits pursuant to this chapter.
- (b) *Administrative permits.* An administrative permit may be issued by the town engineer to any applicant whom the town engineer determines has complied with all of the terms, requirements, regulations, and conditions of this article for the following:
 - (1) Antennas to be constructed on a public structure.
 - (2) Satellite dish antennas larger than two meters but smaller than six meters in size.
 - (3) Antennas or antenna support structures erected temporarily for test purposes or for emergency communications. The term "temporary" shall mean that the antenna or support structure is removed within 72 hours following the termination of testing or emergency communication needs.

All applicants for an administrative permit shall pay a fee to the town in such amount as is determined, from time to time, by town board resolution. Any person aggrieved by the town engineer's decision shall be entitled to appeal that decision to the town board.

- (c) *No permits required.* No permits are required for the following:
 - (1) Household television antennas extending less than 15 feet above the highest point of a residential structure.
 - (2) Satellite dish receiving antennas two meters or less in diameter.
 - (3) Adjustment, repair, or replacement of the elements of an antenna, provided that such work does not constitute a clear safety hazard.
 - (4) Antennas and antenna support structures used by the town for town purposes.
 - (5) Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels, provided that such work does not constitute a clear safety hazard.
 - (6) Two-way communication transmitters used on a temporary basis by 9-1-1 emergency services, including fire, police, and emergency aid or ambulance service.
 - (7) Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This includes cellular phones.

(Code 2004, § 809.07)

Sec. 24-354. Life of permits and review of telecommunication regulations.

- (a) Permits must be renewed every ten years via the interim use permit and the site plan approval process. The grounds for non-renewal shall be limited to a finding that:
 - (1) The use involved is no longer allowed in the zoning district involved;

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- (2) The facility fails to comply with the relevant requirements of this article as they exist at the time of renewal and the permittee has failed to supply assurances acceptable to the town that the facility will be brought into compliance within 120 days;
 - (3) The permittee has failed to comply with the conditions of approval imposed;
 - (4) The facility has not been properly maintained; or
 - (5) The facility has not been upgraded to minimize its impact to the greatest extent permitted by the technology that exists at the time of renewal and is consistent with the provision of universal service at affordable rates.
- (b) If a permit or other entitlement for use is not renewed, it shall automatically become null and void without notice or hearing ten years after it is issued or upon cessation of use for more than a year and a day, whichever comes first, unless a new permit is issued within 120 days, everything down to three feet above grade shall be removed from the property and the site restored to its natural preconstruction state within 180 days of non-renewal or abandonment. Any access road installed shall be removed and the ground returned to its natural condition unless the property owner establishes to the satisfaction of the town board that these sections of road are necessary to serve some other allowed use of the property that is currently present or to provide access to adjoining parcels.
 - (c) The town board may terminate any permit if it determines that a user violates any of the standards of this article or the conditions attached to the permit. Before taking action, the town will provide notice to the user of the intended termination.
 - (d) Transfer of operation is permitted if the new operator is licensed by the FCC for that radio frequency. The town must be notified in advance, and all conditions of approval for subject installations must be carried out by the new carrier. The authorizing motion shall be recorded in the office of the county recorder, on the subject property, stating the new carrier and authorizing conditions of approval.

(Code 2004, § 809.05)

Secs. 24-355—24-381. Reserved.

Subdivision III. Interim Use Permits and Administrative Permits

Sec. 24-382. Periodic submissions.

- (a) *At time of initial application.* In addition to the information required elsewhere in this article, applications for interim use permits or administrative permits shall include the following information (which shall be supplied by a qualified licensed and registered professional engineer):
 - (1) Describe the tower height and design, including cross-section and elevation diagrams.
 - (2) Document the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas.
 - (3) Describe the tower's capacity, including the number and type of antennas that it can accommodate.
 - (4) Document what steps the applicant will take to avoid interference with established public safety telecommunications.
 - (5) Include the registered engineer's stamp and registration number.
 - (6) Submit a picture drawing looking down at the energy lobe patterns (or projected patterns) of the site.

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- (7) Submit a letter of intent as required by section 24-308.
 - (8) Submit a written statement from the town fire department stating that the design of the facility, including its access roads, are in compliance with applicable fire codes and reasonable fire department regulations for access to the site in case of an emergency.
 - (9) The town, at its reasonable discretion, may require visual impact demonstrations including mock-ups and/or photo montages to be submitted by the applicant to provide a more accurate visual depiction of the applicant's proposal.
 - (10) Applications may be rejected by the town if the applications contain disclaimers which state or imply that the actual antenna support structure and/or antennas may not be constructed as is represented within the application materials. Applications shall accurately describe and depict the actual antenna support structure/antennas that the applicant wishes to have reviewed.
- (b) *Every year.* No later than January 10 of each year, each holder of an interim use permit or administrative permit issued under this article shall submit to the town clerk a photocopy of a certificate of insurance showing that the tower and/or antenna is insured for that calendar year and shall also submit to the town clerk a copy of a report showing that the tower and antennas are being operated in compliance with all federal and/or state regulations.
- (c) *Every five years.* Every five years and not later than January 10 on the year of submission, each holder of an interim use permit or administrative permit under this article shall provide the following information to the town:
- (1) A written description of the type of technology each company/carrier will provide to its customers over the next five years (i.e., cellular, PCS, ESMR).
 - (2) A description of the radio frequencies to be used for each technology.
 - (3) A description of the type of consumer services (voice, video, data transmission) and consumer products (mobile phones, laptop PCs, modems) to be offered.
 - (4) A listing of all existing, existing to be upgraded, or replaced, and proposed communication sites within the town and within five miles of the town for these services.
 - (5) A presentation-size map of the town showing the five-year plan for communications sites, or if individual properties are not known, the geographic service areas of the communication sites. This shall be submitted in hard copy form at a size of 24 inches by 36 inches or greater, and shall also be provided on a 3.5-inch disk or CD formatted for an IBM compatible computer using the latest versions of Microsoft Word for Windows.
 - (6) A written list of communication sites (in use or projected to be used within the next five years) in both hard copy and on a 3.5-inch disk (formatted for an IBM compatible computer using Microsoft Word for Windows version 6.0 or higher). The list should include at least the following information:
 - a. Identify the communication sites by address and then by the county P.I.D. number;
 - b. List the zoning district;
 - c. Describe the type of building (i.e., commercial, residential, etc.) and the height of the building;
 - d. List the name of the carrier, its business address, and a local contact person (with phone number);
 - e. List the number of antennas and base transceiver stations (BTS) per site by your carrier and if there are other installations. List the number by each carrier;

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- f. List the height from grade to the top of the antenna installations; the location and type of antenna; and the location of BTS;
 - g. List the radio frequency range in megahertz and list the wattage output of the equipment and effective radiated power at the antenna;
 - h. A current and up-to-date information submission including the name, address, and telephone number (one local and one national) to be contacted in case of an emergency occurring at the site of the antenna support structure.

(Code 2004, § 809.11)

Secs. 24-383—24-407. Reserved.

Subdivision IV. Indemnification

Sec. 24-408. Scope.

The applicant/permittee and its successors-in-interest will indemnify, keep, and hold the town, its elected officials, officers, employees, and agents, free and harmless from any and all claims and actions on account of injury or death of persons or damage to property occasioned by the construction, installation, maintenance, repair, removal, relocation, or operation of the facilities affecting public ground, unless such injury or damage is the result of the negligence of the town, its elected officials, employees, officers, or agents. The town will notify the applicant/permittee of claims or actions and provide a reasonable opportunity for the applicant/permittee to accept and undertake the defense.

(Code 2004, § 809.04(subd. 1))

Sec. 24-409. Claim defense.

- (a) If a claim or action is brought against the town under circumstances where indemnification applies, the applicant/permittee, at its sole expense, shall defend the town if written notice of the claim or action is given to the applicant/permittee within a period wherein the applicant/permittee is not prejudiced in the defense of such claim or action by lack of such notice. If the applicant/permittee undertakes the defense, the applicant/permittee shall have complete control of such claim or action, but it may not settle without the consent of the town, which shall not be unreasonably withheld. This subdivision is not, as to third parties, a waiver of any defense or immunity otherwise available to the town. In defending any action on behalf of the town, the applicant/permittee is entitled to assert every defense or immunity that the town could assert on its own behalf.
- (b) The applicant/permittee must reimburse the town for any costs which it incurs because of the presence of the applicant's/permittee's antennas or tower.
- (c) For all commercial wireless telecommunication service towers, the applicant/permittee must submit a letter of intent committing the tower owner and its successors to allow the shared use of the tower if an additional user agrees in writing to reasonable terms and conditions for shared use.

(Code 2004, § 809.04(subd. 2))

Secs. 24-410—24-431. Reserved.

Subdivision V. Fees and Escrow Requirements

Sec. 24-432. Due at time of application.

Any person applying for a permit or site plan under this article shall pay to the town at the time of application all required fees and escrows.

(Code 2004, § 809.10(1))

Sec. 24-433. Fees, escrows determined by resolution.

Fees and escrows shall be established pursuant to this subdivision and shall be determined, from time to time, by town board resolution.

(Code 2004, § 809.10(2))

Sec. 24-434. Reimbursement of town costs.

All applicants must reimburse the town for any costs which the town incurs because of the presence of the applicant's antennas or tower, including costs for town staff and professional review of the application materials and review of required periodic submissions.

(Code 2004, § 809.10(3))

Secs. 24-435—24-461. Reserved.

Subdivision VI. Restrictions Generally

Sec. 24-462. Noise and traffic.

All telecommunications facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused the residents of nearby homes and the users of nearby recreational areas such as public parks and trails. To that end, all of the following measures shall be implemented:

- (1) Outdoor noise producing construction activities shall only take place on weekdays (Monday through Friday) between the hours of 9:00 a.m. and sunset, unless allowed at other times by the town.
- (2) Back-up generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 9:00 a.m. and sunset.
- (3) Traffic shall at all times be kept to an absolute minimum, but in no case more than one round trip per day on an average annualized basis once construction is complete.

(Code 2004, § 809.14)

Secs. 24-463—24-482. Reserved.

DIVISION 3. ANTENNA REGULATIONS GENERALLY

Sec. 24-483. Primary and accessory uses.

The use of antenna/antenna support structures may be either a principle or an accessory use of land if the use is considered a principal use, then the "minimum vacant lot size" requirements of section 24-484 apply. An antenna/support structure may also be considered an accessory use on a parcel of land on which a principal use already exists, thus a smaller parcel of land may be used provided all other standards contained in this article are met.

(Code 2004, § 809.06(1))

Sec. 24-484. Maximum antenna support structure height and vacant lot size requirements.

- (a) *Maximum antenna height and lot requirements.* The maximum antenna support structure height and vacant lot size requirements are as follows:

Maximum Antenna Height and Lot Size

<i>Zoning District</i>	<i>Maximum Height</i>	<i>Minimum Vacant Lot Size</i>
R-1	165'	10 acres
R-2	195'	10 acres
General Business	195'	2.5 acres

- (b) *Exception to maximum height restrictions.* The maximum height restrictions in subsection (a) of this section shall not apply to a public structure used as an antenna support structure. Additionally, no antenna may extend more than 15 feet above its antenna support structure.

(Code 2004, § 809.06(2), (3))

Sec. 24-485. Setback requirements.

In all districts, all antenna support structures shall be set back from the nearest property line at least a distance equal to the height of the antenna support structure. This provision does not apply to existing antenna support structures unless said structure is enlarged or structurally modified.

(Code 2004, § 809.06(4))

Sec. 24-486. Distance from residences.

- (a) Antenna support structures of up to 150 feet in height shall not be constructed within 600 feet of any residential structure.
- (b) Antenna support structures of over 150 feet in height shall not be constructed within 1,000 feet of any residential structure.

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- (c) Notwithstanding subsections (a) and (b) of this section, if an antenna support structure is located on the same parcel of land as a residential structure that is owned by the same person, the setback to that residential structure may be equal to the height of the antenna support structure plus 30 feet.

(Code 2004, § 809.06(5))

Sec. 24-487. Multiple towers.

Generally, only one antenna support structure is permitted on a parcel of land. If, in the opinion of the town board, a particular parcel is well suited for more than one support structure, then up to three antenna support structures may be located on a parcel of land if each antenna support structure is located within 100 feet of another antenna support structure and if all other standards contained in this article are met. Additionally, a second or third antenna support structure will not be allowed on a parcel of land unless the existing antenna support structures on that parcel already hold the maximum number of co-located antennas possible or unless the existing antenna support structures are not feasibly available for use from an engineering standpoint for additional collocated antenna facilities.

(Code 2004, § 809.06(6))

Sec. 24-488. Location limitations.

Any antenna support structure on a particular parcel of land shall be located so as to have the least impact possible on adjoining properties and so that any negative impacts of the antenna support structure shall be confined as much as possible to the property on which the antenna support structure is located.

(Code 2004, § 809.06(7))

Secs. 24-489—24-509. Reserved.

DIVISION 4. ANTENNA REGULATIONS IN ALL DISTRICTS

Sec. 24-510. Standards applicable to all antennas and support structures.

The following standards shall apply to all antennas and antenna support structures:

- (1) All obsolete and unused antennas and antenna support structures shall be removed within 90 days of cessation of operation at the site, unless an exemption is granted by the town. After the facilities are removed, the site shall be restored to its original or an improved condition as provided in section 24-354(b). Failure to comply with this subsection will result in the town completing the removal and site restoration, and the town's costs shall be assessed against the property and collected as a real estate tax.
- (2) All antennas shall be constructed in compliance with town building and electrical codes.
- (3) Structural design, mounting, and installation of antennas shall be in compliance with manufacturer's specifications. The plans shall be approved and certified by a registered professional engineer at the owner's expense.
- (4) When applicable, written authorization for antenna erection shall be provided by the property owner.
- (5) No advertising message shall be affixed to the antenna structure.

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- (6) The height of the antenna shall be the minimum necessary to function satisfactorily, as verified by a registered professional engineer.
 - (7) Antennas shall not be artificially illuminated and must not display strobe lights. No telecommunication facility shall be installed at a location where special painting or lighting will be required under FAA regulations. When incorporated into the approved design, the tower may support light fixtures used to illuminate ball fields, parking lots, or other similar areas.
 - (8) When applicable, proposals to erect a new antenna shall be accompanied by any required federal, state, or local agency licenses.
 - (9) No new antenna support structures shall be constructed if it is feasible to locate the proposed new antenna on existing support structures. "Feasibility" shall be determined according to generally accepted engineering principles. If a new antenna support structure is to be constructed, it shall be designed structurally and electrically to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the antenna support structure is 100 feet in height or more. Any antenna support structure must also be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at different heights. Other users shall include, but not be limited to, other cellular communication companies, personal communication systems companies, local police, fire, and ambulance companies.
 - (10) Antenna support structures shall be constructed and finished to reduce visual impact and to meet all applicable FAA requirements.
 - (11) The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams, or other means. The design should utilize a monopole design. The town may grant variances to this requirement in cases where structural, RF design considerations, and/or the number of tenants required by the town prevent the feasible use of a monopole. Permanent platforms or structures, exclusive of antennas, are prohibited.
 - (12) The base of any tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.
 - (13) Antennas and antenna support structures must be designed to blend into the surrounding environment through use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities. All locations should provide the maximum amount of screening from off-site views as is feasible. Existing on-site vegetation shall be preserved to the maximum extent practicable.
 - (14) The base of all antenna support structures shall be landscaped according to a plan approved by the town engineer. Buildings which are constructed or used in conjunction with the antenna support structure shall be designed to be architecturally compatible with other existing structures on the site.
 - (15) Antennas shall be subject to state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. If new, more restrictive standards are adopted, antennas shall be brought into compliance with the new standards by the owner and operator. The cost of verification of compliance shall be borne by the owner and operator of the antenna.
 - (16) Except as approved by the town as to public utilities, no part of any antenna or support structure, nor any lines, cable, equipment, wires, or braces, shall at any time extend across or over any part of any right-of-way, public street, highway, sidewalk, or property line.
 - (17) All metal towers (and all necessary components) shall be constructed of, or treated with, corrosion resistant material.
 - (18) All antennas and support structures shall be adequately insured for injury and property damage.

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- (19) All new antenna support structures shall be constructed to provide space for the installation of a town emergency/fire siren in such a fashion that It will not interfere with any antennas. Said space shall be available for said use by the town at no cost to the town.
 - (20) No temporary mobile communication sites are permitted except in the case of equipment failure, equipment testing, or in the case of an emergency situation as authorized by the police. Use of temporary mobile communication sites for testing purposes shall be limited to 24 hours; use of temporary mobile communication sites for equipment failure, or in the case of emergency situations, shall be limited to a term of 30 days. These limits can be extended by the town board.
 - (21) All equipment and construction regulated by this article shall comply with recognized applicable standards or regulations, such as, but not limited to, those standards and regulations established by the following (or their successors):
 - a. American National Standards Institute (ANSI).
 - b. Electronic Industries Association (EIA).
 - c. Federal Communications Commission (FCC).
 - d. Federal Aviation Administration (FAA).
 - e. Institute of Electrical and Electronic Engineers (IEEE).
 - f. Minnesota Building Code (MBC).
 - g. National Electrical Code (NEC).
 - h. National Fire Protection Association (NFPA).
 - i. Occupational Safety and Health Administration (OSHA).
 - (22) Limits of exposure shall follow the National Council on Radiation Protection and Measurements (NCRP), a nonprofit corporation chartered by the U.S. Congress. NCRP recommends that the average exposure limits for the public be one-fifth that of the limits allowed for workers by the current ANSI protection guide.

(Code 2004, § 809.08(1))

Sec. 24-511. Regulations applicable to antennas and support structures requiring interim use permit, administrative permit, or site plan.

The following regulations shall apply to all antennas and antenna support structures for which an interim use permit, administrative permit, or site plan is required under this article:

- (1) The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a registered professional engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district. Said analysis shall also demonstrate to the reasonable satisfaction of the town that the proposed use will not interfere with the radio, television, telephone, computer, wireless home use devices, and other similar services enjoyed by the properties in the area.
- (2) Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving, and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping.

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- (3) All antenna support structures shall be reasonably protected against climbing. Unless the antenna is mounted on an existing structure, at the discretion of the town, a security fence not greater than eight feet in height with a maximum opacity of 50 percent shall be provided around the support structure.
 - (4) At least annually, and at each time a new user is added to an antenna support structure, the owner or operator shall provide to the town a report from a registered engineer that the antenna complies with all applicable regulations regarding emission of radiation and electromagnetic waves.
 - (5) The base of all antenna support structures shall be posted with signs stating "Keep Off" on all sides. Additionally, all telecommunications facilities shall be clearly identified as to location and operator so as to facilitate emergency response. Specifically, an address sign shall be installed in conformance with fire department requirements at the entrance of the public way to provide direction along the access road to the facility itself. Additionally, a permanent, weatherproof, approximately 16 inch by 32 inch facility identification sign shall be placed on the gate in the fence around the equipment building, or if there is no fence, next to the door to the equipment shed itself. Said sign shall identify the facility operator, provide his address, and specify a 24-hour telephone number at which he can be reached.

(Code 2004, § 809.08(2))

Secs. 24-512—24-530. Reserved.

DIVISION 5. AMATEUR RADIO ANTENNAS AND TOWERS

Sec. 24-531. Exemptions.

Antennas and antenna support structures for federally licensed amateur radio operators are hereby exempted from those provisions of this article found by the planning and zoning commission and the town board to not be applicable in any particular case.

(Code 2004, § 809.09(1))

Sec. 24-532. Site plan.

No amateur antenna support structures shall be constructed unless site plan approval has been given by the town engineer. Any person aggrieved by the town engineer's decision shall be entitled to appeal that decision to the town board.

(Code 2004, § 809.09(2))

Sec. 24-533. Support structure construction.

Amateur radio support structures (towers) must 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 such a tower may be modified or 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.

(Code 2004, § 809.09(3))

Chapter 26 TRAFFIC AND MOTOR VEHICLES⁴

ARTICLE I. IN GENERAL

Secs. 26-1—26-66. Reserved.

ARTICLE II. ALL-TERRAIN VEHICLES⁵

DIVISION 1. GENERALLY

Sec. 26-67. Definition of all-terrain vehicle.

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

All-terrain vehicle or vehicle means a motorized vehicle with:

- (1) Not less than three, but not more than six low pressure or non-pneumatic tires;
- (2) A total dry weight of 2,000 pounds or less; and
- (3) A total width from outside of tire rim to outside of tire rim that is 65 inches or less.

The term "all-terrain vehicle" includes a Class 1 all-terrain vehicle and Class 2 all-terrain vehicle. The term "all-terrain vehicle" does not include a golf cart, mini-truck, dune buggy, or go-cart or a vehicle designed and used specifically for lawn maintenance, agriculture, logging, or mining purposes.

(Code 2004, § 602.01)

State law reference(s)—Definition of all-terrain vehicle, M.S.A. § 84.92.

Sec. 26-68. Jurisdiction.

This article regulates the operation of all-terrain vehicles on public lands, waters, and property under the jurisdiction of the town and on streets and highways within the boundaries of the town.

(Code 2004, § 602.02)

State law reference(s)—Authority to regulate, M.S.A. § 84.804, subd. 6.

⁴State law reference(s)—Bicycles, M.S.A. ch. 168C; traffic regulations, M.S.A. ch. 169; driving while impaired, M.S.A. ch. 169A; traffic accidents, M.S.A. ch. 170.

⁵State law reference(s)—All-terrain vehicles, M.S.A. § 84.92 et seq.; authority to regulate the operation of off-road vehicles on town public lands, waters, and property under its jurisdiction, other than public road rights-of-way within its boundaries, M.S.A. § 84.804, subd. 6; all-terrain vehicle use on roadways, M.S.A. § 169.045.

Secs. 26-69—26-94. Reserved.

DIVISION 2. OPERATION BY YOUTHFUL OPERATORS⁶

Sec. 26-95. Requirements for youthful operators of all-terrain vehicles.

- (a) Except for operation on public road rights-of-way that is permitted under M.S.A. § 84.928 and as provided under subsection (j) of this section, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.
- (b) A person under 12 years of age shall not:
 - (1) Make a direct crossing of a public road right-of-way;
 - (2) Operate an all-terrain vehicle on a public road right-of-way in the state; or
 - (3) Operate an all-terrain vehicle on public lands or waters, except as provided in subsection (f) of this section.
- (c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years of age may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters or state or grant-in-aid trails, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied by a person 18 years of age or older who holds a valid driver's license.
- (d) To be issued an all-terrain vehicle safety certificate, a person at least 12 years old, but less than 16 years old, must:
 - (1) Successfully complete the safety education and training program under M.S.A. § 84.925, subd. 1, including a riding component; and
 - (2) Be able to properly reach and control the handlebars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.
- (e) A person at least ten years of age may take the safety education and training program and may receive an all-terrain vehicle safety certificate under subsection (d) of this section, but the certificate is not valid until the person reaches the age of 12 years.
- (f) A person at least ten years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 110cc if the vehicle is a Class 1 all-terrain vehicle with straddle-style seating or up to 170cc if the vehicle is a Class 1 all-terrain vehicle with side-by-side-style seating on public lands or waters if accompanied by a parent or legal guardian.
- (g) A person under 15 years of age shall not operate a Class 2 all-terrain vehicle.
- (h) A person under the age of 16 years may not operate an all-terrain vehicle on public lands or waters or on state or grant-in-aid trails if the person cannot properly reach and control:
 - (1) The handlebars and foot pegs while sitting upright on the seat of the all-terrain vehicle with straddle-style seating; or

⁶State law reference(s)—Youthful operators, prohibitions, M.S.A. § 84.9256.

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- (2) The steering wheel and foot controls of a Class 1 all-terrain vehicle with side-by-side-style seating while sitting upright in the seat with the seat belt fully engaged.
 - (i) Notwithstanding subsection (c) of this section, a nonresident at least 12 years old, but less than 16 years old, may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate an all-terrain vehicle on public lands and waters or state or grant-in-aid trails if:
 - (1) The nonresident youth has in possession of evidence of completing an all-terrain safety course offered by the ATV Safety Institute or another state as provided in M.S.A. § 84.925, subd. 3; and
 - (2) The nonresident youth is accompanied by a person 18 years of age or older who holds a valid driver's license.
 - (j) A person 12 years of age but less than 16 years of age may operate an all-terrain vehicle on the roadway, bank, slope, or ditch of a public road right-of-way as permitted under M.S.A. § 84.928 if the person:
 - (1) Possesses a valid all-terrain vehicle safety certificate issued by state commissioner of natural resources; and
 - (2) Is accompanied by a parent or legal guardian on a separate all-terrain vehicle.

State law reference(s)—Similar provisions, M.S.A. § 84.9256, subd. 1.

Sec. 26-96. A person under 12 years of age shall not operate all-terrain vehicles in public places of the town.

A person under 12 years of age shall not operate an all-terrain vehicle on public lands, waters, property, streets, or highways in the town.

(Code 2004, § 602.03)

State law reference(s)—Operation by persons under the age of 16 years, M.S.A. § 84.802.

Sec. 26-97. Helmet and seat belts required.

- (a) A person less than 18 years of age shall not ride as a passenger or as an operator of an all-terrain vehicle on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the commissioner of public safety.
- (b) A person less than 18 years of age shall not ride as a passenger or as an operator of an all-terrain vehicle without wearing a seat belt when provided by the manufacturer.

State law reference(s)—Similar provisions, M.S.A. § 84.9256, subd. 2.

Sec. 26-98. Parent or guardian authorization.

A person under the age of 16 years shall not operate and a person shall not allow a person under the age of 16 years to operate an all-terrain vehicle, unless the parent or guardian of the person under the age of 16 years authorizes the operation. For purposes of this division, the term "guardian" means the legal guardian of the person under the age of 16 years or a person age 18 years or older who has been authorized by the parent or legal guardian to supervise the person under the age of 16 years.

State law reference(s)—Similar provisions, M.S.A. § 84.9256, subd. 2a.

Sec. 26-99. Prohibitions on person in lawful control.

It is unlawful for any person who is in lawful control of an all-terrain vehicle to permit it to be operated contrary to this section.

State law reference(s)—Similar provisions, M.S.A. § 84.9256, subd. 3.

Sec. 26-100. Suspension.

When the judge of a juvenile court, or its duly authorized agent, determines that a person, while less than 18 years of age, has violated M.S.A. §§ 84.92 to 84.928, or other state or local law or ordinance regulating the operation of an all-terrain vehicle, the judge or duly authorized agent shall immediately report the determination to the state commissioner of natural resources and:

- (1) May recommend the suspension of the person's all-terrain vehicle safety certificate; or
- (2) May recommend to the commissioner of public safety, the suspension of the person's driver's license. The state commissioner of natural resources may suspend the certificate without a hearing.

State law reference(s)—Similar provisions, M.S.A. § 84.9256, subd. 4.

Secs. 26-101—26-127. Reserved.*DIVISION 3. REGULATIONS AND RESTRICTIONS***Sec. 26-128. State and county highways.**

No person shall operate an all-terrain vehicle on the roadway, on the shoulder, on the inside bank or slope, or within the right-of-way of any trunk, county state-aid, or county highway in the town.

(Code 2004, § 602.04)

State law reference(s)—All-terrain vehicle use on roadways, M.S.A. § 169.045.

Sec. 26-129. Town streets and roads.

All-terrain vehicles may be operated within town street and road right-of-way, provided that they are operated on the shoulder or the far right-hand side of the roadway surface and in the same direction as the roadway traffic on the nearest lane of the roadway.

(Code 2004, § 602.05)

Sec. 26-130. Maximum speed.

The maximum speed of any all-terrain vehicle in the town shall be 25 miles per hour.

(Code 2004, § 602.06; Ord. No. 132, § 1, 5-27-2008)

Sec. 26-131. Compliance with traffic laws.

All-terrain vehicles must be operated in compliance and conformity with all state, county, and local traffic laws, except those provisions which by their nature have no application.

(Code 2004, § 602.07)

Sec. 26-132. Private property.

No person shall operate an all-terrain vehicle on private property or upon lands not belonging to the operator of the vehicle without the written or oral permission of the landowner, or other person entitled to the use and possession of such property, provided that in the case of oral permission the landowner or other person entitled to the use and possession of the property must be present.

(Code 2004, § 602.08)

Sec. 26-133. Operating under influence of alcohol or controlled substance.

A person may not operate or be in control of an all-terrain vehicle while under the influence of alcohol, as provided in M.S.A. § 169.121, subd. 1, or a mind- or mood-altering drug, hallucinogen, or controlled substance defined in M.S.A. § 152.01, subd. 4.

(Code 2004, § 602.09)

Sec. 26-134. Registration number.

No person shall operate an all-terrain vehicle without the registration number, assigned by the commissioner of natural resources, affixed to the vehicle in a plain and visible manner, as prescribed by the commissioner.

(Code 2004, § 602.10)

Sec. 26-135. Registration card.

No person shall operate an all-terrain vehicle without having on his person the registration card provided by the commissioner of natural resources, which shall include the registration number, the date of registration, the make and serial number of the vehicle, the owner's name and address, and such additional information as the commissioner may require.

(Code 2004, § 602.11)

Sec. 26-136. Public property.

No person may operate an all-terrain vehicle on public property in the town unless the operator owns real property in the town.

(Code 2004, § 602.12)

Secs. 26-137—26-155. Reserved.

ARTICLE III. SNOWMOBILES⁷

Sec. 26-156. Unlawful to operate snowmobile in excess of 25 miles per hour in town residential districts.

It shall be unlawful for any person to operate a snowmobile in the town in excess of a speed of 25 miles per hour within any single-family residential district in the town or within any area contiguous to and including any road within a subdivision or plat of land that is built up with dwelling houses at intervals of less than 300 feet for a distance of one-quarter mile or more.

(Code 2004, § 603.02; Ord. No. 133, § 1, 5-27-2008)

Sec. 26-157. Standard engine muffler and exhaust system.

It shall be unlawful for any person to operate any snowmobile within the town unless such snowmobile has attached to it as installed by the manufacturer a standard engine muffler and exhaust system, which muffler and exhaust system shall be in good operating condition.

(Code 2004, § 603.03)

Sec. 26-158. Hours of operation.

It shall be unlawful to operate any snowmobile within the town between the hours of 12:01 a.m. and 7:00 a.m. on Mondays through Fridays and between the hours of 1:01 a.m. and 7:00 a.m. on Saturdays and Sundays, except upon the most direct route to the residence of the operator.

(Code 2004, § 603.04)

Secs. 26-159—26-184. Reserved.

ARTICLE IV. MOTOR VEHICLES ON TOWN PROPERTY

Sec. 26-185. Purpose.

The town board finds that as a result of the increasing density of population and use of the town park and recreational property within the town, it is contrary to the general welfare to permit the operation of motor vehicles on such property.

(Code 2004, § 604.01(subd. 1))

⁷State law reference(s)—Snowmobiles, M.S.A. § 84.81 et seq.

Sec. 26-186. Definitions.

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

Designated means bearing posting or signage to indicate a particular use is allowed.

Handicap vehicle means a self-propelled or motorized wheelchair or invalid tricycle, cart or other vehicle used or operated by a physically handicapped or disabled person for the purpose of transportation; in the case of an all-terrain vehicle, as defined in M.S.A. § 84.92, the vehicle must display both physically disabled license plates and a physically disabled certificate issued under M.S.A. § 169.345, subd. 3.

Maintenance or service vehicle means a motor vehicle used by a town employee or a person under contract with the town to mow grass, plow snow, repair electrical wiring, or perform similar maintenance activities.

Motor vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power. Motor vehicle does not include an electric personal assistive mobility device or a vehicle moved solely by human power.

Own or owned by means ownership of legal or equitable title or ownership of an easement granting use of the property.

Park or recreational property means any property intended or permitted to be used as a park or playground, as an open area for recreational purposes, as a trail, or for the provision of recreational services.

Physically handicapped or disabled person means a person as defined in M.S.A. § 169.345, subd. 2.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway or over the surface of the land except devices used exclusively upon stationary rails or tracks.

(Code 2004, § 604.01(subd. 2))

State law reference(s)—Definitions, M.S.A. §§ 84.92, 169.011, 169.345.

Sec. 26-187. Operation of motor vehicles prohibited in certain areas.

No person shall operate a motor vehicle on park or recreational property owned by or leased by the town except where such use is clearly designated.

(Code 2004, § 604.01(subd. 3))

Sec. 26-188. Exceptions.

The prohibition in section 26-187 does not apply to:

- (1) The operation of a maintenance or service vehicle.
- (2) The operation of a handicap vehicle.

(Code 2004, § 604.01(subd. 4))

Secs. 26-189—26-214. Reserved.

ARTICLE V. MOTOR VEHICLE STORAGE AND REPAIR

Sec. 26-215. Purpose.

The purpose of this article is to place limitations and other restrictions on the outdoor storage, parking, repair, and unreasonable accumulation of junked, unused, partially dismantled, and inoperable motor vehicles, including new and used motor vehicle parts, upon public and private property in the town; to provide restrictions concerning the repairing of such vehicles; to prevent hazards and injury to children and others attracted to such vehicles and parts; to prevent degradation of the environment caused by such vehicles and parts; and to minimize the devaluation of property and the ill effects of the presence of such vehicles and parts upon adjoining properties. (Ord. No. 125, § 1(605.01(subd. 1)), 1-10-2006)

Sec. 26-216. Definitions.

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

Inoperable. A motor vehicle is "inoperable" whenever any of the following conditions exists:

- (1) When the vehicle has been wholly or partly dismantled for the sale, salvage, repair, or reclamation of parts.
- (2) When the vehicle does not have all of its main component parts properly attached.
- (3) When any other condition exists which causes the vehicle to be incapable of being lawfully driven under its own power upon the public streets.

Main component parts means fenders, hood, wheels, radiator, motor, windows, doors, muffler, body, or essential parts of the engine and all such other parts or equipment necessary for the vehicle to be lawfully driven upon the public streets.

Motor vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon the public streets and which is self-propelled.

Person means an individual, firm, corporation, or other entity of any kind.

(Ord. No. 125, § 1(605.01(subd. 2)), 1-10-2006)

Sec. 26-217. Prohibitions.

It is unlawful for any person to park or store a motor vehicle or a motor vehicle part, or permit a motor vehicle or a motor vehicle part to be parked or stored, upon any public or private property in the town, which vehicle or part is not parked or stored entirely within a fully enclosed building or an opaque privacy type fenced area that prevents the vehicle or part from being visible from any public right-of-way adjacent to the property, and from all properties adjacent to the subject property unless one or more of the following conditions exists:

- (1) The vehicle is currently and validly licensed for operation upon the public streets, is not inoperable, and has all of its main component parts properly attached.
- (2) The vehicle or part is located in a duly licensed junkyard, salvage yard, or new or used car dealer's lot or storage yard legally permitted and authorized under the town zoning ordinance and conducted in conformance therewith.
- (3) The vehicle is located at any authorized service station, garage, paint shop, or body shop legally permitted and authorized under the town zoning ordinance and is awaiting repair or delivery to the owner, is locked, and is currently and validly licensed for operation upon the public streets.

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- (4) The vehicle, although temporally inoperable because of mechanical failure, has substantially all of its main component parts properly attached, is currently and validly licensed for operation upon the public streets, and is not a dismantled vehicle, provided that any such vehicle may not remain on the same premises for longer than 14 days in any one calendar year, calculated on a cumulative basis for the same or other such vehicles.
 - (5) The vehicle is fully operable, has all of its main component parts properly attached, and is currently being offered for sale upon the premises, provided that no more than one such vehicle can be offered for sale upon the same premises at any time.
 - (6) The vehicle is a modified vehicle in fully operating condition, such as a stock modified, redesigned, or reconstructed vehicle for a purpose other than that for which it was manufactured, and if parked or stored outside of a fully enclosed building is situated upon a trailer which is fully operable and currently and validly licensed for use upon the public streets, provided that not more than one such trailered vehicle is allowed upon the same premises at any time.
 - (7) A special permit has first been issued therefore for a period of not to exceed 30 days by the town board, to be granted only in cases of special hardship beyond the control of the applicant, where special or peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.
 - (8) No repairing, redesigning, modifying, or dismantling work or operations will be allowed upon any vehicle, or motor vehicle part, upon any property where the town zoning ordinance does not permit such use other than occasional minor work by the owner thereof as may infrequently be required to maintain the same in normal operating condition, provided that no such repair activity may be conducted in such a manner as to constitute a nuisance or annoyance to adjoining property owners or occupants, and further provided that no such repair activity may violate any provisions of the town zoning ordinance.

(Ord. No. 125, § 1(605.01(subd. 3)), 1-10-2006)

Sec. 26-218. Nuisance.

The parking, storage, placement, or repair of any motor vehicle in violation of the provisions of this article shall constitute a public nuisance which may be enjoined by equitable relief in addition to subjecting the violator to the fine and penalty herein provided.

(Ord. No. 125, § 1(605.01(subd. 4)), 1-10-2006)

Sec. 26-219. Penalty.

Any person, firm, association, partnership, company, or corporation violating any provision of this article will be guilty of a misdemeanor and, upon conviction thereof, punished by a fine not to exceed \$1,000.00 or by imprisonment in the county jail for a period not to exceed 90 days, or both, plus the costs of prosecution in either case.

(Ord. No. 125, § 1(605.01(subd. 6)), 1-10-2006)

Chapter 28 UTILITIES

ARTICLE I. IN GENERAL

Secs. 28-1—28-18. Reserved.

ARTICLE II. SANITARY SEWAGE DISPOSAL SYSTEMS

DIVISION 1. GENERALLY

Secs. 28-19—28-90. Reserved.

DIVISION 2. INDIVIDUAL SEWAGE TREATMENT SYSTEMS⁸

Sec. 28-91. Purpose, applicability, and authority.

- (a) *Purpose.* It is the purpose and intent of this division to establish standards for the design, location, construction, operation, and maintenance of subsurface sewage treatment systems.
- (b) *Applicability.* This division shall apply to those sites or facilities that are licensed, permitted, or otherwise regulated by town ordinance.
- (c) *Authority.* This division is adopted pursuant to the authorization and requirements contained in M.S.A. § 115.55 and Minn. R. ch. 7082.

(Ord. No. 149, § 1(401.01), 2-25-2014)

Sec. 28-92. General provisions.

- (a) *Treatment required.* All sewage generated, in unsewered areas shall be treated and dispersed by an approved subsurface sewage treatment system or a system permitted by the state pollution control agency.
- (b) *Administrative policy and procedures.* The provisions of Minn. R. ch. 7082, as amended, apply to the administration and enforcement of this article, unless otherwise expressly provided for in this division.
- (c) *Administration.* This division shall be administered by the town. The term "department," where used in this article, means the department as designated by the town board to administer this division.
- (d) *Compliance.* No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this division.
- (e) *Conditions.* Violation of any condition imposed by the town on a license, permit, or variance, shall be deemed a violation of this article and subject to the penalty provisions set forth in this division.
- (f) *Site evaluation, system design, construction, inspection, and servicing.* Site evaluation, and system design, construction, inspection, and system servicing shall be performed by the state pollution control agency licensed subsurface sewage treatment system businesses or qualified employees of local governments or persons exempt from licensing in Minn. R. 7083.0700. For lots platted after April 1, 1996, a design shall evaluate and locate space for a second soil treatment area.

⁸State law reference(s)—Subsurface sewage treatment systems, M.S.A. § 115.55.

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- (g) *Inspection.* No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the department. If any part of the system is covered before being inspected and approved as herein provided, it shall be uncovered upon the direction of the department. The department shall cause such inspections as are necessary to determine compliance with this division. It shall be the responsibility of the permittee to notify the department that the system is ready for inspection. If the integrity of the system is threatened by adverse weather if left open and the department is unable to conduct an inspection, the permittee may, after receiving permission from the department, document compliance with this division by photographic means that show said compliance and submit that evidence to the department prior to final approval being sought.
- (h) *Compliance inspection required.* A subsurface sewage treatment systems compliance inspection, as defined by Minn. R. chs. 7080—7083, is required:
- (1) For a new or replacement subsurface sewage treatment system.
 - (2) When altering an existing structure to add a bedroom.
 - (3) When a parcel having an existing system undergoes development, subdivision, or split.
 - (4) Whenever a permit or variance of any type is required for any improvement on, or use of, shoreland property. If the system is found to be substandard, the property owner must upgrade the treatment system before a building permit or variance will be issued.
 - (5) Upon construction of a public or church accessory building, commercial building or building additions over 240 square feet.
 - (6) Prior to the sale or transfer of ownership of any property that contains a septic system.
- (i) *Imminent public health and safety threat; failing system; and surface discharge.*
- (1) A subsurface sewage treatment system that poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the department and be brought into compliance with this division in accordance with a schedule established by the department, which schedule will not exceed ten months.
 - (2) A failing system, a subsurface sewage treatment system that is not protective of groundwater, shall be brought into compliance within 24 months after receiving notice from the department.
 - (3) A subsurface sewage treatment system discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.
- (j) *Conflict resolution.* For subsurface sewage treatment systems regulated under this division, conflicts and other technical disputes over new construction, replacement, and existing systems will be handled by the department so long as the individual in the department handling the conflict holds an advanced license as issued by the state pollution control agency.
- (k) *Septic tank maintenance.* The owner of a sewage tank shall regularly, but not less frequently than every three years (unless otherwise approved by the department due to limited use), inspect the tank and measure the accumulations of sludge, and scum. If the system is pumped, measurement is not needed. The owner shall remove and sanitarily dispose of septage whenever the top of the sludge layer is less than 12 inches below the bottom of the outlet baffle or the bottom of the scum layer is less than three inches above the bottom of the outlet baffle. Removal of septage shall include complete removal of scum and sludge.
- (l) *Non-complying systems.* Existing systems that are non-complying, but not an imminent health or safety threat, failing, or discharging to surface, may continue in use so long as the use is not changed or expanded. If the use changes or is expanded, the non-complying elements of the existing system must be brought into compliance.

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- (m) *Non-complying work.* New individual sewage treatment system construction that is non-compliant, or other work on a system that is non-complying, must be brought into compliance with this division in accordance with a schedule established by the department, which schedule will not exceed seven days unless the department finds extenuating circumstances.
 - (n) *Change in use.* A certificate of compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the system has changed or been altered.
 - (o) *Setback reduction.* Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system, or the placement of new structures, on an existing developed parcel of real property, the department may reduce property line and building setbacks and system sizing requirements provided said reduction does not endanger or unreasonably infringe on adjacent properties and with the concurrence of the affected properties.
 - (p) *Floodplain.* A subsurface sewage treatment system shall not be located in a floodway or floodplain. Location within the flood fringe is permitted, provided that the design complies with this division and all of the rules and statutes incorporated by reference.
 - (q) *Class V injection wells.* All owners of new or replacement subsurface sewage treatment systems that are considered to be Class V injection wells, as defined in 40 CFR part 144, are required by the Federal Government to submit subsurface sewage treatment systems inventory information to the Environmental Protection Agency.

(Ord. No. 149, § 1(401.02), 2-25-2014; Ord. No. 153, § 1, 5-12-2015; Ord. No. 186, § A, 8-25-2020)

Sec. 28-93. Standards adopted.

Minn. R. chs. 7080 and 7081, including all of the amendments, rules, and regulations established, adopted, and published from time to time by the Minnesota Pollution Control Agency relating to subsurface sewage treatment systems, are hereby adopted by reference and made a part of this division as if fully set forth herein.

(Ord. No. 149, § 1(401.03(1)), 2-25-2014)

Sec. 28-94. Adoption of Minn. R. 7082.0100, subp. 3(F).

Minn. R. 7082.0100, subp. 3(F) is hereby adopted and included herein by reference. All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that support systems as described in Minn. R. 7080.2200 to 7080.2230 or site conditions described in Minn. R. 7081.0270, subps. 3 to 7, as applicable.

(Ord. No. 149, § 1(401.03(1.1)), 2-25-2014)

Sec. 28-95. Rules amended.

The rules adopted in section 28-94 are amended as follows:

- (1) *Septic tank capacity; minimum two-compartment tank.* Minn. R. 7080.1930, subp. 1 is amended to require a two-compartment septic tank on any dwelling over two bedrooms or having the area to be able to be expanded to more than two bedrooms in the future.
- (2) *Compliance inspection; 15 percent vertical separation reduction.* Minn. R. 7080.1500, subp. 4(D), is amended to allow 15 percent reduction of vertical separation (separation distance no less than 30.6

inches) may be determined to be compliant for existing systems to account for settling and variable interpretation of soil characteristics.

- (3) *Holding tanks.* Holding tanks may be allowed for the following applications; as replacement to a failing existing system, a subsurface sewage treatment system that poses an imminent threat to public health and safety, or for an existing lot in which a subsurface sewage treatment system cannot feasibly be installed and the department finds extenuating circumstances.
- (4) *System abandonment.* A subsurface sewage treatment system, or component thereof, that is no longer intended to be used must be abandoned in accordance with the adopted standards of this division.

(Ord. No. 149, § 1(401.03(2)—(4)), 2-25-2014; Ord. No. 186, § B, 8-25-2020)

Sec. 28-96. Permits.

- (a) *Permit required.* No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the department. No person shall construct, alter, extend, convert, or modify any structure that is or will utilize subsurface sewage treatment systems without first obtaining a permit.
 - (1) All work performed on a subsurface sewage treatment system shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing. Permit applications shall be submitted by the person doing the individual subsurface sewage treatment system construction on forms provided by the department and accompanied by required site and design data, and permit fees.
 - (2) Permits shall only be issued to the person doing the individual sewage treatment system construction.
 - (3) Permit applications for new and replacement subsurface sewage treatment systems shall include a management plan for the owner that includes a schedule for septic tank maintenance.
 - (4) A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components, or otherwise change the original system's design, layout, or function.
- (b) *Operating permit.* An operating permit shall be required of all owners of new holding tanks, Type IV and V systems; midsized subsurface sewage treatment systems and other subsurface sewage treatment systems that the department has determined requires operational oversight.
 - (1) *Application.* Application for an operating permit shall be made on a form provided by the department.
 - (2) *Holding tanks.* The owner of holding tanks installed after the effective date of the ordinance from which this division is derived shall provide the department with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

(Ord. No. 149, § 1(401.04), 2-25-2014)

Sec. 28-97. Violations and penalties.

- (a) *Misdemeanor.* Any person who fails to comply with the provisions of this article may be charged with a misdemeanor and, upon conviction thereof, shall be punished therefor as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- (b) *Injunctive relief.* In the event of a violation or a threat of violation of this article, the department may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations; and the town attorney may institute a civil action.

(c) *Civil action.* In the event of a violation of this article, the town may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the town attorney may institute such action.

(Ord. No. 149, § 1(401.05), 2-25-2014; Ord. No. 153, § 2, 5-12-2015)

Secs. 28-98—28-122. Reserved.

ARTICLE III. WATER

DIVISION 1. GENERALLY

Secs. 28-123—28-142. Reserved.

DIVISION 2. WATER WELLS⁹

Sec. 28-143. Water well construction code.

The state department of health water well construction code, as contained in M.S.A. ch. 103I, wells, borings, and underground uses, and in the Minn. R. ch. 4725, wells and borings, as each may be amended from time to time, are hereby confirmed and adopted as the water well construction code of the town and incorporated in this division as completely as if set out in full. A copy of each, to wit: M.S.A. ch. 103I, wells, borings, and underground uses, and Minn. R. ch. 4725, wells and borings, is on file in the office of the town clerk.

(Code 2004, § 402.01; Ord. No. 142, § 1, 5-22-2012)

Chapter 30 ZONING¹⁰

ARTICLE I. IN GENERAL

Sec. 30-1. Title.

This chapter shall be known, cited and referred to as the town zoning chapter except as referred to herein, where it shall be known as "this chapter."

(Code 2004, § 807.01(subd. 1))

⁹State law reference(s)—Water wells, M.S.A. § 103I.001 et seq.

¹⁰State law reference(s)—Municipal planning and development, M.S.A. § 462.351 et seq.

Sec. 30-2. Intent and purpose.

The ordinance from which this chapter is derived is adopted for the purpose of:

- (1) Protecting the public health, safety, morals, comfort, convenience and general welfare.
- (2) Dividing the town into zones and districts restricting and regulating therein the location and use of structures and the lane.
- (3) Balancing housing development and population to provide a tax base that can adequately supply the necessary level of services within the town.
- (4) Preserving outstanding natural features throughout the town.
- (5) Expanding the future housing based on a staged basis.
- (6) Providing convenient and well-developed retail and service commercial centers for the residents of the town.
- (7) Creating an open space system that is primarily based on preserving the balance of the natural ecological patterns existing within the town.
- (8) Creating a manmade environmental system that is complementary to the natural system and meets future development needs within the town.
- (9) Preventing any further threat or decay to the environmental system in built-up areas.
- (10) Minimizing conflicts between land used for agricultural production and land demanded for development.
- (11) Providing for the administration of this chapter and amendments thereto.
- (12) Defining the powers and duties of the administrative officers and bodies as provided hereinafter.
- (13) Prescribing penalties for the violation of the provisions of this chapter or any amendment thereto.

(Code 2004, § 807.01(subd. 2))

Sec. 30-3. Interpretation; application.

- (a) The interpretation and application of the provisions of this chapter shall be held to the minimum requirements for the promotion of the public health, safety and welfare.
- (b) No structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this chapter.
- (c) Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this chapter.

(Code 2004, § 807.01(subds. (3)—(5)))

Sec. 30-4. Uses not provided for within zoning districts.

Whenever, in any zoning district, a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the town board or the planning and zoning commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and, if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The

town board, planning and zoning commission or property owner, upon receipt of the staff study, shall, if appropriate, initiate an amendment to this chapter to provide for the particular use under consideration or shall find that the use is not compatible for development within the town.

(Code 2004, § 807.01(subd. 6))

Sec. 30-5. Relation to comprehensive municipal plan.

It is the policy of the town that the enforcement, amendment and administration of this chapter be accomplished with due consideration of the recommendations contained in the comprehensive plan as developed and amended from time to time by the planning and zoning commission and town board. The town board recognizes the comprehensive plan as the guiding policy for responsibility to regulate land use and development in accordance with the policies and purpose herein set forth.

(Code 2004, § 807.01(subd. 7))

Sec. 30-6. Authority.

The town has and possesses all the powers and authority enumerated in M.S.A. § 462.357 in force on July 29, 1969, and as thereafter amended, all as provided by Laws of Minnesota, 1969, chapter 1098. All provisions of this chapter shall be interpreted and applied pursuant to and consistently with said authority.

(Code 2004, § 807.01(subd. 8))

Sec. 30-7. Rules of construction and definitions.

(a) *Rules.* The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

- (1) Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set forth in such definition.
- (2) All measured distances expressed in feet shall be to the nearest tenth of a foot. In the event of conflicting provisions, the more restrictive provisions shall apply.

(b) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Accessory use, building or structure means a use, building or structure or portion of a building or structure subordinate to and serving the principal use, building or structure, on the same or another parcel of land (but only as permitted herein) and customarily incidental to such principal use, building or structure.

Agricultural use means an area which is used for the production of farm crops as well as for the raising thereon of farm poultry and domestic and non-domestic farm animals such as horses, cattle, sheep and swine.

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

Animals, domestic, means animals commonly kept for house pets, such as dogs, cats, and similar animals.

Animals, exotic, means exotic and nontraditional house pets, such as ocelots and wild cats.

Animals, non-domestic, means livestock and poultry commonly kept for productive purposes on a farm, such as cattle, swine, horses, sheep, goats, chickens, ducks and similar animals including deer and raccoons.

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

Boardinghouse, roominghouse or lodginghouse means a building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons but not to exceed 20 persons.

Building means any structure having a roof which may provide shelter or enclosure of persons, animals, chattel or property of any kind and, when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

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

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

Carport means an automobile shelter having more than one side open.

Central water and sewer systems means utilities systems serving a group of buildings, lot or any area of the town with the design and construction of such utility systems as approved by the town and the state.

Comprehensive plan means a compilation of goals, policy statements, standards, programs and maps for guiding the physical, social, and economic development, both public and private, of the municipality and its environs, as defined in the Minnesota Municipal Planning Act, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

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

Drive-in establishment means an establishment which accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed.

Dwelling, attached, means a dwelling which is joined to another dwelling.

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

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

Exterior storage (includes open storage) means the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Family means an individual or two or more persons related by blood, marriage or adoption living together or a group of not more than four persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.

Floor area means the sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use including accessory storage areas located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods or to business or professional offices. However, the floor area shall not include: basement floor area other than area devoted to retailing activities, the production or processing of goods or to business or professional offices.

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

Governing body means town board.

Home occupation means any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit and not in an accessory building, provided that no signs other than those normally utilized in a residential district are present, no stock in trade is stored on the premises, over-the-counter retail sales are not involved and entrance to the home occupation is gained from within the structure. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, family day care or teaching limited to three students at any one time and similar uses. However, a home occupation shall not be interpreted to include barbershops, beauty shops, tourist homes, restaurants or similar uses.

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

Impervious surface means a constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops, decks, sidewalks, patios, swimming pools, parking lots, concrete, asphalt or gravel driveways, and other similar surfaces.

Interim use means a temporary use of property until a particular date, until the occurrence of a particular event, until the property changes hands, or until zoning regulations no longer permit it.

Junk yard means an open area where waste, used or secondhand materials are brought, sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A junk yard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

Landscaping means planting, such as trees, grass and shrubs.

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

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

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

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

Lot depth means the mean horizontal distance between the front lot line and rear lot line of a lot.

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

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

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

Lot line, side, means any boundary of a lot which is not a front lot line or a rear lot line.

Lot of record means any lot which is one unit of a plat heretofore duly approved and filed or one unit of an auditor's subdivision or a registered land survey that has been recorded in the office of the register of deeds or registrar of titles for the county prior to the effective date of the ordinance from which this chapter is derived.

Lot width means the maximum horizontal distance between the side lot lines of a lot measured at the 40-foot depth of the lot from the front lot line.

Manufactured home means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of the United States Department of Housing and Urban Development and complies with the standards established under this M.S.A. ch. 327.

Manufactured home park means an area in which lots are rented for the placement of non-transient occupied manufactured homes.

Mining means the extraction of sand, gravel, rock, soil or other material from the land in the amount of 400 cubic yards or more and the removing thereof from the site without processing shall be mining. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building permit.

Modular home means a non-manufactured housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A modular home shall be congruous to a one-family dwelling.

Motel (tourist court) means a building or group of detached, semi-detached or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

Multifamily residential means a building or structure wholly or partially leased or intended to be leased to one or more tenants for residential living or sleeping purposes, but excluding rest homes, convalescent homes, nursing homes, hotels and motels.

Off-street loading space means a space accessible from a street, alley or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials. Such space shall be of size as to accommodate one vehicle of the type typically used in the particular business.

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

Parcel of land means any unit of land whether located within an approved subdivision or plat of land, within an auditor's subdivision, within a registered land survey or described by metes and bounds and separated from other parcels of land by description for the purpose of conveyance, sale, lease or separate use thereof.

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

Planning and zoning commission means the planning and zoning commission of the town except when otherwise designated.

Pole barn means a metal-clad building of pole or post construction with trusses six feet to nine feet on center.

Portable storage structure means any container, storage unit, shed-like container or other portable structure, other than an accessory building or shed complying with all building codes and land use requirements, that can be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building. Fish houses and enclosed trailers that have a current license are considered personal property and not storage structures.

Principal structure or use means the purpose or activity for which the land, structure or building thereon is designated, arranged or intended or for which it is occupied or maintained.

Public means land owned or operated by town, school district, county, state or other governmental units.

Reclamation, land, means the improvement of land by deposition of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.

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

Recreation equipment means play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 20 feet in length, picnic tables, lawn chairs, barbecue stands and similar equipment or structures but not including tree houses, swimming pools, playhouses exceeding 25 square feet of floor area or sheds utilized for storage of equipment.

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

Self-service storage (ministorage) means a structure or structures containing separate storage spaces of varying sizes that is leased or rented individually.

Shoreland means land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream.

Story means that portion of a building included between the surface floor and the surface of the floor next above.

Street means a public right-of-way which affords the principal means of access to abutting property.

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

Structure means anything constructed, the use of which requires more or less permanent location on the ground or attached to something having permanent location on the ground.

Use, nonconforming, means a use of land, building or structure lawfully existing at the time of adoption of the ordinance from which this chapter is derived which does not comply with all the regulations of this chapter or any use of land, building or structure lawfully existing prior to the adoption of an amendment which would not comply with all of the regulations.

Use, permitted, means a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards of such district.

Variance means a modification or variation of the provisions of this chapter where it is determined that, by reason of special and unusual circumstances relating to a specific lot, strict application of this chapter would cause an undue or unnecessary hardship or that strict conformity with the provisions of this chapter would be unreasonable, impracticable or unfeasible under the circumstances.

Vegetation means the sum total of plant life in some area or a plant community with distinguishable characteristics.

Waterbody means a body of water (lake, pond) or a depression of land or expanded part of a river or an enclosed basin that holds water and is surrounded by land.

Watercourse means a channel or depression through which water flows, such as rivers, streams or creeks, and may flow year-around or intermittently.

Watershed means the area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

Wetlands means an area where water stands near, at or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation and which may have the following characteristics:

- (1) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood) and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 6, 7 and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S. 1956.")
- (2) Mineral soils with grey horizons or organic soils belonging to the *Histosol* order (peat and muck).
- (3) Soil which is waterlogged or covered with water at least three months of the year. Swamps, bogs, marshes, potholes, wet meadows and sloughs are wetlands and property may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

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

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

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

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

Zoning district means an area or areas within the limits of the town for which the regulations and requirements governing use are uniform.

Zoning district amendment means a change authorized by the town board, either in the allowed use within a district or in the boundaries of a district.

(Code 2004, § 807.02(subds. (1), (2))); Ord. No. 169, § A, 5-22-2018; Ord. No. 185, § B, 10-27-2020)

Secs. 30-8—30-32. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Secs. 30-33—30-52. Reserved.

DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS

Sec. 30-53. Town board designated.

The town board shall act as a board of adjustment and appeals.

(Code 2004, § 807.13(subd. 1))

Sec. 30-54. Written reports and recommendations to be part of permanent record.

All written reports and recommendations to the town board serving as the board of adjustment and appeals from the planning and zoning commission and the town staff shall be entered in and made part of the permanent written record of the board's meeting.

(Code 2004, § 807.13(subd. 2))

Sec. 30-55. Variance or appeal considerations.

In considering requests for a variance or appeal and in taking subsequent action, the staff, the planning and zoning commission and the town board serving as the board of adjustment and appeals shall make a finding of fact that the proposed action will not:

- (1) Impair an adequate supply of light and air to adjacent property.
- (2) Unreasonably increase the congestion in the public street.
- (3) Increase the danger of fire or endanger the public safety.
- (4) Unreasonably diminish or impair established property values within the neighborhood or in any other way be contrary to the intent of this chapter.

(Code 2004, § 807.13(subd. 3))

Sec. 30-56. Variance action.

The town board serving as the board of adjustment and appeals shall, after receiving the written reports and recommendations of the planning and zoning commission and the staff, make a finding of fact and decide upon requests for a variance by approving or denying the same, in part or in whole, where it is alleged by the applicant that a non-economic hardship in the reasonable use of a specific parcel of property exists. A hardship that by some reason of narrowness, shallowness or shape of a specific parcel of property or a lot existing and of record upon the effective date of the ordinance from which this chapter is derived or that by reason of exceptional topographic or water conditions of a specific parcel of land or lot, the strict application of the terms of this chapter would result in exceptional difficulties when utilizing the parcel or lot in a manner customary and legally permissible within the district in which said lot or parcel is located, or would create undue hardship upon the owner of such lot or parcel that the owner of another lot or parcel within the same district would not have if he were to develop his lot or parcel in a manner proposed by the appellant. Should the town board find that the conditions outlined heretofore apply to the proposed lot or parcel, the board may grant a variance from the strict application of this chapter so as

to relieve such difficulties or hardships to the degree considered reasonable, provided such relief may be granted without impairing the intent of this chapter. The planning and zoning commission based upon a report and recommendation by the staff shall have the power to advise and recommend such conditions related to the variance regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in the interest of the intent and purpose of this chapter.

(Code 2004, § 807.13(subd. 4))

Sec. 30-57. Appeals.

The town board serving as the board of adjustment and appeals shall, after receiving the written report and recommendations of the planning and zoning commission and the staff, make a finding of fact and make a decision on appeals where it is alleged by the appellant that error has occurred in any order, requirements, decision or determination made by the building official in the enforcement of this chapter. However, said appeal shall be filed not later than 90 days after the appellant has received a written notice from the building official or said appeal shall be considered void.

(Code 2004, § 807.13(subd. 5))

Secs. 30-58—30-87. Reserved.

DIVISION 3. CONDITIONAL USE PERMITS

Sec. 30-88. Purpose.

The purpose of a conditional use permit is to provide the town with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination whether or not the conditional use is to be allowed, the town may consider the nature of the adjoining land or buildings, whether or not a similar use is already in existence and located on the same premises or on other lands immediately close by, the effect upon traffic into and from the premises or on any adjoining roads and all such other or further factors as the town shall deem a requisite of consideration in determining the effect of such use on the general welfare, public health and safety.

(Code 2004, § 807.12(subd. 3(1)))

Sec. 30-89. Reconsideration.

Whenever an application for a conditional use permit has been considered and denied by the town board, a similar application for a conditional use permit affecting substantially the same property shall not be considered again by the planning and zoning commission or board for at least six months from the date of its denial, and a subsequent application affecting substantially the same property shall likewise not be considered again by the planning and zoning commission or board for an additional six months from the date of the second denial unless a decision to reconsider such matter is made by not less than a majority vote of the town board.

(Code 2004, § 807.12(subd. 3(2)))

Sec. 30-90. Lapse of conditional use permit by non-use.

Whenever within one year after granting a conditional use permit the work as permitted by the permit shall not have been completed, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the town board. Such extension shall be requested in writing and filed with the town clerk at least 30 days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such petition shall be presented to the planning and zoning commission for a recommendation and to the board for a decision.

(Code 2004, § 807.12(subd. 3(3)))

Sec. 30-91. Performance bond.

- (a) Where deemed necessary by the town board upon approval of a conditional use permit, the town shall be provided with a surety bond, cash escrow, certificate of deposit, securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the conditional use permit and the town ordinances.
- (b) The security shall be 150 percent of the town engineer's or building official's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the town engineer and/or building official.
- (c) The town shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and town ordinances has been issued by the town building official.
- (d) Failure to comply with the conditions of the conditional use permit and/or the town ordinances shall result in forfeiture of the security.

(Code 2004, § 807.12(subd. 3(4)))

Secs. 30-92—30-110. Reserved.

DIVISION 4. INTERIM USE PERMITS

Sec. 30-111. Purpose.

Where the town board or the applicant desires to limit the duration of a conditional use, such use will be deemed an interim use pursuant to Minnesota Statutes. Every conditional use permitted in a district may be permitted as an interim use either by request of the applicant at the time of application or by recommendation of the planning and zoning commission and approval of the town board.

(Code 2004, § 807.12(subd. 4(1)); Ord. No. 166, § G, 4-24-2018)

Sec. 30-112. Procedure.

If the applicant requests that the application be considered as an interim use on the initial application, the notice of public hearing shall state the use is proposed as an interim use and state the duration requested by the

applicant. If the planning and zoning commission or town board moves to consider the application as a conditional use, a new public hearing will be required and the notice of the hearing shall state that the purpose of the hearing is to consider the application as a conditional use.

(Code 2004, § 807.12(subd. 4(2)))

Sec. 30-113. Issuance standards.

The planning and zoning commission shall recommend an interim use permit, and the town board shall issue an interim use permit only if it finds that such use at the proposed location:

- (1) Conforms to the zoning regulations for the district;
- (2) The date or event that will terminate the use can be identified with certainty;
- (3) 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; and
- (4) The user agrees to any conditions that the town board deems appropriate for permission of the use.

(Code 2004, § 807.12(subd. 4(3)))

Sec. 30-114. Termination.

An interim use permit shall terminate on the happening of the following events, whichever first occurs:

- (1) The date stated in the permit;
- (2) The sale of the property;
- (3) A violation of conditions under which the permit was issued; or
- (4) A change in the town's zoning regulations which terminates or renders the use nonconforming.

(Code 2004, § 807.12(subd. 4(4)))

Secs. 30-115—30-141. Reserved.

DIVISION 5. AMENDMENTS

Sec. 30-142. Initiation.

The town board or planning and zoning commission may, upon its own motion, initiate a request to amend the text or the district boundaries of this chapter. Any person owning real estate within the town may initiate a request to amend the district boundaries or text of this chapter so as to affect the said real estate.

(Code 2004, § 807.12(subd. 2))

Secs. 30-143—30-167. Reserved.

DIVISION 6. PROCEDURE FOR AMENDMENTS AND USE PERMITS

Sec. 30-168. Application and fee.

Requests for amendments, conditional use permits and interim use permits as provided within this chapter shall be filed with the town clerk on an official application form. Such applications shall be accompanied by a fee as outlined in division 9 of this article. This fee shall not be refunded. Each such application shall be accompanied by three copies of detailed written and graphic materials fully explaining the proposed change, development or use.

(Code 2004, § 807.12(subd. 1(1)); Ord. No. 166, § A, 4-24-2018)

Sec. 30-169. Staff report and recommendations.

The amendment, conditional use or interim use application shall be referred to the zoning administrator for a staff report and recommendations to be presented to the planning and zoning commission. The town staff's report and recommendations shall be given to the planning and zoning commission at least ten days prior to the meeting at which said report and recommendations are to be presented. The report and recommendations of the town staff are to be entered in and made part of the permanent written record of the planning and zoning commission meeting.

(Code 2004, § 807.12(subd. 1(4)); Ord. No. 166, § D, 4-24-2018)

Sec. 30-170. Planning and zoning commission consideration.

- (a) The planning and zoning commission shall consider the request at its next regular meeting unless the filing date falls within 25 days of said meeting, in which case the request shall be placed on the agenda and considered at the regular meeting following the next regular meeting.
- (b) The applicant or a representative thereof shall appear before the planning and zoning commission in order to answer questions concerning the proposed amendment, conditional use or interim use.

(Code 2004, § 807.12(subd. 1(2), (3)); Ord. No. 166, §§ B, C, 4-24-2018)

Sec. 30-171. Consideration of adverse effects.

The planning and zoning commission shall consider possible adverse effects of the proposed amendment, conditional or interim use. Its judgment shall be based upon, but shall not be limited to, the following factors:

- (1) Relationship to town plans and the geographical area involved.
- (2) Whether the use will depreciate the area in which it is proposed.
- (3) The character of the surrounding area.
- (4) The demonstrated need for such use.
- (5) Whether the proposed use would cause odors, dust, flies, vermin, smoke, gas, noise or vibration or would impose hazards to life or property in the neighborhood.
- (6) Whether such use would inherently lead to or encourage disturbing influences in the neighborhood.
- (7) Whether stored equipment or materials would be screened and whether there would be continuous operation within the visible range of surrounding residences.

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- (8) In addition, technical data may be requested, where pertinent, with regard to proposed activities especially those areas which exhibit outstanding environmental characteristics. Planning and zoning commission review may include, but is not limited to, consideration of the following:
- a. Submission of plans, including a survey by a state registered land surveyor, in duplicate, drawn to scale, showing the nature, location, dimensions and elevation of the lot or plot, existing and proposed obstructions to the location of the critical environmental features in the area.
 - b. Submission of high water information, all drainage areas, all land forms and adjacent marshes and wet areas in the area.
 - c. A survey by a state registered land surveyor showing elevations or contours of the ground, pertinent obstruction elevations, size, location and arrangement of all proposed and existing obstructions on the site, location and elevations of streets, water supply and sanitary facilities, photographs showing existing land uses and vegetation in the general area and soil types.
 - d. Specifications for building construction and materials and any proposed filling, dredging, grading, storage of materials, water supply (including withdrawal and discharge of ground and surface water) and sanitary facilities on the site.
 - e. Description of the water quality, maximum yearly withdrawal of groundwaters and the impact on the surrounding environment of discharged surface water and groundwater.
 - f. Statement of the private and public benefits anticipated from the proposed activity, the alternatives to the proposed activity and the overall effect of the proposed activity on surrounding creeks, marshes and wet areas that will result if the conditional use permit or amendment is granted.

(Code 2004, § 807.12(subd. 1(5)(A)—(H6)))

Sec. 30-172. Changes to existing drainage patterns.

Any changes in existing drainage patterns will be examined to determine that no proposed use will result in water run-off causing flooding, erosion or deposit of minerals on adjacent properties. Such run-off shall be properly channeled into a watercourse, ponding area or other public facilities. Any change in grade affecting water run-off onto adjacent property must be as approved by the town board.

(Code 2004, § 807.12(subd. 1(5)(H7)))

Sec. 30-173. Request for additional information.

The board, planning and zoning commission and town staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter.

(Code 2004, § 807.12(subd. 1(5)(H8)); Ord. No. 166, § E, 4-24-2018)

Sec. 30-174. Notice of public hearing.

The town clerk or designee shall set a date for the public hearing. Notice of the hearing shall be published in conformance with state law and individual notices, if it is a district change or conditional use permit request, shall be mailed, not less than ten days nor more than 30 days prior to the hearing, to all owners of property within one-

quarter mile of the affected property or to the ten properties nearest to the affected property, whichever would provide notice to the greatest number of owners. All mailing expenses shall be paid by the applicant.

(Code 2004, § 807.12(subd. 1(5)(H9)))

Sec. 30-175. Failure to receive notice.

Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this chapter.

(Code 2004, § 807.12(subd. 1(5)(H10)))

Sec. 30-176. Recommendation by planning and zoning commission.

The planning and zoning commission shall make a findings of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this chapter. Such recommendation shall be in writing and accompanied by the report and recommendation of the town staff.

(Code 2004, § 807.12(subd. 1(5)(H11)))

Sec. 30-177. Town board meeting.

Upon receiving the report and recommendation of the planning and zoning commission and the staff, the town board shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the board meeting.

(Code 2004, § 807.12(subd. 1(5)(H13)))

Sec. 30-178. Additional public hearing; town board findings of fact; conditions.

Upon receiving the report and recommendation of the planning and zoning commission and the staff, the town board shall have the option to set and hold an additional public hearing if deemed necessary and shall make a recorded finding of fact and shall impose any condition it considers necessary to protect the public health, safety and welfare. When appropriate, restrictive covenants may be entered into these conditions or restrictions, in addition to those matters referenced in section 30-171, may take into account the following:

- (1) Matters relating to architecture or appearance.
- (2) Establishing hours of operation.
- (3) Increasing the required lot size or yard dimension.
- (4) Limiting the height, size or location of buildings.
- (5) Controlling the location and number of vehicle access points.
- (6) Increasing the street width.
- (7) Increasing the number of required off-street parking spaces.
- (8) Limiting the number, size, location or lighting of signs.
- (9) Requiring diking, fences, screening, landscaping or other facilities to protect adjacent or nearby property.

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- (10) Designating sites for open space.
 - (11) Limiting the duration of the use by establishing a date or event by which the operation must cease. Where the town board establishes an event after which operation must cease, the event must be identified with certainty and such event may be the rezoning of the land or a change in the uses permitted with the district. The board may also set forth a period of time after an event by which the operation must cease.

(Code 2004, § 807.12(subd. 1(5)(H14)))

Sec. 30-179. Approval; notification of applicant.

- (a) Approval of a request shall require passage by a majority vote of the town board.
- (b) The town clerk shall notify the applicant of the board's decision in writing.

(Code 2004, § 807.12(subd. 1(6), (7))); Ord. No. 166, § F, 4-24-2018)

Secs. 30-180—30-196. Reserved.

DIVISION 7. VARIANCES AND APPEAL PROCEDURES

Sec. 30-197. Application and fee.

Requests for a variance or an appeal shall be filed with the town clerk or designee on an official application form. The application shall be accompanied by a fee as provided in section 2-249. This fee shall not be refunded. The application shall also be accompanied by three copies of detailed written and graphic materials.

(Code 2004, § 807.13(subd. 6(1))); Ord. No. 167, § A, 4-24-2018)

Sec. 30-198. Notice of public hearing.

Upon receiving the completed application, the town clerk shall publish a notice of public hearing at least ten days prior to the next planning and zoning commission regular meeting. The notice of the public hearing will also be posted and mailed to all property owners within a 500-foot radius of the subject property. The planning and zoning commission shall consider the variance or appeal at that meeting.

(Code 2004, § 807.13(subd. 6(2))); Ord. No. 167, § B, 4-24-2018)

Sec. 30-199. Referral to zoning administrator.

The town clerk or designee shall refer said request and all related information to the zoning administrator for a staff report and recommendation to the planning and zoning commission.

(Code 2004, § 807.13(subd. 6(3))); Ord. No. 167, § C, 4-24-2018)

Sec. 30-200. Public hearing; planning and zoning commission findings of fact and recommendations.

The planning and zoning commission shall hear all persons at the public hearing who wish to be heard, either in person or by agent or attorney. The planning and zoning commission shall make findings of fact and recommend either approval or denial of the request. The commission's recommendation shall be presented to the town board.

(Code 2004, § 807.13(subd. 6(4)); Ord. No. 167, § F, 4-24-2018)

Sec. 30-201. Town board consideration of findings of fact and recommendations; approval or denial.

The town board shall consider the findings of fact and recommendation presented by the planning and zoning commission at its next regular meeting and decide whether to approve or deny the request. A variance from this chapter or the grant of an appeal shall require passage by a majority of the town board.

(Code 2004, § 807.13(subd. 6(5)); Ord. No. 167, § D, 4-24-2018)

Sec. 30-202. Failure to receive notice of public hearing.

Failure of a property owner to receive the notice of public hearing shall not invalidate any such proceedings as set forth within this chapter.

(Code 2004, § 807.13(subd. 6(6)); Ord. No. 167, § F, 4-24-2018)

Sec. 30-203. Notification of decision.

The town clerk or designee shall notify the applicant in writing of the town board's approval or denial of the request as per M.S.A. § 15.99 as amended.

(Code 2004, § 807.13(subd. 6(7)); Ord. No. 167, § E, 4-24-2018)

Sec. 30-204. Lapse of variance or appeal.

Whenever within one year after granting a variance or appeal the work, as permitted by the variance or appeal, shall not have been completed, then such variance or appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the town board. Such extension shall be requested in writing and filed with the town clerk at least 30 days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal. Such extension shall be presented to the planning and zoning commission for a recommendation and to the town board for a decision.

(Code 2004, § 807.13(subd. 7))

Sec. 30-205. Performance bond.

- (a) Where deemed necessary by the town board upon approval of a variance or appeal, the town shall be provided with a surety bond, cash escrow, certificate of deposit, securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvement or development. Said security shall

guarantee conformance and compliance with the conditions of the variance or appeal and the town ordinances.

- (b) The security shall be in the amount of the town engineer's or building official's estimated costs of labor and materials for the proposed improvements or development.
- (c) The town shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance or appeal and town ordinances has been issued by the building official.
- (d) Failure to comply with the conditions of the variance or appeal and the town ordinances shall result in forfeiture of the security.

(Code 2004, § 807.13(subd. 8))

Secs. 30-206—30-233. Reserved.

DIVISION 8. CERTIFICATE OF OCCUPANCY

Sec. 30-234. Required.

No building or structure hereafter erected or moved or that portion of an existing structure or building erected or moved shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the building official stating the building or structure complies with all of the provisions within this chapter. The certificate of occupancy shall be issued within ten days after the building official has found the building or structure to be satisfactory and made final inspection.

(Code 2004, § 807.15(subds. 1, 2))

Sec. 30-235. Issuance.

A certificate of occupancy shall be issued within ten days after the building official has determined the building or structure and use are in conformance with all provisions of this chapter and that all conditions for issuance have been met. A record shall be kept of all certificates issued.

Sec. 30-236. Temporary certificate of occupation.

A temporary certificate of occupancy may be issued. In order to ensure compliance with this chapter, conditions may be imposed on the issuance of a temporary certificate of occupancy, including posting a bond or other financial security acceptable to the town. Issuance of a temporary certificate shall not alter the rights or obligations of the owner, tenant, or town with respect to full compliance with the requirements of this chapter or other provisions of the code.

Sec. 30-237. Revocation.

A certificate of occupancy may be revoked if the building or use is no longer in compliance with this chapter. The town shall have authority to enforce the revocation of the certificate of occupancy by appropriate means. Upon revocation, the building or structure shall not be used for any purposes until issuance of a new certificate of occupancy.

Secs. 30-238—30-263. Reserved.

DIVISION 9. ADMINISTRATION FEES

Sec. 30-264. Defrayment of expenses.

To defray administrative costs of processing of requests for amendments, variances or conditional uses, a fee as outlined in section 2-249 shall be paid by all applicants.

(Code 2004, § 807.14(subd. 1))

Sec. 30-265. Staff review costs.

In order to defray the typically higher cost of processing applications for amendments, conditional uses, interim use permits, and variances for developments, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in reviewing all materials for the applicant's request.

- (1) Materials shall include, but not be limited to, maps, graphs, charts, drawings, etc.
- (2) Staff and/or consulting time shall include any time spent in either researching or reviewing the request.
- (3) The hourly rate for "staff and/or consulting time" shall be established and made available to the applicant by the town clerk prior to production of any special materials and the applicant shall be given a reasonable estimate of projected time and/or material costs.

(Code 2004, § 807.14(subd. 2))

Sec. 30-266. When due and payable; deposits.

Fees shall be payable at the time applications are filed with the clerk and are not refundable unless application is withdrawn prior to referral to the planning and zoning commission. A deposit to cover potential extra staff or consulting time and materials may be established and required by the town board. Any portion of the deposit not spent for the uses mentioned in this section shall be refunded to the applicant within 30 days after the legislative request process is completed.

(Code 2004, § 807.14(subd. 3))

Secs. 30-267—30-297. Reserved.

ARTICLE III. NONCONFORMING USES AND STRUCTURES

Sec. 30-298. Continuation.

Any structure or use lawfully existing upon the effective date of the ordinance from which this chapter is derived may be continued at the size and in manner of operation existing upon such date as hereinafter specified.

(Code 2004, § 807.03(subd. 1(1)); Ord. No. 143, § 7(1), 3-12-2013)

Sec. 30-299. Unsafe condition of structures.

Nothing in this chapter shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the building official.

(Code 2004, § 807.03(subd. 1(3)); Ord. No. 143, § 7(3), 3-12-2013)

Sec. 30-300. No reversion to nonconforming use.

When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

(Code 2004, § 807.03(subd. 1(4)); Ord. No. 143, § 7(4), 3-12-2013)

Sec. 30-301. Damage to nonconforming structures.

Whenever a nonconforming structure shall have been damaged by fire, flood, explosion, earthquake, war, riot or act of God, it may be reconstructed and used as before if it is reconstructed within 12 months after such calamity unless the damage to the structure is 50 percent or more of its fair market value (as estimated by the building official), in which case, the reconstruction shall be for a use in accordance with the provisions of this chapter.

(Code 2004, § 807.03(subd. 1(5)); Ord. No. 143, § 7(5), 3-12-2013)

Sec. 30-302. Discontinuance of nonconforming use.

Whenever a lawful, nonconforming use of a building or structure or land is discontinued for a period of one year, any future uses of said building or structure or land shall be in conformity with the provisions of this chapter.

(Code 2004, § 807.03(subd. 1(6)); Ord. No. 143, § 7(6), 3-12-2013)

Sec. 30-303. Normal maintenance permitted; changes to nonconforming use.

(a) Normal maintenance of a building or other structure containing or related to a nonconforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the nonconforming use.

(b) A lawful nonconforming use may be changed only to a use of the same or more restricted classification.

(Code 2004, § 807.03(subd. 1(8)); Ord. No. 143, § 7(8), (9), 3-12-2013)

Sec. 30-304. Alterations to structures.

Alterations may be made to a structure containing nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or extend the existing bulk of structure.

(Code 2004, § 807.03(subd. 1(10)); Ord. No. 143, § 7(10), 3-12-2013)

Secs. 30-305—30-326. Reserved.

ARTICLE IV. DISTRICTS AND DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 30-327. Purpose.

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

(Code 2004, § 807.06(subd. 1))

Sec. 30-328. Establishment of districts.

For the purposes of this chapter, the town is hereby divided into the following zoning districts:

Town Zoning Districts

<i>Symbol</i>	<i>Name</i>
R-A	Residential-Agricultural District
R-1	Single-Family Residential District
R-2	Manufactured Home Park District
B	General Business District
EP	Environmental Protection District
SL	Shoreland Management Overlay District
FP	Floodplain Management Overlay District

(Code 2004, § 807.06(subd. 1))

Sec. 30-329. Zoning district map.

- (a) The location and boundaries of the districts as established by this chapter are set forth on the official zoning map which is adopted and incorporated herein by reference as part of this chapter and is on file in the office of the town clerk. The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines or lot lines unless such boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map.
- (b) All of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and are hereby made part of this chapter by reference and incorporated herein as fully as if set forth herein at length. Appeals from the building official, determinations and questions of doubt

concerning the exact location of district boundary lines shall be heard by the board of adjustment and appeals.

(Code 2004, § 807.06(subd. 2))

Secs. 30-330—30-346. Reserved.

DIVISION 2. RESIDENTIAL-AGRICULTURAL (R-A) DISTRICT

Sec. 30-347. Purpose.

The Residential-Agricultural (RA) District is intended to preserve productive land for agricultural use and prevent the premature absorption of such land for residential development. Designation of large portions of land within the town under this district will assist the town in planning for future growth in a consistent manner and prevent haphazard, leap-frog development.

(Code 2004, § 807.07(subd. 1))

Sec. 30-348. Permitted uses.

The following uses are permitted in the Residential-Agricultural (RA) District:

- (1) Agricultural land uses.
- (2) Single-family detached residences.
- (3) Nurseries and greenhouses.
- (4) Seasonal produce stands for sale of agricultural products raised on the premises upon which the stand is located.
- (5) Underground communication lines, telephone lines and electric power transmission lines.
- (6) Wildlife, forest and wetland management.
- (7) Public parks and other public open space.
- (8) Essential government services.
- (9) Manufactured homes, on a temporary basis subject to article V, division 6, of this chapter.

(Code 2004, § 807.07(subd. 2))

Sec. 30-349. Permitted accessory uses.

The following accessory uses are permitted in the Residential-Agricultural (R-A) District:

- (1) Any incidental machinery, structures or buildings necessary to the conduct of agricultural operations or other permitted uses.
- (2) One private garage (whether attached or detached), carports and parking spaces.
- (3) One accessory building other than private garage on a parcel that is less than six acres.
- (4) Up to three accessory buildings on a parcel six acres or larger.

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- (5) One storage shed, up to 200 square feet.
 - (6) One portable storage structure.
 - (7) Private swimming pool, tennis court or other similar facility used by a single-family.
 - (8) Rooftop/architecturally-integrated solar energy systems.
 - (9) Ground mount solar energy systems on parcels greater than one acre.

(Code 2004, § 807.07(subd. 3); Ord. No. 178, § A, 4-23-2019)

Sec. 30-350. Conditional uses.

- (a) The conditional uses in the Residential-Agricultural (RA) District are all the conditional uses as listed in this section which must comply with the provisions of article II, divisions 3 through 6, of this chapter and meet the intent of the comprehensive plan.
- (b) The following are the conditional uses:
 - (1) Governmental and public regulated utility buildings and structures, substations and transmission lines necessary for the health, safety and general welfare of the community, provided that:
 - a. When abutting a residential use in a residential use district, the property is screened and landscaped in compliance with section 30-1077.
 - b. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.
 - (2) Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutions limited to elementary, junior high and senior high schools; and places of worship such as churches and chapels, provided that:
 - a. Adequate screening from abutting neighborhood residential uses and landscaping is provided in compliance with section 30-1077.
 - b. Adequate off-street parking and access is provided on the site or on lots directly abutting directly across a public street to the principal use in compliance with article VI of this chapter and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with section 30-1077.
 - c. Adequate off-street loading and service entrances are provided and regulated where applicable by article VI of this chapter.
 - d. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.
 - (3) Commercial outdoor recreational areas including golf courses and country clubs, campgrounds and swimming pools and similar facilities, provided that:
 - a. The principal use, function or activity is open, outdoor in character.
 - b. Not more than five percent of the land area of the site be covered by buildings or structures.
 - c. When abutting a residential use and a residential use district, the property is screened and landscaped in compliance with section 30-1077.
 - d. The land area of the property containing such use or activity meets the minimum established for the district.
 - e. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.
 - (4) Commercial riding stables, animal hospitals with overnight care and similar uses, provided that:

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- a. Any building in which animals are kept, whether roofed shelter or enclosed structures, shall be located a distance of 100 feet or more from any lot line.
 - b. The animals shall, at a minimum, be kept in an enclosed pen or corral of sufficient height and strength to retain such animals. Said pen or corral may not be located closer than 100 feet from a lot line.
 - c. The provisions of the state pollution control agency regulations SW 53(2) are complied with.
 - d. All other applicable state and local regulations pertaining to nuisance, health and safety conditions, etc. are complied with.
 - e. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.
- (5) Cemeteries, provided that:
- a. The site accesses on a minor arterial of this chapter.
 - b. The site is landscaped in accordance with section 30-1078.
 - c. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.

(Code 2004, § 807.07(subd. 4); Ord. No. 174, § C, 2-26-2019)

Sec. 30-351. Interim permit uses.

The interim permit uses in the Residential-Agricultural (R-A) District are all the uses as listed in this section which must comply with the provisions of article II, divisions 3 through 6, of this chapter and meet the intent of the comprehensive plan.

- (1) Multifamily residential, provided that:
 - a. Applicants and/or property owner meet all applicable requirements of the town's regulations for rental housing contained in chapter 8, article V.
 - b. Adequate off-street parking and access is provided to the site or on lots directly abutting or directly across a public street to the dwelling.
 - c. Adequate sanitary sewer service and plumbing facilities are serving all rental dwelling units.
- (2) Dog kennels and buildings where animals are kept, provided that:
 - a. Any building in which animals are kept, whether roofed shelter or enclosed structures, shall be located a distance of 100 feet or more from any lot line.
 - b. The animals shall, at a minimum, be kept in an enclosed pen or corral of sufficient height and strength to retain such animals. Said pen or corral may not be located closer than 100 feet from a lot line.
 - c. The provisions of the state pollution control agency regulations are complied with.
 - d. All other applicable state and local regulations pertaining to nuisance, health and safety conditions, etc., are complied with.
 - e. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.
- (3) CSES/solar gardens, provided that all requirements for community solar energy systems contained in article VIII of this chapter are met.
- (4) Solar farm, providing that all requirements for solar farms contained in article VIII of this chapter are met.

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- (5) Wireless communication antennas and towers.

(Ord. No. 168, § B(8.07.07(subd. 5)), 4-24-2018; Ord. No. 174, § D, 2-26-2019; Ord. No. 178, § D, 4-23-2019)

Secs. 30-352—30-375. Reserved.

DIVISION 3. SINGLE-FAMILY RESIDENTIAL (R-1) DISTRICT

Sec. 30-376. Purpose.

The Single-Family Residential (R-1) District is intended to preserve a residential atmosphere in the existing residential areas of the town which are currently developing or are almost fully developed.

(Code 2004, § 807.08(subd. 1))

Sec. 30-377. Permitted uses.

The permitted uses in the Single-Family Residential (R-1) District are as follows:

- (1) Single-family detached residences, except manufactured homes.
- (2) Underground communication, telephone and electric power transmission lines.
- (3) Public parks and other public spaces.

(Code 2004, § 807.08(subd. 2))

Sec. 30-378. Permitted accessory uses.

The following accessory uses are permitted in the Single-Family Residential (R-1) District:

- (1) One private garage (whether attached or detached), carport and parking spaces.
- (2) One accessory building or structure.
- (3) One storage shed, up to 200 square feet.
- (4) One portable storage structure
- (5) Private swimming pool, tennis court or other similar facility used by a single-family.
- (6) Rooftop/architecturally-integrated solar energy systems.
- (7) Ground mount solar energy systems, on parcels greater than one acre.

(Code 2004, § 807.08(subd. 3); Ord. No. 178, § B, 4-23-2019)

Sec. 30-379. Interim permit uses.

All interim permit uses as listed in this section must comply with the provisions of article II, divisions 3 through 6, of this chapter and meet the intent of the comprehensive plan. The interim permit uses in the Single-Family Residential (R-1) District are as follows:

- (1) Multifamily residential, provided that:

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- a. Applicants and/or property owner meet all applicable requirements of the town's regulations for rental housing contained in chapter 8, article V.
 - b. Adequate off-street parking and access is provided to the site or on lots directly abutting or directly across a public street to the dwelling.
 - c. Adequate sanitary sewer service and plumbing facilities are serving all rental dwelling units.
- (2) Dog kennels and buildings where animals are kept, provided that:
- a. Any building in which animals are kept, whether roofed shelter or enclosed structures, shall be located a distance of 100 feet or more from any lot line.
 - b. The animals shall, at a minimum, be kept in an enclosed pen or corral of sufficient height and strength to retain such animals. Said pen or corral may not be located closer than 100 feet from a lot line.
 - c. The provisions of the state pollution control agency regulations are complied with.
 - d. All other applicable state and local regulations pertaining to nuisance, health and safety conditions, etc., are complied with.
 - e. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.

(Ord. No. 168, § C(8.07.08(subd. 5)), 4-24-2018; Ord. No. 174, § E, 2-26-2019)

Secs. 30-380—30-401. Reserved.

DIVISION 4. MANUFACTURED HOME PARK (R-2) DISTRICT

Subdivision I. In General

Sec. 30-402. Purpose.

The purpose of the Manufactured Home Park (R-2) District is to provide a separate district for manufactured home parks, distinct from other residential areas.

(Code 2004, § 807.09(subd. 1))

Sec. 30-403. Permitted uses.

The uses permitted in a Manufactured Home Park (R-2) District are Manufactured homes.

(Code 2004, § 807.09(subd. 2))

Sec. 30-404. Permitted accessory uses.

The following are permitted accessory uses in a Manufactured Home Park (R-2) District:

- (1) Portable storage shed up to 200 square feet providing it meets all setback requirements.
- (2) Storm shelters.

(Code 2004, § 807.09(subd. 3))

Sec. 30-405. Conditional uses.

There are no conditional uses permitted within a Manufactured Home Park (R-2) District.
(Code 2004, § 807.09(subd. 4))

Secs. 30-406—30-423. Reserved.

Subdivision II. Administration

Sec. 30-424. Review procedures.

All informational elements as required in section 30-448 shall be submitted to the town in accordance with the normal time schedule outlined for zoning district amendments, whether or not the proposal requires a rezoning. Proposals for manufactured home park expansions on properly zoned land shall be reviewed for compliance with the applicable standards and requirements as contained in subdivision III of this division by all designated and official town review bodies.

(Code 2004, § 807.09(subd. 6))

Secs. 30-425—30-446. Reserved.

Subdivision III. Design Standards

Sec. 30-447. General requirements.

- (a) All land area shall be:
 - (1) Adequately drained.
 - (2) Landscaped to control dust.
 - (3) Clean and free from refuse, garbage, rubbish or debris.
- (b) No tents shall be used for other than recreational purposes in a manufactured home park.
- (c) There shall be no outdoor camping anywhere in a manufactured home park.
- (d) Access to manufactured home parks shall be as approved by the town.
- (e) All structures (fences, storage, cabana, etc.) shall require a building permit from the town building official.
- (f) The area beneath a manufactured home coach shall be enclosed except that such enclosure must have access for inspection.
- (g) Laundry and clothing shall be hung out to dry only on lines located in approved areas established and maintained exclusively for that purpose as identified on the manufactured home park site plan.
- (h) Where deemed necessary, a manufactured home park shall have an adequate central community building with the following features:
 - (1) Laundry drying areas and machines.

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- (2) Laundry washing machines.
 - (3) Public toilets and lavatories.

Such buildings shall have adequate heating and be maintained in a safe, clean and sanitary condition.

(Code 2004, § 807.09(subd. 5(1)))

Sec. 30-448. Site plan requirements.

The site plan shall contain:

- (1) Legal description and size in acres of the proposed manufactured home park.
- (2) Location and size of all manufactured home sites, dead storage areas, recreation areas, laundry drying areas, roadways, parking sites and all setback dimensions (parking spaces, exact manufactured home sites, etc.).
- (3) Detailed landscaping plans and specifications.
- (4) Plans for sanitary sewage disposal, surface drainage, water systems, electrical services and gas service.
- (5) Location and size of all streets abutting the manufactured home park and all driveways from such streets to the manufactured home park.
- (6) Road construction plans and specifications.
- (7) Plans for any and all structures.
- (8) Such other information as required or implied by these manufactured home park standards or requested by public officials.
- (9) Name and address of developer or developers.
- (10) Description of the method of disposing of garbage and refuse.
- (11) Detailed description of maintenance procedures and grounds supervision.
- (12) Details as to whether all of the area will be developed or a portion at a time.

(Code 2004, § 807.09(subd. 5(2)))

Sec. 30-449. Park, home site size; setbacks.

- (a) *Park size.* The minimum area required for a manufactured home park designation shall be ten acres.
- (b) *Individual manufactured home site size.* The individual manufactured home site requirements for homes 14 feet wide or less is as follows:
 - (1) *General land area and use.* Each manufactured home site shall contain at least 5,000 square feet of land area for the exclusive use of the occupant:
 - a. *Width.* No less than 50 feet.
 - b. *Depth.* No less than 100 feet.
 - (2) *Roadway frontage; site marking and numbering.* Each manufactured home site shall have frontage on an approved roadway and the corner of each manufactured home site shall be marked and each site shall be numbered.

(c) *Individual home site requirements.* The individual manufactured home site requirements for homes over 14 feet in width is as follows:

(1) *General land area and use.* Each manufactured home site shall contain at least 6,500 square feet of land area for the exclusive use of the occupant:

a. *Width.* No less than 65 feet.

b. *Depth.* No less than 100 feet.

(2) *Roadway frontage; site marking and numbering.* Each manufactured home site shall have frontage on an approved roadway and the corner of each manufactured home site shall be marked and each site shall be numbered.

(d) *Individual manufactured home unit site setbacks.* No unit shall be parked closer than ten feet to its side lot lines nor closer than 30 feet to its front lot line, or within ten feet of its rear lot line.

(Code 2004, § 807.09(subd. 5(3)(A)—(D)))

Sec. 30-450. Building requirements.

No structure shall exceed one story or 25 feet whichever is least.

(Code 2004, § 807.09(subd. 5(3)(E)))

Sec. 30-451. Parking.

(a) Each manufactured home site shall have off-street parking space for two automobiles.

(b) Each manufactured home park shall maintain an off-street parking lot for guests of occupants in the amount of one space for each five coach sites.

(c) Access drives off roads to all parking spaces and coach sites shall be hard surfaced according to specifications established by the town.

(Code 2004, § 807.09(subd. 5(3)(F)))

Sec. 30-452. Utilities.

(a) All manufactured homes shall be connected to a central water and sanitary sewer system approved by the state department of health and state PC(1).

(b) All installations for disposal of surface/storm sewer water must be approved by the town.

(c) All utility connections shall be as approved by the town.

(d) The source of fuel for cooking, heating or other purposes at each manufactured home site shall be as approved by the town.

(e) All utilities shall be underground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.

(f) No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related manufactured home equipment.

(g) The method of garbage, waste and trash disposal must be approved by the town.

(h) The owner shall pay inspection and testing fees for utility service to the town.

(Code 2004, § 807.09(subd. 5(3)(G)))

Sec. 30-453. Internal roads and streets.

(a) Roads shall be hard surfaced as approved by the town.

(b) All streets shall be developed with a roadbed of not less than 24 feet in width. If parking is permitted on the street, then the roadbed shall be at least 36 feet in width.

(c) The park shall have a street lighting plan approved by the town.

(Code 2004, § 807.09(subd. 5(3)(H)))

Sec. 30-454. Recreation.

(a) All manufactured home parks shall have at least ten percent of the land area developed for recreational use (tennis courts, children's play equipment, swimming pool, golf green, etc.) developed and maintained at the owner/operator's expense.

(b) In lieu of land dedication for public park purposes, a cash contribution shall be paid to the town.

(Code 2004, § 807.09(subd. 5(3)(I)))

Sec. 30-455. Landscaping.

(a) Each site shall be properly landscaped with trees, hedges, grass, fences, windbreaks and the like.

(b) A compact hedge, redwood fence or landscaped area shall be installed around each manufactured home park and be maintained in first class condition at all times as approved.

(c) All areas shall be landscaped in accordance with landscaping plan approved by the town.

(Code 2004, § 807.09(subd. 5(3)(J)))

Sec. 30-456. Lighting.

(a) Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment and the like.

(b) The manufactured home park grounds shall be lighted as approved by the town from sunset to sunrise.

(Code 2004, § 807.09(subd. 5(3)(K)))

Sec. 30-457. Storage.

Enclosed storage lockers (when provided) shall be located either adjacent to the manufactured home in a manufactured home park or at such other place in the park as to be convenient to the unit for which it is provided. Storage of large items such as boats, boat trailers, etc., shall be accommodated in a separate secured and screened area of the park.

(Code 2004, § 807.09(subd. 5(3)(L)))

Sec. 30-458. General design standards.

For those items not specifically referenced, the design standards as established in the chapter 22, pertaining to subdivision and other land divisions, shall be utilized as for general development guidelines.

(Code 2004, § 807.09(subd. 5(3)(M)))

Sec. 30-459. Registration of homeowners and occupants.

- (a) It shall be the duty of the operator of the manufactured home park to keep a record of all manufactured homeowners and occupants located within the park. The register shall contain the following information:
 - (1) The name and address of each manufactured home occupant.
 - (2) The name and address of the owner of each manufactured home.
 - (3) The make, model, year and license number of each manufactured home.
 - (4) The state, territory or county issuing such license.
 - (5) The date of arrival and departure of each manufactured home.
 - (6) The number and type of motor vehicles of residents in the park.
- (b) The park operator shall keep the register available for inspection at all times by authorized town, state and county officials, public health officials and other public offices whose duty necessitates acquisition of the information contained in the register. The register shall not be destroyed until after a period of three years following the date of departure of the registrant from the park.

(Code 2004, § 807.09(subd. 5(4)))

Sec. 30-460. Maintenance.

The operator of any manufactured home park or a duly authorized attendant and/or caretaker shall be responsible at all times for keeping the manufactured home park, its facilities and equipment in a clean, orderly, operable and sanitary condition. The attendant or caretaker shall be answerable, along with said operator, for the violation of any provision of these regulations to which said operator is subject.

(Code 2004, § 807.09(subd. 5(5)))

Secs. 30-461—30-488. Reserved.

Subdivision IV. Support Systems

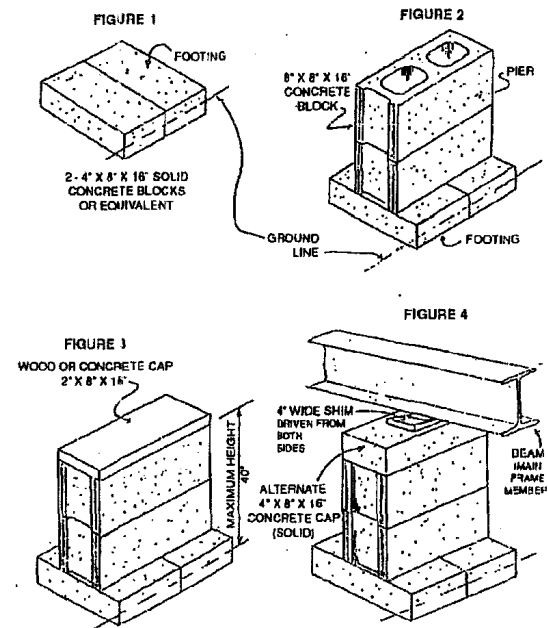
Sec. 30-489. Compliance with manufactured home building code.

State law requires that all manufactured home support systems shall comply with the manufactured home building code. This includes all manufactured homes new or used, that are installed or moved and re-installed at another location within this state.

(Code 2004, § 807.09(subd. 7(intro. ¶)))

Sec. 30-490. Approved support system.

- (a) *Footings.* Footings shall be two, four-inch by eight-inch by 16-inch solid concrete blocks (or equivalent), laid parallel to the steel beam.
- (b) *Piers.* Piers shall be concrete blocks eight inches by eight inches by 16 inches with open cells placed vertically upon the footing. Single stacked blocks shall be placed perpendicular to steel beam. (See Figure 2)
- (c) *Piers covers.* Piers shall be covered with a two-inch by eight-inch by 16-inch wood or concrete cap. (See Figure 3). A four-inch by eight-inch by 16-inch solid concrete cap is also acceptable. (See Figure 4)
- (d) *Pier limits.* Piers are limited to 40 inches in height when single blocked. All corner piers over three blocks high shall be double blocked. All piers over 40 inches high shall be double blocked.
- (e) *Elevated manufactured homes.* When more than one-fourth of the area of a manufactured home is installed so that the bottom of the main frame members are more than three feet above ground level, the manufactured home stabilizing system shall be designed by a qualified registered professional engineer or architect and the installation shall be approved prior to installation by the authority having jurisdiction.
- (f) *Clearance above ground.* The bottom of the manufactured home main frame must be at least 12 inches above the ground in the area of the utility connections. Do not support the home on the wheels. The wheels must be up off the ground or removed.
- (g) *Plates and shims.* A wood plate not exceeding two inches in thickness may be used to fill the gap between the pier and the steel beam. Shim may be used up to one inch thick and at least four inches wide by six inches long. Shims shall be driven tight between the wood plate or pier and main frame.



Piers Using Eight Inch Concrete Blocks With Cells Vertically Laid Loose. All Corner Piers Over Three Blocks High Shall Be Double Blocked.

(Code 2004, 807.09(subd. 7(1)))

Sec. 30-491. Tie down and anchoring requirements.

(a) *Tie down instructions.*

- (1) Manufactured homes located in the United States must be securely anchored to the site in order to resist wind forces. A data plate located near the electrical panel distribution box indicates which structural zone your unit was designed for.
- (2) Moduline International products are furnished with tie-down attachment points, but do not include additional hardware necessary to complete the tie-down system. Approved tie-down equipment is available through your dealer or manufactured home supply stores.

(b) *General requirements for tie-down equipment.*

- (1) Tie-down systems must consist of listed materials of adequate strength. Material specifications contained herein should be considered a minimum specification.
- (2) Galvanized cable or steel straps must have at least 4,725 pounds breaking strength.
- (3) Galvanized connection devices must have at least 4,725 pounds breaking strength.
- (4) Ground anchors should be installed per the manufacturer's recommendation and should withstand a minimum 4,725-pound pull.

(c) *Tie-down procedure.* For your convenience the frame is stenciled "tie-down location" at each point that a tie-down is required for the zone your home was designed for. Attach tie-down equipment only after the coach is properly leveled.

- (1) Place ground anchors in line with each tie-down clip and below the perimeter edge of the coach. Do not install the anchors outside the perimeter of the coach in order to avoid interference with the skirting installation.
- (2) Attach tension devices and cables or strap to the anchors and the attachment clips.
- (3) Tighten all tie-downs until they become taut in an alternating pattern from one side of the coach to the other.
- (4) Periodical tightening and adjustment of the tie-downs may be necessary. A detailed tie-down system by "minute man anchors" is available as one system acceptable to Moduline International. There are many systems available which you may choose from, as long as they meet the general requirements listed in this section.

(Code 2004, § 807.09(subd. 7(2), (3)))

Secs. 30-492—30-520. Reserved.

DIVISION 5. GENERAL BUSINESS (B) DISTRICT

Sec. 30-521. Purpose.

The General Business (B) District is intended to provide for a variety of business uses including service and retail in specifically identified areas within the town. Land available for business uses is based on the level of residential development that will occur over the next 20-year period and the types of business uses permitted are scaled to serve the needs of these residential areas only.

(Code 2004, § 807.10(subd. 1))

Sec. 30-522. Permitted uses.

The following uses are permitted in a General Business (B) District:

- (1) Offices and medical clinics.
- (2) Clubs and lodges.
- (3) Mortuary or funeral homes.
- (4) Churches.
- (5) Government buildings such as town hall, police station, fire station, etc.
- (6) Commercial recreation.
- (7) Indoor recreation, such as movie theaters.
- (8) Restaurants, cafes and supper clubs.
- (9) Retail and service outlets.
- (10) Motorized vehicle sales and service (outside operation by conditional use only).
- (11) Essential services.
- (12) Liquor sales.

(Code 2004, § 807.10(subd. 2))

Sec. 30-523. Permitted accessory uses.

The following uses are permitted accessory uses in a General Business (B) District:

- (1) Off-street parking and loading facilities.
- (2) Any incidental repair, processing and storage necessary to conduct principal use, but not exceeding 30 percent of the floor space of the principal building.
- (3) Garages.
- (4) Rooftop/architecturally-integrated solar energy systems.
- (5) Ground mount solar energy systems, on parcels greater than one acre.

(Code 2004, § 807.10(subd. 3); Ord. No. 178, § C, 4-23-2019)

Sec. 30-524. Conditional uses.

All conditional uses in a General Business (B) District as listed in this section must comply with the provisions of article II, divisions 3 through 6, of this chapter and meet the intent of the comprehensive plan.

- (1) Drive-in and convenience food establishments, provided that:
 - a. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.

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- b. At the boundaries of a residential district, a strip of not less than five feet tall shall be landscaped and screened.
 - c. Parking areas shall be screened from view of abutting residential districts.
 - d. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movement, shall comply with article VI of this chapter and shall be subject to the approval of the town engineer.
 - e. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence.
 - f. The entire area shall have a drainage system subject to the approval of the town engineer.
 - g. The entire area other than occupied by buildings or structures or plantings shall be surfaced with a material which will control dust and drainage and which is subject to the approval of the town engineer.
- (2) Car washes (drive through, mechanical and self-service), provided that:
- a. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.
 - b. Magazinging or stacking space is constructed to accommodate that number of vehicles which can be washed during a maximum 30-minute period and shall be subject to the approval of the town engineer.
 - c. At the boundaries of a residential district, a strip of not less than five feet shall be landscaped and screened.
 - d. Each light standard island and all islands in the parking lot landscaped or covered.
 - e. Parking or car magazine storage space shall be screened from view of abutting residential districts.
 - f. The entire area other than occupied by the building or plantings shall be surfaced with material which will control dust and drainage which is subject to the approval of the town engineer.
 - g. The entire area shall have a drainage system which is subject to the approval of the town engineer.
 - h. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence.
 - i. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the town engineer.
- (3) Motor fuel station, auto repair-minor and tire and battery stores and service, provided that:
- a. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by this chapter for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements which are imposed for other uses of the property.
 - b. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot.

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- c. The entire site, other than that taken up by a building, structure or plantings shall be surfaced with a material to control dust and drainage which is subject to the approval of the town engineer.
 - d. A drainage system subject to the approval of the town engineer shall be installed.
 - e. The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way.
 - f. Wherever fuel pumps are to be installed, pump islands shall be installed.
 - g. At the boundaries of a residential district, a strip of not less than five feet shall be landscaped and screened.
 - h. Each light standard is landscaped.
 - i. Parking or car magazine storage space shall be screened from view of abutting residential districts.
 - j. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the town engineer.
 - k. Provisions are made to control and reduce noise.
- (4) Open and outdoor storage as a principal or accessory use, provided that:
- a. The area is fenced and screened from view of neighboring residential uses or if abutting on "R" district in compliance with section 30-1077.
 - b. Storage is screened from view from the public right-of-way in compliance with section 30-1077.
 - c. Storage area is grassed or surfaced to control dust.
 - d. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with section 30-1079.
 - e. Does not take up parking space as required for conformity to this chapter.
 - f. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.
- (5) Open or outdoor service, sale and rental as a principal or accessory use, provided that:
- a. Outside services, sales and equipment rental connected with the principal use is limited to 30 percent of the gross floor area of the principal use.
 - b. Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting "R" district in compliance with section 30-1077.
 - c. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with section 30-1079.
 - d. The use does not take up parking space as required for conformity to this chapter.
 - e. Sales area is grassed or surfaced to control dust.
 - f. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.
- (6) Accessory, enclosed retail, rental or service activity other than that allowed as a permitted use or conditional use within this division, provided that:

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- a. Such use does not constitute more than 30 percent of the lot area and not more than 50 percent of the gross floor area of the principal use.
 - b. Adequate off-street parking and off-street loading in compliance with the requirements of article VI of this chapter is provided.
 - c. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.
- (7) Self-service storage facilities (ministorage), provided that:
- a. It is unlawful for any person to construct, operate, or maintain a self-service storage facility, except in conformance with this chapter.
 - b. Self-service storage facilities shall be on parcels of land two acres or more in size.
 - c. Units are to be used for dead storage only. Units are not to be used for retailing, auto repair, human habitation, or any commercial activity.
 - d. Combining office and/or retail space with a self-service storage facility may be allowed by conditional use permit.
 - e. An on-site manager is allowed only where adequate sanitary facilities are provided through use of a septic system. Use of portable sanitary facilities does not fulfill this requirement.
 - f. Storage of hazardous or flammable materials is prohibited.
 - g. No exterior storage is allowed.
 - h. The facility shall be secured by either the walls of the structure and/or fencing. All doors on the units shall face inward and away from the street and property lines.
 - i. Only one entrance and exit to the facility is allowed for general public use. One additional emergency exit is allowed for each two acres of property.
 - j. One off-street parking space is required for each 25 storage units. Interior drives must be wide enough to accommodate a parked car and traffic that must pass.
 - k. The entire area other than occupied by the building or plantings shall be surfaced with material which will control dust and drainage which is subject to the approval of the town engineer.
 - l. The entire area shall have a drainage system which is subject to the approval of the town engineer.
 - m. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence.
 - n. The provisions of sections 30-171 through 30-178 are considered and satisfactorily met.

(Code 2004, § 807.10(subd. 4); Ord. No. 185, § A, 10-27-2020)

Sec. 30-525. Interim uses.

All interim uses in a General Business (B) District as listed in this section must comply with the provisions of article II, divisions 4 through 6, of this chapter and meet the intent of the comprehensive plan. Wireless communications and towers, provided that all regulations of chapter 24, article VIII, are complied with.

Sec. 30-526. Review of plans and specifications required; exceptions.

Plans and specifications for new buildings, additions to existing buildings, and site improvements to be constructed in the "B" General Business District must be reviewed and approved by the town board before issuance of any permit required for the same. This requirement, however, does not apply if the new construction or site improvement does not constitute a change in the use of the property.

(Code 2004, § 807.10(subd. 5))

Secs. 30-527—30-543. Reserved.

DIVISION 6. ENVIRONMENTAL PROTECTION (EP) DISTRICT

Sec. 30-544. Purpose.

The Environmental Protection (EP) District is intended to control development in those portions of the town located adjacent to creeks, lakes, lowlands and marsh areas. The "EP" district shall be superimposed over all protected areas regardless of existing zoning. Proposed uses shall comply, where appropriate, with the county shoreland management regulations and/or floodplain regulations and the town comprehensive plan.

(Code 2004, § 807.11(subd. 1))

Sec. 30-545. Wetlands.

Where environmentally sensitive areas which are not regulated under the county ordinances are proposed for development and those areas include any watercourse, natural drainage system, water body or wetland that may be subject to periodic flooding, overflow or seasonally high water tables, the following regulations shall apply.

(Code 2004, § 807.11(subd. 2(intro. ¶)))

Sec. 30-546. Permitted uses.

The following operations and uses are permitted in wetland areas as a matter of right, subject to any other applicable code, ordinance or law:

- (1) Grazing, farming, nurseries, gardening and harvesting of crops.
- (2) Sustained yield forestry and tree farms.
- (3) Conservation of soil vegetation, water, fish and wildlife.
- (4) Scientific research and educational activities that teach principles of ecology and conservation.
- (5) Leisure activities such as hiking, nature studies, canoeing, boating, camping, water-skiing, skin-diving, horseback riding, field trails and general outdoor recreation including play and sporting areas that are not inconsistent with the intent of this chapter.
- (6) Essential services.

(Code 2004, § 807.11(subd. 2(1)))

Sec. 30-547. Prohibited uses.

Except as may hereinafter be conditionally permitted, it shall be unlawful for any person to:

- (1) Place, deposit or permit to be deposited, debris, fill or any material including structures into, within or upon any water body, watercourse or wetland, floodplain or natural drainage system.
- (2) Dig, dredge or in any other way alter or remove any material from water bodies, watercourses, wetlands, floodplains or natural drainage system.
- (3) Erect structures for human habitation.
- (4) Create ponds, dam or relocate any watercourse or change the natural drainage system.
- (5) Clear and/or cut trees or other vegetation.
- (6) Permanently store materials.
- (7) Erect signs.
- (8) Dispose of waste materials including, but not limited to, sewage, garbage, rubbish and other discarded materials.

(Code 2004, § 807.11(subd. 2(2)))

Sec. 30-548. Development regulations.

- (a) *Conditional use permit application.* Landowners or developers desiring to develop land or construct any dwelling or any other artificial obstruction on land located within any wetlands that are within the town shall first submit a conditional use permit application as regulated in article II, divisions 3 through 6, of this chapter and a plan of development, hereinafter referred to as a "wetland systems impact plan," which shall set forth proposed provision for sediment control, water management, maintenance of landscaped features and any additional matters intended to improve or maintain the quality of the environment. Such a plan shall set forth proposed changes requested by the applicant and affirmatively disclose what, if any, change will be made in the natural condition of the earth, including loss or change of earth ground cover, destruction of trees, grade changes and its effect, if any, upon lakes, streams, watercourses and marshes, lowlands and wetlands in the area. The plan shall minimize tree removal, ground cover change, loss of natural vegetation and grade changes as much as possible and shall affirmatively provide for the relocation or replanting of as many trees as possible which are proposed to be removed. The purpose of the wetland systems impact plan shall be to eliminate as much as possible potential pollution, erosion and siltation.
- (b) *High water elevation.* For lakes, ponds or flowages, no structure, except boat houses, piers and docks, shall be placed at an elevation such that the lowest floor, including basement floor, is less than three feet above the highest known water level. In those instances where sufficient data on known high water levels are not available, the elevation of the line of permanent shoreland vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize and construction shall not begin until the property has been inspected by the building official.

(Code 2004, § 807.11(subd. 2(3)))

Secs. 30-549—30-574. Reserved.

DIVISION 7. SHORELAND MANAGEMENT OVERLAY DISTRICT

Sec. 30-575. Regulations adopted by reference.

The Anoka County Shoreland Management Ordinance Number 2019-6, printed herein as Appendix 1 to this chapter, and any amendments thereto which apply to the town are hereby adopted by reference and incorporated in and made a part hereof as if set out in full in this section.

Editor's note(s)—The Town of Linwood and Anoka County are currently parties to a joint powers agreement, hereby known as Anoka County Contract No. C0007197 which transfers the power to fully administer the Anoka County Shoreland Management Ordinance Number 2019-6 and any amendments thereto and provide services on behalf of Anoka County. The documents herein referred to are on file in the office of the town clerk.

State law reference(s)—Authority to adopt provisions by reference, M.S.A. § 471.62.

Secs. 30-576—30-598. Reserved.

DIVISION 8. FLOODPLAIN MANAGEMENT OVERLAY DISTRICT

Sec. 30-599. Created.

The floodplain management overlay district is created and is set out in chapter 14.

Secs. 30-600—30-615. Reserved.

ARTICLE V. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 30-616. Dwelling units prohibited.

No cellar, garage, tent, travel trailer, basement with unfinished structure above it or accessory building, shall at any time be used as a dwelling unit.

(Code 2004, § 807.03(subd. 7))

Sec. 30-617. Relocated structures.

Before any house or other structure is moved, an application for building permit shall be made and a questionnaire on the structure shall be completed by the property owner or his designated representative. The building official shall make a preliminary inspection to determine that the structure meets all state building codes and town ordinances. If the structure does not meet these regulations, the owner must present complete and detailed plans showing the changes to be made in order to come to code to the building official. The building official must approve the plans and present them to the board at the next meeting for their approval. No building permit will be issued until the owner has agreed in writing that the entire building will be completed within a period of six months, the fee has been paid and a performance bond or certified check guaranteeing completion of said changes and equal to at least 1½ times the cost of the value of the building has been posted with the town.

(Code 2004, § 807.03(subd. 8))

Secs. 30-618—30-635. Reserved.

DIVISION 2. LOT PROVISIONS

Sec. 30-636. Buildable lots.

A lot or parcel of land for which a deed or contract for deed has been recorded in the office of the county recorder upon or prior to the effective date of the ordinance from which this chapter is derived shall be deemed a buildable lot, provided it has frontage on a public right-of-way, can meet the applicable setback requirements, has an approved well and an approved on-site septic system.

(Code 2004, § 807.03(subd. 2(1)))

Sec. 30-637. Public street access.

Access to any public street shall require a curb cut permit as issued by the town building official.

(Code 2004, § 807.03(subd. 2(2)))

Sec. 30-638. Maximum number of principal buildings.

Except in the case of operating farms as provided for hereinafter, not more than one principal building shall be located on a lot.

(Code 2004, § 807.03(subd. 2(3)))

Secs. 30-639—30-664. Reserved.

DIVISION 3. ACCESSORY USES, BUILDINGS AND STRUCTURES

Sec. 30-665. Where permitted.

Accessory buildings and structures of any kind (pole barn construction or frame construction) are permitted in the R-A and R-1 districts, subject to the restrictions in this division.

(Code 2004, § 807.03(subd. 3(intro. ¶)); Ord. No. 143, § 8(intro. ¶), 3-12-2013; Ord. No. 169, § B(intro. ¶), 5-22-2018)

Sec. 30-666. Construction on parcel without principal dwelling unit.

No accessory building or use shall be constructed or developed on a parcel of land without a principal dwelling unit except under the following conditions:

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- (1) If a building permit for a dwelling unit and a detached accessory building or structure has been issued and adequate progress (footings and foundation block work) has been made on the construction of the dwelling, the accessory building may be completed and used for storage.
 - (2) If the dwelling unit of the property owner is located on a parcel of land which is adjacent to and contiguous with a parcel proposed for an accessory building or structure, and the parcels have been joined under one property identification number in the offices of the county treasurer and the county recorder, the building official may issue a permit for building on the vacant parcel.
 - (3) If the dwelling unit of the property owner is located on a parcel of land which is separated by a road or by another parcel from a parcel proposed for an accessory building or structure, the building official may issue a permit for the accessory building on the vacant parcel, provided that:
 - a. The owner has received the approval of the town board following the recommendation of the planning and zoning commission; and
 - b. The owner has provided proof that the parcels will not be conveyed separately from one another by fully executed and recorded conduit deeds with an appropriate restrictive covenant.

(Code 2004, § 807.03(subd. 3(1)); Ord. No. 143, § 8(1)(A)—(C), 3-12-2013; Ord. No. 169, § B(1), 5-22-2018)

Sec. 30-667. Portable storage structures.

The use of portable storage structures is allowed under the following conditions:

- (1) There shall be no more than one portable storage structure per property.
- (2) The portable storage structure must be setback a minimum of ten feet from side and rear property lines and 30 feet from road right-of-way.
- (3) Exterior shall be maintained free from extensive dilapidation due to cracks, tears, breaks, rust, snow or wind damage or deterioration of plastic, fabric, vinyl, aluminum or other materials.
- (4) Violations shall be corrected or removed within 30 days.

(Code 2004, § 807.03(subd. 3(2)); Ord. No. 169, § B(2), 5-22-2018)

Sec. 30-668. Accessory buildings and structures in the R-1 district.

- (a) *Generally.* The accessory buildings and structures specific requirements in the Single-Family Residential (R-1) District are set forth in this section.
- (b) *Sidewalk specifications.* An accessory building or a private garage shall have sidewalls as follows:
 - (1) *One story.* A minimum of eight feet high and a maximum as set for the acreage in sections 30-671 and 30-672; or
 - (2) *Two stories.* Ceiling height on lower level not to exceed nine feet and upper level not to exceed eight feet. The second story of an accessory building will have a complete floor.
- (c) *Maximum height.* The maximum height shall not exceed the height allowed under division 15 of this article.

(Code 2004, § 807.03(subd. 3(3)); Ord. No. 169, § B(3), 5-22-2018; Ord. No. 188, § A, 2-23-2021)

Sec. 30-669. Harmony with dwelling unit.

Except as provided in this division, private garages and accessory buildings shall be harmonious with the style and color of the siding and roofing of the dwelling unit.

(Code 2004, § 807.03(subd. 3(4)); Ord. No. 169, § B(4), 5-22-2018)

Sec. 30-670. Garages.

All parcels with a dwelling unit shall be allowed to have a minimum garage size of 24 feet by 24 feet with nine-foot sidewalls and a maximum roof pitch of 6/12 as long as it meets setback requirements.

(Code 2004, § 807.03(subd. 3(5)); Ord. No. 169, § B(5), 5-22-2018)

Sec. 30-671. Limitations on accessory buildings and structures in the R-1 district.

The following are limitations on accessory buildings and structures in the Single-Family Residential (R-1) District:

- (1) A parcel of land may have one dwelling unit, one private garage (whether attached or detached), and one accessory building or structure, and one storage shed up to 200 square feet in size, and one portable storage structure.
- (2) The maximum size of an accessory building shall be subject to buildable area limitations in section 30-676 and limited by the size of the parcel as follows:

Buildable Area Limitations of Accessory Buildings in R-1 District

1.49 or less acres	Maximum size of 1,200 sq. ft. with 12' sidewalls maximum
1.5 to 2.49 acres	Maximum size of 1,800 sq. ft. with 12' sidewalls maximum
2.5 to 3.99 acres	Maximum size of 2,400 sq. ft. with 14' sidewalls maximum
4.0 acres and larger	Maximum size of 3,600 sq. ft. with 14' sidewalls maximum

- (3) The maximum cumulative square footage may not exceed 3,600 square feet on any size parcel in this zoning district.
 - a. The area of a lean-to shall be included in the allowable square footage of detached accessory buildings or structures.
 - b. The area of a storage shed shall not be included in the allowable square footage of detached accessory buildings or structures.
- (4) A private garage, whether attached or detached, shall be no larger than 1,200 square feet. The area of a lean-to which is attached to the structure shall be included in the allowable square footage of the private garage.

(Code 2004, § 807.03(subd. 3(6)); Ord. No. 169, § B(6), 5-22-2018; Ord. No. 181, § 1, 5-28-2019; Ord. No. 188, §§ B, C, 2-23-2021)

Sec. 30-672. Specific requirements in the R-A district.

The accessory buildings and structures specific requirements in the Residential-Agricultural (R-A) District are as follows:

- (1) A parcel of land that is smaller than six acres may have one dwelling unit, one private garage (whether attached or detached), one accessory building or structure, one storage shed up to 200 square feet, and one portable storage structure.
- (2) A parcel of land that is six acres or larger may have one dwelling unit, one private garage (whether attached or detached), up to three accessory buildings or structures, two storage sheds up to 200 square feet, and one portable storage structure.
- (3) The maximum size of an accessory building shall be subject to buildable area limitations in section 30-673 and limited by the size of the parcel as follows:

Buildable Area Limitations of Accessory Buildings in R-A District

1.49 or less acres	Maximum size of 1,200 sq. ft. with 12' sidewalls maximum
1.5 to 2.49 acres	Maximum size of 1,800 sq. ft. with 12' sidewalls maximum
2.5 to 3.99 acres	Maximum size of 2,400 sq. ft. with 14' sidewalls maximum
4.0 acres and larger	Maximum size of 3,600 sq. ft. with 14' sidewalls maximum

- (4) The maximum cumulative square footage may not exceed 3,600 square feet on any parcel in this zoning district.
 - a. The area of a lean-to shall be included in the allowable square footage of detached accessory buildings or structures.
 - b. The area of a storage shed shall not be included in the allowable square footage of detached accessory buildings or structures.
- (5) A private garage (whether attached or detached) shall be no larger than 1,200 square feet. The area of a lean-to which is attached to the structure shall be included in the allowable square footage of the private garage.
- (6) Storage sheds shall be no more than 200 square feet and shall be limited to a sidewall height no greater than eight feet.
 - a. Storage sheds less than 120 square feet do not require a building or zoning permit unless they are built on a permanent concrete foundation or are served with electricity.
 - b. Storage sheds 120 square feet to 200 square feet require a zoning permit.
 - c. Storage sheds shall comply with all setback and building requirements.

(Code 2004, § 807.03(subd. 3(7))); Ord. No. 169, § B(7), 5-22-2018; Ord. No. 181, § 1, 5-28-2019; Ord. No. 188, §§ D—F, 2-23-2021)

Sec. 30-673. Lot acreage; building site elevation.

All lot acreages for accessory building size must be 60 percent non-wetland that is one foot above mottled soil. Building site itself must be at least one foot above mottled soil. This shall be considered high ground for accessory building purposes.

(Code 2004, § 807.03(subd. 3(8))); Ord. No. 169, § B(8), 5-22-2018)

Sec. 30-674. Maximum combined area.

The combined area of all buildings and impervious surface on a parcel of land may not exceed 25 percent of the total area of the parcel or 25 percent of the buildable area whichever is more restrictive.

(Code 2004, § 807.03(subd. 3(9))); Ord. No. 169, § B(9), 5-22-2018)

Sec. 30-675. Exemption for land parcels in R-A district.

Parcels of land in the R-A district which are 20 acres or more in size are exempt from the restrictions set forth in sections 30-668 through 30-670.

(Code 2004, § 807.03(subd. 3(10))); Ord. No. 169, § B(10), 5-22-2018)

Sec. 30-676. Subdivision of land.

If a parcel of land is subdivided, any existing accessory building needs to be downsized to match the allowable size on the parcel on which it remains.

(Code 2004, § 807.03(subd. 3(11))); Ord. No. 169, § B(11), 5-22-2018)

Sec. 30-677. Location of detached garages and accessory buildings.

Detached garages and accessory buildings and structures shall not be located nearer the front property line than the dwelling unit with the following exceptions:

- (1) Lakeshore parcels of land of record on the effective date of the ordinance from which this chapter is derived that are less than one acre, the garages and accessory buildings must be harmonious with the dwelling unit and surrounding properties, and shall have the facade match the materials and colors of the dwelling unit. For purposes of this chapter, a facade shall be defined as the face of a building, especially the principal front that looks onto a street. Where a building is on the corner of two streets, there may be two facades. Shoreland properties must also comply with shoreland ordinances.
- (2) A private garage or accessory building may be placed closer to an adjacent road than the dwelling unit based upon the following criteria:
 - a. The lot size and width are consistent with the yard and area regulations for the district.
 - b. Building size may never exceed 3,600 square feet in a location closer to an adjacent road than the dwelling unit.

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- c. A private garage or accessory building must not be placed within the front or side yard setbacks.
 - d. The placement of a private garage or accessory building must comply with the minimum applicable requirements for location from a well or onsite sewage treatment system.
 - e. Any accessory building built in front of the rear line of the dwelling unit, or nearer to the road than the dwelling unit, shall have the facade facing the adjacent road match the materials and colors of the dwelling unit. This includes stone and brick, which may be closely matching, lightweight hang-on type products.

(Code 2004, § 807.03(subd. 3(12)); Ord. No. 169, § B(12), 5-22-2018; Ord. No. 188, § G, 2-23-2021)

Sec. 30-678. Restrictions on bathrooms, kitchens, etc.

Accessory buildings are allowed to have a half bath or utility room but no provision for kitchens, tubs, or showers.

(Code 2004, § 807.03(subd. 3(13)); Ord. No. 169, § B(13), 5-22-2018)

Sec. 30-679. Exemptions.

Proposed accessory buildings which meet the definition of the term "agricultural building" in Minn. Stats. § 326B.103, subd. 3 may be exempt from the requirement to obtain a building permit but are subject to all standards of this division, with the exception of size restrictions and total number restrictions. A site plan must be submitted and administratively approved by the building official or zoning administrator or designee prior to commencing construction on any accessory structure which qualifies as an agricultural building.

(Ord. No. 188, § H, 2-23-2021)

Secs. 30-680—30-699. Reserved.

DIVISION 4. FARMING OPERATIONS

Sec. 30-700. Existing farms.

All farms in existence upon the effective date of the ordinance from which this chapter is derived and all farms which are brought into the town by annexation shall be a permitted use.

(Code 2004, § 807.03(subd. 4(intro. ¶)))

Sec. 30-701. Conditional use permit required for continued processing of goods.

All dwelling units and structures for processing of farm goods shall require any farm operation to secure a conditional use permit to continue said operations in the event of the conditions in this division.

(Code 2004, § 807.03(subd. 4(intro. ¶)))

Sec. 30-702. When conditional use permit required.

Any farm operation may be required to secure a conditional use permit to continue processing of farm goods in the event of the following:

- (1) The farm is adjacent to or within 400 feet of any dwelling unit and may be detrimental to living conditions by emitting noise, odor, vibrations, hazards to safety and the like.
- (2) The farming operations are so intensive as to constitute an industrial type use consisting of the compounding, processing and packaging of products for wholesale or retail trade and, further, that such operations may tend to become a permanent industrial type operation that cannot be terminated as can a normal farming operation.

(Code 2004, § 807.03(subd. 4(1)))

Sec. 30-703. Non-domestic animals only permitted in certain districts.

Non-domestic animals other than deer, raccoons, chickens, and ducks cannot be kept or housed in the R-1 Single-Family Residential District; deer, raccoons, chickens, and ducks may be kept and housed in the R-1 Single-Family Residential District. Any non-domestic animal can be kept or housed in the other districts established by the town Code on lots or separate parcels of record of more than nine acres that are not part of a subdivision plat; such animals may be kept or housed in the other districts on lots or separate parcels of record of nine acres or less only if specifically authorized by the grant of an interim use permit for such purpose. Exotic animals cannot be kept or housed in any district.

(Code 2004, § 807.03(subd. 4(2)))

Sec. 30-704. Hog farms.

No hog farm shall be continued or established within 1,000 feet of a dwelling unit.

(Code 2004, § 807.03(subd. 4(3)))

Sec. 30-705. Special regulations for keeping of non-domestic animals.

Special regulations for the keeping of non-domestic animals are as follows:

- (1) On all parcels of land where non-domestic animals are maintained, there must be a roofed or covered structure to protect the animals from the elements. The structure must meet the front yard setback requirements set forth in section 30-904.
- (2) On all parcels of land where non-domestic animals are maintained, there must be a secure fence or corral to contain the animals. The fence must meet the front yard setback requirements set forth in section 30-904.
- (3) Manure must be handled and treated in such a manner so as not to create a public nuisance or impact the environment or groundwater. Corrals, pens, stables, and similar enclosures must be maintained in a manner to minimize fly breeding. Accumulations of manure must not be left on any street or sidewalk, and any person or entity responsible for doing so is guilty of a misdemeanor.
- (4) Non-domestic animals must not be treated cruelly or inhumanely by any person or in violation of the Minnesota Statutes preventing cruelty to animals.

(Code 2004, § 807.03(subd. 4(4)(A)—(D)))

Sec. 30-706. Exotic animals.

Exotic animals are not permitted within the town.

(Code 2004, § 807.03(subd. 4(4)(E)))

Secs. 30-707—30-725. Reserved.

DIVISION 5. STREETS

Sec. 30-726. Vacations.

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

(Code 2004, § 807.03(subd. 5))

Secs. 30-727—30-750. Reserved.

DIVISION 6. MANUFACTURED HOMES

Sec. 30-751. Permitted only in R-2 district.

Manufactured homes (used on a temporary or permanent basis), as defined in section 30-7, shall only be permitted within the Manufactured Home Park (R-2) District, except as provided in this division.

(Code 2004, § 807.03(subd. 6(intro. ¶)))

Sec. 30-752. Permit required during home reconstruction.

The town board may grant a permit for a period not to exceed one year for a manufactured home in any residential zoning district during the reconstruction of a home that has been damaged or destroyed so as to be uninhabitable.

(Code 2004, § 807.03(subd. 6(1)))

Sec. 30-753. Use as farm residence.

The town board may grant an interim use permit for one manufactured home for use as a farm residence homestead, provided it is occupied by the owner or family member actively engaged in farming the land on which the manufactured home is to be located

(Code 2004, § 807.03(subd. 6(2)))

Sec. 30-754. Use when special hardship exists.

The town board may grant an interim use permit with stipulated time limitations for the temporary utilization of manufactured homes in locations other than the R-2 district when a special hardship is found to exist. Such hardship shall be generally a result of age or a physical handicap of a blood relative. The following conditions shall apply in such situations:

- (1) Any person requiring such temporary habitation shall make application to the town board for an interim use permit, stating the location, type of structure, length of time he intends to use such structure for habitation and reason for need of such habitation.
- (2) The building official shall inspect such proposed structure and report his findings and recommendations to the town board.

(Code 2004, § 807.03(subd. 6(3)(A), (B)))

Sec. 30-755. Use as temporary habitation.

If the town board finds that the public health, safety, morals and general welfare will not be impaired and that the value of public and private property will not be affected adversely, it may grant an interim use permit for such structure to be used for temporary habitation, provided that the person so applying shall enter into a written agreement with the board as to when such occupation is to cease. No permit for temporary habitation shall be granted for a period longer than one year and the town board may revoke such permit upon 90 days written notice if and when it finds:

- (1) That the public health, safety, morals or general welfare are being impaired by such habitation.
- (2) That the continued existence of such habitation conflicts with the town's comprehensive development plan.
- (3) The temporary habitation structure has been abandoned or put to any use other than that stated in the application as the reason for need of such habitation.
- (4) That the value of public or private property is being affected adversely thereby.

(Code 2004, § 807.03(subd. 6(3)(C)))

Sec. 30-756. Extensions of interim use permits.

Extensions of such interim use permits may be obtained only by reapplying to the town board.

(Code 2004, § 807.03(subd. 6(3)(D)))

Sec. 30-757. Sanitary sewer and water supply.

The sanitary sewer and water supply serving temporary habitation shall comply with all applicable rules, regulations and standards of chapter 28, pertaining to utilities.

(Code 2004, § 807.03(subd. 6(3)(E)))

Sec. 30-758. Insulation.

Any material used to insulate around the exterior of or underneath such temporary habitation shall be noncombustible and nontoxic.

(Code 2004, § 807.03(subd. 6(3)(E1)))

Sec. 30-759. Temporary habitation permit fee.

The fee for temporary habitation permits shall be as outlined in section 2-249 and shall be payable to the town at the time of issuance of the permit or as otherwise specified by the town board.

(Code 2004, § 807.03(subd. 6(4)))

Sec. 30-760. When permitted outside R-2 district.

Manufactured homes, as defined in section 30-7, but which do not comply with all regulations and standards for the district in which they are located or which do not comply with all other regulations and standards of the town ordinances which apply to dwellings and residential structures shall be permitted within districts other than the manufactured home park (R-2) zoning district during the reconstruction of a home that has been damaged or destroyed so as to be uninhabitable and for the temporary utilization thereof when a special hardship is found to exist, but only if an interim use permit is first granted as provided in this division and for periods not to exceed the periods herein provided for manufactured homes in such other districts during the reconstruction of a home that has been so damaged or destroyed or for the temporary utilization thereof when a special hardship is found to exist; all definitions, conditions and procedures of this division which apply in the granting of interim use permits for such use of manufactured homes shall apply in cases of granting of such permits for non-complying manufactured homes.

(Code 2004, § 807.03(subd. 6(5)))

Secs. 30-761—30-792. Reserved.

DIVISION 7. FENCES AND WALLS

Sec. 30-793. Permitted generally.

Fences, walls and similar barriers shall be permitted in all yards subject to the provisions in this division.

(Code 2004, § 807.03(subd. 9(intro. ¶)))

Sec. 30-794. Location and setback.

Any fence or wall may be located in any yard or along a side or rear property line, except that any fence or wall in excess of six feet in height shall meet the minimum required building setback for the zoning district in which it is located.

(Code 2004, § 807.03(subd. 9(1)))

Sec. 30-795. Height restriction in front yard setback; visual obstructions.

Any fence or wall or similar barrier located in the minimum required front yard setback shall not be over four feet in height or obstruct vision and thereby create a traffic hazard. Any such barrier shall be removed by the owner upon action of the town board.

(Code 2004, § 807.03(subd. 9(2)))

Sec. 30-796. Improper maintenance.

Any fence, wall or similar barrier which is not properly maintained so as to create an eyesore or nuisance shall be removed by the owner upon action of the town board.

(Code 2004, § 807.03(subd. 9(3)))

Sec. 30-797. Animal containment.

Fences which are for the sole purpose of containing non-domestic animals are not subject to the provisions of this chapter.

(Code 2004, § 807.03(subd. 9(4)))

Secs. 30-798—30-817. Reserved.

DIVISION 8. MINING, LAND RECLAMATION, SOIL PROCESSING

Sec. 30-818. Land reclamation.

- (a) Under this chapter, land reclamation is the reclaiming of land by depositing of material so as to elevate the grade. Land reclamation shall be permitted only by conditional use permit in all districts.
- (b) Any lot or parcel upon which 400 cubic yards or more of fill is to be deposited shall be land reclamation. The permit shall include as a condition thereof a finished grade plan which will not adversely affect the adjacent land and, as conditions thereof shall regulate, the type of fill permitted, program for rodent control, plan for fire control and general maintenance of the site, planned controls of vehicular ingress and egress and for control of material disburshed from wind or hauling of material to and from site.

(Code 2004, § 807.03(subd. 10))

Sec. 30-819. Mining.

The extraction of sand and gravel or other material from the land in the amount of 400 cubic yards or more and the removal thereof from the site without processing shall be mining. In all districts, the conduct of mining shall be permitted only upon issuance of a conditional use permit. Such permit shall include, as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted and the route of trucks moving to and from the site.

(Code 2004, § 807.03(subd. 11))

Sec. 30-820. Soil processing.

Processing sand, gravel or other materials mined from the land shall be permitted only by conditional use permit. Such conditional use permit shall include a site plan where the processing is to be done showing the location of the plant, disposal of water, route of trucks moving to and from the site in removing processed material from the site and such permit shall be granted for a specified period.

(Code 2004, § 807.03(subd. 12))

Secs. 30-821—30-848. Reserved.

DIVISION 9. BULK STORAGE

Sec. 30-849. Liquid.

All uses, including pipelines, associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a conditional use permit in order that the town board may have some assurance that fire, explosion or water or soil contamination hazards are not present that would be detrimental to the public welfare. All existing above-ground liquid storage tanks having a capacity in excess of 1,000 gallons shall secure a conditional use permit within 12 months following enactment of the ordinance from which this chapter is derived. The town board may require the development of diking around said tanks, suitably sealed, to hold a leakage capacity equal to 115 percent of the tank capacity. Any existing storage tank that, in the opinion of the town board, constitutes a hazard to the public safety shall discontinue operations within five years following enactment of the ordinance from which this chapter is derived.

(Code 2004, § 807.03(subd. 13))

Secs. 30-850—30-876. Reserved.

DIVISION 10. HOME OCCUPATIONS

Sec. 30-877. Interim use permit required.

Home occupations which create a need for more than two parking spaces at any given time in addition to the parking spaces required by the occupants shall require an interim use permit.

(Code 2004, § 807.03(subd. 14))

Secs. 30-878—30-902. Reserved.

DIVISION 11. YARD REQUIREMENTS

Sec. 30-903. Yard space and area identification for zoning districts.

This division identifies minimum yard spaces and areas to be provided for in all zoning districts.

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- (1) All references to setbacks in this division shall be understood to be measured to the outermost extremity of the building, that is, the exterior wall, the roof or any portion thereof supported by such wall, or any adjunct to the building, such as deck, porch, stoop, entrance, foyer, terrace, or attached garage.
 - (2) No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this chapter and, if the existing yard or other open space is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as a part of any open space required for another structure.

(Code 2004, § 807.03(subd. 15(1), (2)))

Sec. 30-904. Front yards.

- (a) A front yard setback of 40 feet from the front lot line shall be maintained.
- (b) Through lots in any district shall have a required front yard on each street.
- (c) Awnings, canopies, and flagpoles shall not be considered as encroachments on front yard setback requirements.

(Code 2004, § 807.03(subd. 15(3)))

Sec. 30-905. Side yards.

- (a) Two side yards, one on each side of the principal building or use, not less than ten feet in width shall be maintained.
- (b) A corner lot in an R-1 district shall have a 20-foot setback from the side street lot line. A corner lot in other districts shall have a 30-foot setback from the side street lot line. In a corner lot, no obstruction higher than curb level shall be located within 40 feet of the corner formed by the property line of any two intersecting streets.
- (c) Awnings which may be folded flat against the building, off-street open parking spaces as regulated by article VI of this chapter, and fences or walls not exceeding six feet in height and as regulated article III of this chapter shall not be considered encroachments on side yard setback requirements.

(Code 2004, § 807.03(subd. 15(4)))

Sec. 30-906. Rear yards.

- (a) The principal building or use shall have a 30-foot setback from the rear lot line.
- (b) An accessory building, structure or use, as regulated by division 3 of this article, shall have a ten-foot setback from the rear property line.
- (c) Recreational/playground equipment, clothesline poles, arbors, trellises, heating or air conditioning equipment, off-street open parking spaces as regulated by article VI of this chapter, and fences or walls not exceeding six feet in height and as regulated by article III of this chapter shall not be considered encroachments on rear yard setback requirements.

(Code 2004, § 807.03(subd. 15(5)))

Secs. 30-907—30-930. Reserved.

DIVISION 12. AREA AND BUILDING SIZE REGULATIONS

Sec. 30-931. Purpose.

This division identifies minimum area and building size requirements to be provided for in each zoning district.

(Code 2004, § 807.03(subd. 16(1)))

Sec. 30-932. Minimum lot width.

The minimum lot width for the Rural-Agricultural (R-A) District, Single-Family Residential (R-1) District, Manufactured Home Park (R-2) District and General Business (B) District are as follows:

Lot Width

R-A	300 feet
R-1, B	150 feet
R-2	300 feet

(Code 2004, § 807.03(subd. 16(2)(A)))

Sec. 30-933. Minimum lot area.

The minimum lot area for the Rural-Agricultural (RA) District, Single-family Residential (R-1) District (R-2) District and (B) District are as follows:

Lot Area

R-A	5 acres
R-1, B	2.5 acres
R-2	10 acres

(Code 2004, § 807.03(subd. 16(2)(B)))

Sec. 30-934. Lot frontage.

(a) The lot frontage requirements for the residential districts are as follows:

- (1) Residential-Agricultural (R-A) District is 300 feet of frontage (front lot line) on a town-approved street and width at the front yard setback line.
- (2) Single-Family Residential (R-1) District and General Business (B) District is 150 feet of frontage (front lot line) on a town approved street and width at the front yard setback line.

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- (b) The minimum lot area requirement in R-A districts shall be five acres, except as follows:
- (1) An approved central sewer system is utilized.
 - (2) The applicant has clearly demonstrated that the development conditions of the property and/or unique features of the use will significantly reduce any potential pollution hazards and will not create an increased future demand on town services.

An appeal to reduce the five-acre minimum lot size requirement to 2½ acres may be granted by the town board when one of the two conditions noted in this subsection (b) are satisfactorily demonstrated.

- (c) A soil percolation test may be required to ensure the sanitary function of private on-site systems. If test indicates that the soils are not adequate, the size of the lot area will be increased in lot area until the size is deemed adequate.
- (d) Public rights-of-way are not a part of the buildable lot area and, therefore, shall not be included as part of the minimum lot area required.
- (e) Requests for a building on a nonconforming lot shall be accompanied by a site plan locating the proposed well and septic tank and those of abutting developed properties. The building official shall issue an occupancy permit only if the applicant can demonstrate that no pollution or health hazard will result.

(Code 2004, § 807.03(subd. 16(3)—(6)))

Secs. 30-935—30-956. Reserved.

DIVISION 13. DEVELOPMENT IN PINE GROVES

Sec. 30-957. Purpose.

Based upon the necessity to provide fire protection to people and property where land proposed for development is determined to be located within a pine grove, the design or layout of said property shall conform to the standards as defined in chapter 22, article III, division 7.

(Code 2004, § 807.03(subd. 17(1)))

Sec. 30-958. Regulation.

Unless otherwise authorized by the town board, no building permit shall be granted for the erection of any habitable structure without demonstrated compliance with all aforesaid standards.

(Code 2004, § 807.03(subd. 17(2)))

Secs. 30-959—30-989. Reserved.

DIVISION 14. DWELLING DESIGN STANDARDS

Sec. 30-990. Minimum standards.

Newly constructed dwelling units located in the Residential-Agricultural (R-A) District and Single-family Residential (R-1) District must meet the minimum structural design standards in this division.

Sec. 30-991. Minimum ground floor area.

Minimum ground floor area shall be 864 square feet for a single-story dwelling. A dwelling unit with 1½ or more stories shall have a minimum of 864 square feet on the main floor.

Sec. 30-992. Minimum floor area for habitable rooms.

No habitable room, except the kitchen, shall contain less than 90 square feet of floor area.

Sec. 30-993. Exterior width.

No residential structure shall have an exterior width of less than 24 feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.

Sec. 30-994. Roofs.

All dwelling units and additions to dwelling units, other than approved earth-sheltered homes, shall have at least a 4/12 roof pitch and roof overhangs which extend a minimum of one foot from the exterior wall of the structure. Roofs shall be covered with shingles, tiles or steel panel (standing seam) roofing.

Sec. 30-995. Foundations.

All dwellings located in R-A and R-1 districts shall be placed on permanent foundations of concrete or treated wood which shall conform with the Uniform Building Code as adopted in the state and which shall be solid for the full perimeter of the structure; manufactured homes shall be bolted to the foundation.

Sec. 30-996. Conformity with building code.

All residential dwellings must be built in conformance with the state building code.

Secs. 30-997—30-1020. Reserved.

DIVISION 15. BUILDING HEIGHT

Sec. 30-1021. Height limitations.

- (a) *R-A, B districts.* No building or structure shall exceed three stories in height.
- (b) *R-1, R-2 districts.* No building or structure shall exceed two stories in height.
 - (1) Accessory buildings in front yards shall not exceed the height of the house, unless subject to section 30-670.

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- (2) Accessory buildings in rear yards shall not exceed the height of the house or the allowable sidewall height for the acreage plus a 6/12 roof, or as allowed by ordinance for two stories.
- (c) *Shoreland district.* On small lots of less than one acre, accessory buildings shall not exceed the height of the house or as allowed in section 30-670, unless a variance for overall height is issued.
- (Code 2004, § 807.03(subd. 16(8)(A), (B)); Ord. No. 169, §§ C, D, 5-22-2018)

Sec. 30-1022. Exceptions.

The building height limits established herein for districts shall not apply to belfries, chimneys or flues, church spires, cooling towers, cupolas and domes which do not contain useable space, elevator penthouses, flag poles, monuments, parapet walls extending not more than three feet above the limiting height of the building, water towers, poles, towers and other structures for essential services, necessary mechanical and electrical appurtenances, television and radio antennas not exceeding 20 feet above the roof, and farm buildings.

(Code 2004, § 807.03(subd. 16(8)(C)); Ord. No. 169, § D, 5-22-2018)

Sec. 30-1023. Limitation on area occupied by roof equipment or other structural elements.

No excluded roof equipment or structural element beyond the limited height of a building may occupy more than 25 percent of the area of such roof nor exceed ten feet unless otherwise noted.

(Code 2004, § 807.03(subd. 16(8)(D)); Ord. No. 169, § D, 5-22-2018)

Secs. 30-1024—30-1044. Reserved.

DIVISION 16. BUILDABLE AREA AND SITE REQUIREMENTS

Sec. 30-1045. Buildable area; site length; location.

- (a) As a condition of issuance of a building permit, in all areas lacking municipal sanitary sewer, all lots or parcels of land must have a contiguous buildable area of at least 20,000 square feet with a vertical separation at least one foot from natural grade to mottled soil, within which there must be a contiguous buildable site of at least 11,000 square feet with a vertical separation of at least three feet from finished grade which can be created to mottled soil.
- (b) The 11,000 square foot buildable site must have a length that is less than or equal to three times the width. The buildable site must be used for the location of the dwelling, the individual sewage treatment system, and the alternate sewage treatment site.
- (c) The 11,000 square foot buildable site must be located on the lot or parcel of land within the front, rear, and side yard setback requirements.
- (d) The 11,000 square foot buildable site must be clearly delineated on the certificate of survey together with the locations of the dwelling and the garage. Accessory buildings must be located within the 20,000 square foot buildable area but need not be within the 11,000 square foot buildable site.

(Code 2004, § 807.03(subd. 16(12)(A)—(D)); Ord. No. 143, § 9, 3-12-2013)

Secs. 30-1046—30-1073. Reserved.

DIVISION 17. PERFORMANCE STANDARDS

Sec. 30-1074. Purpose.

The performance standards established in this division are designed to encourage a high standard of development by providing assurance that the neighboring land uses will be compatible. The performance standards are also designed to prevent and eliminate those conditions that cause urban blight. All future development shall be required to meet these standards. The standards shall also apply to existing development where so stated. The town board shall be responsible for enforcing the standards.

(Code 2004, § 807.04(subd. 1))

Sec. 30-1075. Exterior storage.

- (a) In residential districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently (within a period of six months) being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks. Boats, recreational vehicles and unoccupied trailers less than 30 feet in length are permissible if stored in the rear yard more than ten feet from the property line.
- (b) In all districts, the town board may require an interim use permit for any exterior storage if it is demonstrated that such storage is hazard to the public health, safety, convenience or has a depreciating effect upon nearby property values or impairs scenic views or constitutes threat to living amenities.

(Code 2004, § 807.04(subd. 2))

Sec. 30-1076. Refuse.

- (a) In all districts, all waste material, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds.
- (b) All exterior storage not permitted as an accessory use, a permitted use, or as part of an interim use permit or otherwise permitted by the provisions of this chapter shall be considered as refuse.

(Code 2004, § 807.04(subd. 3); Ord. No. 125, § 2, 1-10-2006)

Sec. 30-1077. Screening.

- (a) Screening shall be required for any use which involves:
 - (1) An off-street parking area which contains more than four parking spaces and is within 30 feet of an adjoining residential zone; and
 - (2) Where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential use or zone.

Where any business or industrial use (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the building official).

(b) All exterior storage shall be screened. The exceptions are:

- (1) Merchandise being displayed for sale;
- (2) Materials and equipment presently being used for construction on the premises; and
- (3) Merchandise located on service station pump islands.

The screening required in this section shall consist of a fence or wall not less than five feet high but shall not extend within 15 feet of any street or driveway. The screening shall be placed along property lines or, in case of screening along a street, 15 feet from the street right-of-way with landscaping between the screening and the pavement. A fence shall block direct vision. Planting of a type approved by the planning and zoning commission may also be required in addition to or in lieu of fencing.

(Code 2004, § 807.04(subd. 4))

Sec. 30-1078. Landscaping maintenance.

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

(Code 2004, § 807.04(subd. 5))

Sec. 30-1079. Glare.

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

(Code 2004, § 807.04(subd. 6))

Sec. 30-1080. Other nuisance.

No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities.

(Code 2004, § 807.04(subd. 7))

Sec. 30-1081. Odors.

Toxic matter, dust and other particulated matter shall be in complete compliance with state regulations as regulated by the state pollution control agency.

(Code 2004, § 807.04(subd. 8))

Secs. 30-1082—30-1100. Reserved.

ARTICLE VI. OFF-STREET PARKING AND LOADING REQUIREMENTS

DIVISION 1. GENERALLY

Secs. 30-1101—30-1123. Reserved.

DIVISION 2. OFF-STREET PARKING

Sec. 30-1124. Surfacing and drainage; location; design; number of spaces.

- (a) *Surfacing and drainage.* Off-street parking areas for nonresidential uses shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water without damage to adjoining property. These requirements shall also apply to open sales lots. Durable and dustless surface may include crushed rock, asphalt, concrete or other surface (water sealed) as approved by the engineer or building official.
- (b) *Location.* All accessory off-street parking facilities required herein shall be located as follows:
- (1) Spaces accessory to residential dwellings on the same lot as the principal use served.
 - (2) Spaces accessory to uses located in a business or industrial district, within 400 feet of a main entrance to the principal building served.
 - (3) There shall be no off-street parking space within five feet of any street right-of-way.
 - (4) No off-street open parking area containing more than four parking spaces shall be located closer than five feet from an adjacent lot zoned or used for residential purposes.
- (c) *General provisions.*
- (1) *Existing spaces.* Existing off-street parking spaces and loading spaces upon the effective date of the ordinance from which this chapter is derived shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar new use.
 - (2) *Spaces for buildings re-established after fire, etc.* Should a building, structure or use in existence upon the effective date of the ordinance from which this chapter is derived be damaged or destroyed by fire or other cause, it may be re-established except that in doing so any off-street parking or loading which existed must be retained but, should plans propose an enlargement of the floor area, seating capacity or other facilities which would affect the parking or loading requirements, the parking or loading spaces shall be enlarged accordingly.
 - (3) *Benches in places of public assembly.* In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 22 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this chapter.

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- (4) *Access drives.* Access drives may be placed adjacent to property lines except that drives consisting of crushed rock or other non-finished surfacing shall be no closer than one foot to any side or rear lot line.
 - (5) *Parking spaces.* Each parking space shall be not less than nine feet wide and 20 feet in length exclusive of an adequately designed system of access drives.
 - (6) *Use of parking facilities.* Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and trucks not to exceed 12,000 pounds gross capacity. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business.
 - (7) *Use of parking area.* Required off-street parking space in any district shall not be utilized for open storage for goods or for the storage of vehicles which are inoperable or for sale or for rent.
- (d) *Design and maintenance of off-street parking areas.*
- (1) *Access.* Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed 22 feet in width and shall be so located as to cause the least interference with traffic movement.
 - (2) *Calculating space.* When determining the number of off-street parking spaces required results in a fraction, each fraction of one half or more shall constitute another space.
 - (3) *Lighting.* Any lighting used to illuminate an off-street parking area shall be arranged so as to reflect the light away from the adjoining property.
 - (4) *Signs.* No signs shall be located in any parking area except as necessary for orderly operation of traffic movements and such signs shall not be a part of the permitted advertising space.
 - (5) *Parking space for six or more cars.* When a required off-street parking space for six cars or more is located adjacent to a residential district, a fence of adequate design, not over five feet in height nor less than four feet in height shall be erected along the residential district property line.
 - (6) *Access.* All off-street parking spaces shall have access off driveways and not directly off the public streets.
 - (7) *Determination of areas.* A parking space shall not be less than 300 square feet per vehicles of standing and maneuvering area.
- (e) *Off-street spaces required.* The town board reserves the right to establish parking requirements for any use not specifically listed or alter any requirement as necessary to meet the objectives of this article.
- (1) *Residential uses.* Two spaces per dwelling unit.
 - (2) *Church, theatre, auditorium.* At least one parking space for each four seats based on the design capacity of the main assembly hall. Facilities may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this chapter.
 - (3) *Business and professional offices.* Medical clinics: one space for each 250 square feet of gross floor area.
 - (4) *Elementary and junior high schools.* At least one space for each classroom plus one additional space for each 50-student capacity.
 - (5) *High schools and colleges.* At least one parking space for each eight students based on design capacity, plus one additional space for each classroom.

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- (6) *Sanitarium, convalescent home, rest home, nursing home or institution.* At least one space for each four beds for which accommodations are offered, plus one space for each two employees on maximum shift.
 - (7) *Drive-in food establishment.* At least one space for each 15 square feet of gross floor space in building allocated to drive-in operation.
 - (8) *Bowling alley.* At least five spaces for each alley, plus additional spaces as may be required herein for related uses such as restaurant, plus one additional space for each employee.
 - (9) *Motor fuel station.* At least four off-street spaces plus four off-street spaces for each service stall.
 - (10) *Retail store.* At least one off-street space for each 200 square feet of gross floor area.
 - (11) *Restaurants, cafes, bars, taverns and night clubs.* At least one space for each three seats based on capacity design.

(Code 2004, § 807.05(subd. 1))

Secs. 30-1125—30-1141. Reserved.

DIVISION 3. OFF-STREET LOADING AND UNLOADING

Sec. 30-1142. Required; location and access.

Any structure which is to be erected or substantially altered which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles shall provide off-street loading space.

- (1) *Location.* All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall not be located less than 25 feet from the intersection of two street rights-of-way nor less than 50 feet from a residential district unless within a building. Loading berths shall not occupy the required front yard space.
- (2) *Access.* Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.
- (3) *Accessory use.* Any place allocated as a loading berth or maneuvering area so as to comply with the terms of this chapter shall not be used for the storage of goods, inoperable vehicles or be included as part of the space requirements necessary to meet the off-street parking area.
- (4) *Noise.* Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 8:00 p.m. and 6:00 a.m.

(Code 2004, § 807.05(subd. 2))

Secs. 30-1143—30-1162. Reserved.

ARTICLE VII. SIGNS

DIVISION 1. GENERALLY

Sec. 30-1163. Purpose.

This article regulates the type, number, size, structure, height, lighting, erection, repair, location and maintenance of all outdoor signs within the town; provides for the issuance of permits and the charging of fees therefor; and for violations thereof.

(Code 2004, § 808.01)

Sec. 30-1164. Definitions.

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

Square footage, including "square feet" and "aggregate square footage," means the total area of all display surfaces of any sign. The display surfaces of a sign are those surfaces which contain lettering, symbols, numbers or other graphic features. If a sign has more than one display surface, the total area of each display surface must be taken into account.

Support structure means the support structure is that part of a sign which is constructed in or upon the ground and to which the display surface of the sign is attached.

(Code 2004, § 808.02(subd. 11))

Sec. 30-1165. Temporary signs.

- (a) Temporary signs for any lawful purpose, under 32 square feet per side, may be erected for 30 days or less without a permit.
- (b) This section shall not be construed to allow the ongoing use of a sign location by the replacement of a temporary sign every 30 days or less. Such a use shall be deemed a permanent sign use, which shall require compliance with this article.

(Code 2004, § 808.02(subd. 12))

Sec. 30-1166. Town signs.

Signs which are the property of the town are exempt from the provisions of this article.

(Code 2004, § 808.02(subd. 13))

Sec. 30-1167. Noncommercial signs.

All noncommercial signs of any size may be posted in any number from August 1 in a state general election year until ten days following the election.

(Code 2004, § 808.02(subd. 14))

Sec. 30-1168. Construction.

All signs shall be constructed in such manner and of such material that they shall be safe and substantial, shall be properly secured, supported and braced and shall be kept in good repair.

(Code 2004, § 808.02(subd. 1))

Sec. 30-1169. Structural or feature restrictions of signs.

No sign shall be painted directly on any building, fence, rock or similar structure or feature, except in an industrial district.

(Code 2004, § 808.02(subd. 2))

Sec. 30-1170. Interference with traffic.

No sign shall be erected that because of color, shape, position or illumination would interfere in any way with traffic safety or the proper functioning of traffic control devices.

(Code 2004, § 808.02(subd. 3))

Sec. 30-1171. Political signs.

Political campaign signs shall be permitted on private property in any district but may not be placed sooner than 90 days preceding the election involved and must be removed within ten days following the election.

(Code 2004, § 808.02(subd. 4))

Sec. 30-1172. Public rights-of-way and easements.

No sign shall be permitted within any public right-of-way or upon any public easement.

(Code 2004, § 808.02(subd. 5))

Sec. 30-1173. Illuminated, flashing signs.

Illuminated, flashing signs shall not be permitted, except in an industrial or a general business district.

(Code 2004, § 808.02(subd. 6); Ord. No. 182, § 2, 9-24-2019)

Sec. 30-1174. State of disrepair; town action.

Signs determined by the town board to be in a state of disrepair shall be restored to good repair by the sign owner or by the owner upon whose property the sign is located within 30 days after mailing of written notice to repair by the town board or its delegate. In the event of non-compliance with said notice, the town board shall have the authority to remove said sign at the expense of the sign owner or the property owner.

(Code 2004, § 808.02(subd. 7))

Sec. 30-1175. Temporary real estate signs for individual residences.

Temporary real estate signs advertising for sale an individual residence shall not require a permit if they are under eight square feet per side.

(Code 2004, § 808.02(subd. 8))

Sec. 30-1176. Compliance with town regulations.

All signs shall comply with the provisions of the zoning regulations and building code of the town.
(Code 2004, § 808.02(subd. 9))

Sec. 30-1177. Temporary real estate signs for residential projects or commercial, industrial areas.

One temporary real estate sign for the purpose of selling or promoting a residential project of numerous dwelling units, or a commercial or an industrial area of five acres or more, shall be allowed and may be erected upon the project site, but such sign shall not exceed 32 square feet of advertising surface. Such a sign shall be removed after 90 percent of the project is developed, i.e., ownership thereof transferred or sold by the developer to third parties.

(Code 2004, § 808.02(subd. 10))

Secs. 30-1178—30-1202. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Subdivision I. In General

Secs. 30-1203—30-1222. Reserved.

Subdivision II. Sign Permits

Sec. 30-1223. Permits required.

All signs shall require a sign permit, except for political campaign signs permitted by section 30-1171, temporary real estate signs permitted by section 30-1175, temporary signs permitted by section 30-1165 and single residential identification signs and multiple residential identification signs permitted by section 30-1283(1) and (2).

(Code 2004, § 808.04(subd. 1(1)))

Sec. 30-1224. Application.

Application for a sign permit shall be made to the planning and zoning commission on an "Application for Sign Permit" form available from the town clerk. Each application must be accompanied by a non-refundable application fee as provided in section 2-249. The application must contain at least the following information:

- (1) Name, address and telephone number of the fee owner of the property;
- (2) Name, address and telephone number of any contract for the deed purchaser or lessee of the property;

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- (3) Street address of the property;
 - (4) Legal description of property;
 - (5) Site plan or sketch, showing the location of all buildings, driveways and other improvements and topographical features and the proposed sign. The application must be accompanied by a drawing of the proposed sign, which drawing must give the dimensions of the sign. The planning and zoning commission shall recommend to the town board that the application be approved or disapproved. For signs which require a conditional use permit, this application procedure shall be administered concurrently with the conditional use permit procedure.

(Code 2004, § 808.04(subd. 1(2)))

Sec. 30-1225. Approved permits.

If the town board approves the permit application, the town clerk shall be instructed to issue a sign permit to the applicant upon receipt of the required sign permit fee. The permit shall be dated. A copy of the permit shall be retained by the clerk and attached to a copy of the application and drawings.

(Code 2004, § 808.04(subd. 1(3)))

Sec. 30-1226. Responsibility of permit owner.

The permit owner shall be responsible for all the requirements of this article, including the liability for expenses for removal of illegal signs incurred by the town. Any sign now or hereafter existing which no longer advertises or identifies a bona fide business conducted, or a service rendered, or a product sold, shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or lot upon which the sign may be found within ten days after written notice from a member of the town board.

(Code 2004, § 808.04(subd. 1(5)); Ord. No. 128, § 1, 7-24-2007)

Sec. 30-1227. Sign permit fee.

All signs requiring a permit shall have an initial, one-time application fee plus an annual fee as outlined in section 2-249.

(Code 2004, § 808.04(subd. 1(6)); Ord. No. 128, § 1, 7-24-2007)

Sec. 30-1228. Initial sign permit.

If the work authorized under a sign permit has not been completed within six months after the date of issue of the permit, then the permit shall become null and void.

(Code 2004, § 808.04(subd. 1(7)); Ord. No. 128, § 1, 7-24-2007)

Sec. 30-1229. Permit revocation at any time.

All rights and privileges acquired under the provisions of this article or any amendments thereto are mere licenses revocable at any time by the planning and zoning commission and town board, and all such permits shall contain this provision

(Code 2004, § 808.04(subd. 3))

Secs. 30-1230—30-1246. Reserved.

Subdivision III. Nonconforming Signs

Sec. 30-1247. Existing signs.

Signs existing on the effective date of the ordinance from which this article is derived which do not conform to the regulations set forth are nonconforming uses and must be brought into conformity within 15 months from the date of the ordinance from which this article is derived.

(Code 2004, § 808.04(subd. 2))

Secs. 30-1248—30-1264. Reserved.

DIVISION 3. SIGN REGULATIONS BY DISTRICT

Subdivision I. In General

Sec. 30-1265. When special or conditional use permit required.

Only the signs in the specific district shall be permitted, unless the town board shall grant a special or conditional use permit, after a public hearing, with ten days published notice or such notice as state law otherwise may require.

(Code 2004, § 808.03(intro. ¶))

Secs. 30-1266—30-1282. Reserved.

Subdivision II. Residential Districts

Sec. 30-1283. Permitted signs.

The following signs are permitted in the residential districts:

- (1) Single residential identification: Nameplate not more than four square feet per side.
- (2) Multiple residential identification: Wall sign up to six square feet.
- (3) Other signs: up to 32 square feet per side, with a sign permit as provided in division 2, subdivision II, of this article may be allowed if the proposed sign use meets one or more of the following criteria:
 - a. The sign will advertise farm products or dairy products which have been produced on the owner's land and which are for sale by the owner;
 - b. The sign will advertise a business which is a previously existing, nonconforming use pursuant to this chapter;
 - c. The sign will advertise a permitted home occupation as defined in section 30-7;

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- d. The sign will advertise a use which is a conditional use permitted by action of the town board pursuant to this chapter.

This section shall not be construed to allow any particular sign use to be exempted from the requirements of the conditional use permit procedures of this chapter.

- (4) No sign and no sign support structure shall be closer than 20 feet from any side or rear property line and no closer than 15 feet from any public right-of-way, and no sign shall obstruct in any way a driver's vision of the road or hinder or obstruct any pedestrian path.

(Code 2004, § 808.03(subd. 1))

Secs. 30-1284—30-1295. Reserved.

Subdivision III. Business and Industrial Districts

Sec. 30-1296. General business district.

- (a) Within a limited or neighborhood business district, the aggregate square footage of sign space per lot shall not exceed one square foot per front foot of the building but in no case shall exceed a maximum of 50 square feet and shall not be higher than 12 feet.
- (b) Within a shopping center or other business district, the aggregate square footage of sign space per lot shall not exceed the sum of 100 square feet.
- (c) Advertising signs, defined as signs which direct attention to a business, service or entertainment not exclusively related to the premises where such sign is located, shall not exceed 300 square feet, shall not be higher than 45 feet and shall not exceed the sum of five square feet per front foot of the lot.
- (d) No sign and no sign support structure shall be closer than 20 feet from any side or rear property line and no closer than 15 feet from any public right-of-way, and no sign shall obstruct in any way a driver's vision of the road or hinder or obstruct any pedestrian path.

(Code 2004, § 808.03(subd. 2); Ord. No. 182, § 1, 9-24-2019)

Sec. 30-1297. Industrial districts.

- (a) Within any industrial district, the aggregate square footage of sign space per lot shall not exceed four square feet per front foot of the building but in no case shall exceed a maximum of 32 square feet in size, except advertising signs, which, on industrial property, shall not exceed 32 square feet of sign surface and shall not exceed the sum of five square feet per front foot of the lot.
- (b) Within any industrial district, no sign shall exceed a height of 30 feet above the highest outside wall of a principal building, if it is a roof sign or attached to the building; and no ground sign shall exceed a height of 40 feet above the average grade of lot; nor shall any sign or sign support structure be located closer than 20 feet from any lot line or closer than 15 feet from any public right-of-way, and no sign shall obstruct in any way a driver's vision of the road or hinder or obstruct any pedestrian path.

(Code 2004, § 808.03(subd. 3))

Secs. 30-1298—30-1580. Reserved.

ARTICLE VIII. SOLAR ENERGY SYSTEMS

DIVISION 1. GENERALLY

Sec. 30-1581. Purpose and intent.

The town finds that the development of solar energy systems should be balanced with the protection of the public health, safety and welfare of the public. The town resolves that the following standards shall be adopted to ensure that solar energy systems and solar energy farms can be constructed within the town while protecting public safety and the natural resources of the town. The town finds that it is in the public interest to encourage the use and development of renewable energy systems that enhance energy conservation efforts but result in limited adverse impact on nearby properties. As such, the town supports the use of solar energy collection systems and the development of solar energy farms.

(Ord. No. 175, § 1(812.01(subd. 1)), 3-26-2019)

Sec. 30-1582. Applicability.

These regulations shall apply to all solar energy systems and solar energy farms on properties and structures under the jurisdiction of the town.

(Ord. No. 175, § 1(812.01(subd. 3)), 3-26-2019)

Sec. 30-1583. Definitions.

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

Accessory solar energy system means a system which is roof or building mounted, or architecturally integrated, or ground-mounted panels which are located on a lot or parcel with a principal use such as a residence or business designed to supply energy for onsite residential use; excess energy produced may be sold back to the grid through net metering or commercial use to generate energy to offset utility costs or as an additional revenue stream.

Building- or other architecturally-integrated solar energy system means an active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or thermal solar systems that are contained within roofing materials, windows, skylights and awnings.

Community solar energy system (CSES) or solar garden means a solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing on site or located off-site from the location of the solar energy system. A CSES is not a solar energy system that has been primarily designed for export to the wholesale market. A CSES may be connected to the electrical transmission grid in order to sell excess power to the utility company. A CSES is a solar energy system that has a

capacity of no more than one megawatt of power. All solar energy systems that are primarily designed for export to the wholesale market, regardless of megawatt capacity or land area, shall be regulated as a solar farm.

Ground-mounted panels means freestanding solar panels mounted to the ground by use of stabilizers or similar apparatus. Ground-mounted panels may be systems which are accessory to the principal use of the site and designed to supply energy for the principal use (see also *Accessory solar energy system*) or may be part of solar garden (CSES) or solar farm operation.

Photovoltaic system means an active solar energy system that converts solar energy directly into electricity.

Right-of-way means those lands designated and delineated to contain a public or private roadway, bicycle path, walking trail, recreational trail, or other mode of ground transportation.

Roof- or building-mounted solar energy system means a solar energy system that is mounted to the roof or building using brackets, stands or other apparatus. Typically, accessory to the principal land use, these may also be used in solar gardens (CSES).

Solar array means a group of solar panels wired together.

Solar collector means a device, structure or a part of a device or structure that the principal purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

Solar energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar energy system (SES) means an active solar energy system that collects or stores solar energy and transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal or chemical means.

Solar farm means a utility scale commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, where the principal purpose of land is to provide energy to off-site uses or wholesale sales of generated electricity.

Solar hot water system means a system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs.

(Ord. No. 175, § 1(812.01(subd. 4)), 3-26-2019)

Secs. 30-1584—30-1599. Reserved.

DIVISION 2. PERMITTED BY DISTRICT

Sec. 30-1600. Solar energy systems allowed by district.

This article identifies and regulates the following four types of solar energy systems which shall be allowed in each zoning district:

Permitted Solar Energy Systems by District

	<i>Rooftop/Architectural</i>	<i>Ground Mount</i>	<i>CSES (Solar Gardens)</i>	<i>Solar Farm</i>
R-A	Accessory use	Accessory use	Accessory or principal use	Principal use

R-1	Accessory use	Accessory use on lots > 1 acre	Not allowed	Not allowed
R-2	Not allowed	Not allowed	Not allowed	Not allowed
B	Accessory use	Accessory use	Not allowed	Not allowed
EP	Not allowed	Not allowed	Not allowed	Not allowed
SL	Accessory use	Accessory use on lots > 1 acre	Not allowed	Not allowed

(Ord. No. 175, § 1(812.02(subd. 1)), 3-26-2019)

Secs. 30-1601—30-1618. Reserved.

DIVISION 3. PERMITTED BY TYPE

Subdivision I. In General

Sec. 30-1619. Solar energy systems allowed by type.

This article identifies and regulates the following four types of solar energy systems which shall be regulated in this division.

(Ord. No. 175, § 1(812.02(subd. 2(intro. ¶))), 3-26-2019)

Secs. 30-1620—30-1635. Reserved.

Subdivision II. Rooftop or Other Architecturally-Integrated Solar Energy Systems

Sec. 30-1636. Permitted accessory uses.

Rooftop or other architecturally integrated systems are permitted accessory uses in all districts in which buildings and structures are permitted, except zoning districts R-2 and EP.

(Ord. No. 175, § 1(812.02(subd. 2(1)(a))), 3-26-2019)

Sec. 30-1637. Building permit required prior to installation.

The owner or contractor shall obtain a building permit before installing a rooftop or other architecturally integrated solar energy system.

(Ord. No. 175, § 1(812.02(subd. 2(1)(b))), 3-26-2019)

Sec. 30-1638. Placement.

Commercial rooftop or other architecturally integrated systems shall be placed on the roof to blend into the roof design, to limit visibility from the public right-of-way and adjacent properties, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.

(Ord. No. 175, § 1(812.02(subd. 2(1)(c))), 3-26-2019)

Sec. 30-1639. Setbacks.

Equipment associated with rooftop systems shall meet setbacks required for ground-mount systems.

(Ord. No. 175, § 1(812.02(subd. 2(1)(d))), 3-26-2019)

Secs. 30-1640—30-1655. Reserved.

Subdivision III. Ground-Mount Solar Energy Systems

Sec. 30-1656. Accessory uses.

Ground-mount systems are accessory uses in all districts in which buildings and structures are permitted, and are greater than one acre, except zoning districts R-2 and EP.

(Ord. No. 175, § 1(812.02(subd. 2(2)(a))), 3-26-2019)

Sec. 30-1657. Building permit required.

Ground-mount systems require a building permit.

(Ord. No. 175, § 1(812.02(subd. 2(2)(b))), 3-26-2019)

Sec. 30-1658. Maximum size.

The maximum size of a ground-mounted system shall be no more than two percent of the total land area of the lot.

(Ord. No. 175, § 1(812.02(subd. 2(2)(c))), 3-26-2019)

Sec. 30-1659. Not counted as accessory structure.

Ground-mount systems do not count as an accessory structure for the purpose of meeting limits on the total square footage or number of accessory structures allowed in its respective district.

(Ord. No. 175, § 1(812.02(subd. 2(2)(d))), 3-26-2019)

Sec. 30-1660. Dimensional standards.

Ground-mounted systems which includes associated equipment shall meet the following dimensional standards:

Ground-Mounted System Equipment Dimensions

<i>Dimensional Standard Setbacks</i>	<i>Distance (feet)</i>	<i>Height (feet)</i>
Side yard setback	20	
Rear yard setback	20	
County (CSAH) road setback*	100	
Town or private road setback*	75	
Panel height (at full tilt)		12

*Setbacks from roadways shall be measured from the edge of the right-of-way. When roads are not located within platted right-of-way or roadway easements, the roadway setback shall be measured from the centerline of the roadway.

(Ord. No. 175, § 1(812.02(subd. 2(2)(e))), 3-26-2019)

Sec. 30-1661. Screening.

All accessory ground-mount solar energy systems shall be screened from adjacent residential properties and right-of-way by vegetation that provides year-round coverage.

- (1) If existing screening in the form of vegetation that provides year-round coverage or site topography is such that it provides the required screening from adjacent residential properties and right-of-way, the screening requirement may be waived or reduced at the discretion of the town board.
- (2) Vegetative screening shall consist of an offset double row of evergreen trees (or other tree, shrub, or bush that provides year-round coverage) that will be six feet in height at installation and reach a minimum of 12 feet at maturity.

(Ord. No. 175, § 1(812.02(subd. 2(2)(f))), 3-26-2019)

Sec. 30-1662. Fencing.

If fencing is placed around a ground-mount solar energy system, that fence shall consist of metal or wood and contain no barbed wire. If chain-link fencing is used, it shall be coated in black vinyl to minimize the visual effect of the fence.

(Ord. No. 175, § 1(812.02(subd. 2(2)(g))), 3-26-2019)

Secs. 30-1663—30-1678. Reserved.

Subdivision IV. Community Solar Energy Systems (CSES)/Solar Gardens

Sec. 30-1679. Minimum parcel size required.

CSES/solar gardens shall be located on parcels of land no less than 20 acres in size.

(Ord. No. 175, § 1(812.02(subd. 2(3)(a))), 3-26-2019)

Sec. 30-1680. Road frontage for parcels.

Parcels which have a metes and bounds legal description shall have a minimum of 300 feet of road frontage and parcels which have been formally platted shall have a minimum of 150 feet of road frontage.

(Ord. No. 175, § 1(812.02(subd. 2(3)(b))), 3-26-2019)

Sec. 30-1681. Where permitted.

CSES/solar gardens shall be located in the Residential-Agricultural (R-A) District.

(Ord. No. 175, § 1(812.02(subd. 2(3)(c))), 3-26-2019)

Sec. 30-1682. Community workshop.

Prior to an application being deemed complete, an applicant shall be required to hold a public open house at the town hall for the proposed project.

- (1) The applicant shall send a notice of the community workshop to all property owners within 1,000 feet of the boundary for which the project is proposed to be located.
- (2) The applicant shall supply the town with a map of properties to which notices were sent and a copy of the mailing list for which letters were sent.
- (3) The applicant shall mail notices at least two weeks in advance of the date of the community workshop.

(Ord. No. 175, § 1(812.02(subd. 2(3)(d))), 3-26-2019)

Sec. 30-1683. Interim use permit required.

An interim use permit (IUP) shall be required.

(Ord. No. 175, § 1(812.02(subd. 2(3)(e))), 3-26-2019)

Sec. 30-1684. Building permit required.

A building permit is required and shall be reviewed by the planning and zoning commission and released by the town board.

(Ord. No. 175, § 1(812.02(subd. 2(3)(f))), 3-26-2019)

Sec. 30-1685. Prohibitions.

The township prohibits CSEs within the following areas:

- (1) Shoreland districts as designated by the department of natural resources (DNR) and this chapter;
- (2) Within 600 feet of areas formally designated or protected from development by federal, state or county agencies as wildlife habitat, wildlife management areas or designated as national wild and scenic land or corridor;
- (3) Wetlands to the extent prohibited by the Minnesota Wetland Conservation Act;
- (4) FEMA-established floodplains.

(Ord. No. 175, § 1(812.02(subd. 2(3)(g))), 3-26-2019)

Sec. 30-1686. Dimensional standards.

All CSES/solar garden solar panels and their associated equipment such as metering pads and transformers shall meet the following standards:

CSES/Solar Garden Solar Panel Dimensions

<i>Dimensional Standard Setbacks</i>	<i>Distance (feet) Proposal</i>	<i>Height (feet)</i>
Side yard setback	50	
Rear yard setback	50	
County (CSAH) road setback*	660	
Town or private road setback*	660	
Panel height (at full tilt)		12

*Setbacks from roadways shall be measured from the edge of the right-of-way. When roads are not located within platted right-of-way or roadway easements, the roadway setback shall be measured from the centerline of the roadway.

(Ord. No. 175, § 1(812.02(subd. 2(3)(h))), 3-26-2019)

Sec. 30-1687. Screening.

All community solar energy systems (CSES)/solar gardens and their components such as metering pads, transformers, and similar equipment shall be screened from adjacent residential properties and right-of-way by vegetation that provides year-round coverage.

- (1) If existing screening in the form of vegetation that provides year-round coverage or site topography is such that it provides the required screening from adjacent residential properties and right-of-way, the screening requirement may be waived or reduced at the discretion of the town board.
- (2) Vegetative screening shall consist of an offset double row of evergreen trees (or other tree, shrub, or bush that provides year-round coverage) that will be six feet in height at installation and reach a minimum of 12 feet at maturity.

(Ord. No. 175, § 1(812.02(subd. 2(3)(i))), 3-26-2019)

Sec. 30-1688. Security fencing.

Security fencing shall consist of metal or wood and contain no barbed wire. If chain-link fencing is used, it shall be coated in black vinyl to minimize the visual effect of the fence.

(Ord. No. 175, § 1(812.02(subd. 2(3)(j))), 3-26-2019)

Sec. 30-1689. Power and communication lines.

All on-site power and communication lines running between banks of solar panels and buildings shall be buried underground on the premises. The town board may grant exemptions to this requirement in instances where water courses or other elements of the natural landscape interfere with the ability to bury lines. All overhead power and communication or transmission lines shall be subject to the essential services ordinance and right-of-way ordinance.

(Ord. No. 175, § 1(812.02(subd. 2(3)(k))), 3-26-2019)

Sec. 30-1690. Decommissioning plan.

At time of application for the project building, permit the project developer shall submit a decommissioning plan for ground-mounted commercial solar energy systems to ensure that the permittee properly removes the equipment and facilities upon the end of project life or after their useful life. The permittee shall decommission the solar panels in the event they are not in use for 12 consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet the requirements of the county solid waste ordinance and applicable state pollution control agency regulations. The permittee shall provide an industry engineer's estimate of the eventual decommissioning cost, and shall post financial surety in an amount equal to or greater than 125 percent of the engineer's estimated cost, to ensure proper decommissioning. All solar projects and decommissioning plans shall be subject to biennial review of current relevant economic factors associated with solar projects, solar technology and the solar industry, and may be subject to revised or escalated financial surety requirements, as determined to be necessary by the town board. Failure to maintain financial surety and current decommissioning plan shall be grounds for revocation and/or nullification of permit.

(Ord. No. 175, § 1(812.02(subd. 2(3)(l))), 3-26-2019)

Secs. 30-1691—30-1706. Reserved.**Subdivision V. Solar Farms****Sec. 30-1707. Minimum parcel size required.**

Solar farms shall be located on parcels of land no less than 20 acres in size.

(Ord. No. 175, § 1(812.02(subd. 2(4)(a))), 3-26-2019)

Sec. 30-1708. Road frontage.

Parcels which have a metes and bounds legal description shall have a minimum of 300 feet of road frontage and parcels which have been formally platted shall have a minimum of 150 feet of road frontage.

(Ord. No. 175, § 1(812.02(subd. 2(4)(b)), 3-26-2019)

Sec. 30-1709. Where permitted.

Solar farms shall be located in the Residential-Agricultural (R-A) District and be located within sections 5, 6, 29, or 30 of Linwood Township.

(Ord. No. 175, § 1(812.02(subd. 2(4)(c))), 3-26-2019)

Sec. 30-1710. Community workshop.

Prior to an application being deemed complete, an applicant shall be required to hold a community workshop at the town hall for the proposed project.

- (1) The applicant shall send a notice of the community workshop to all property owners within 1,000 feet of the boundary for which the project is proposed to be located.
- (2) The applicant shall supply the township with a map of properties to which notices were sent and a copy of the mailing list for which letters were sent.
- (3) The applicant shall mail notices at least two weeks in advance of the date of the community workshop.

(Ord. No. 175, § 1(812.02(subd. 2(4)(d))), 3-26-2019)

Sec. 30-1711. Interim use permit required.

An interim use permit (IUP) shall be required.

(Ord. No. 175, § 1(812.02(subd. 2(4)(e))), 3-26-2019)

Sec. 30-1712. Building permit required.

A building permit shall be required and shall be reviewed by the planning and zoning commission and approved by the town board.

(Ord. No. 175, § 1(812.02(subd. 2(4)(f))), 3-26-2019)

Sec. 30-1713. Prohibitions.

The township prohibits solar farms within the following areas:

- (1) Shoreland districts as designated by the department of natural resources (DNR) and this chapter;
- (2) Within 600 feet of areas formally designated or protected from development by federal, state or county agencies as wildlife habitat, wildlife management areas or designated as national wild and scenic land or corridor;
- (3) Wetlands to the extent prohibited by the Minnesota Wetland Conservation Act;

(4) FEMA-established floodplains.

(Ord. No. 175, § 1(812.02(subd. 2(4)(g))), 3-26-2019)

Sec. 30-1714. Dimensional standards.

All solar farms solar panels and their associated equipment such as metering pads and transformers shall meet the following standards:

Solar Farm Solar Panel Dimensions

<i>Dimensional Standard Setbacks</i>	<i>Distance (feet)</i>	<i>Height (feet)</i>
Side yard setback	50	
Rear yard setback	50	
County (CSAH) road setback*	660	
Town or private road setback*	660	
Panel height (at full tilt)		12

*Setbacks from roadways shall be measured from the edge of the right-of-way. When roads are not located within platted right-of-way or roadway easements, the roadway setback shall be measured from the centerline of the roadway.

(Ord. No. 175, § 1(812.02(subd. 2(4)(h))), 3-26-2019)

Sec. 30-1715. Screening.

All community solar energy systems (CSES)/solar gardens and their components such as metering pads, transformers, and similar equipment shall be screened from adjacent residential properties and right-of-way by vegetation that provides year-round coverage.

- (1) If existing screening in the form of vegetation that provides year-round coverage or site topography is such that it provides the required screening from adjacent residential properties and right-of-way, the screening requirement may be waived or reduced at the discretion of the town board.
- (2) Vegetative screening shall consist of an offset double row of evergreen trees (or other tree, shrub, or bush that provides year-round coverage) that will be six feet in height at installation and reach a minimum of 12 feet at maturity.

(Ord. No. 175, § 1(812.02(subd. 2(4)(j))), 3-26-2019)

Sec. 30-1716. Security fencing.

Security fencing shall consist of metal or wood and contain no barbed wire. If chain link fencing is used, it shall be coated in black vinyl to minimize the visual effect of the fence.

(Ord. No. 175, § 1(812.02(subd. 2(4)(k))), 3-26-2019)

Sec. 30-1717. Corridor preservation.

Natural wildlife, wetland, woodland or other lineal corridors shall remain open to travel by native fauna, reptilian and avian. Perimeter fencing and security measures must accommodate unimpeded wildlife migration through large solar array development site and areas. Plan approval may require corridor replacement, relocation, removal, and/or protection as determined by the zoning administrator.

(Ord. No. 175, § 1(812.02(subd. 2(4)(l))), 3-26-2019)

Sec. 30-1718. Power and communication lines.

All on-site power and communication line running between banks of solar panels and buildings shall be buried underground on premises. The town board may grant exemptions to this requirement in instances where water courses or other elements of the natural landscape interfere with the ability to bury lines. All overhead power and communication or transmission lines shall be subject to the essential services ordinance and right-of-way ordinance.

(Ord. No. 175, § 1(812.02(subd. 2(4)(m))), 3-26-2019)

Sec. 30-1719. Decommissioning plan.

At time of application for the project building permit the project developer shall submit a decommissioning plan for ground-mounted commercial solar farms to ensure that the permittee properly removes the equipment and facilities upon the end of project life or after their useful life. The permittee shall decommission the solar panels in the event they are not in use for 12 consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet the requirements of the county solid waste ordinance and applicable state pollution control agency regulations. The permittee shall provide an industry engineer's estimate of the eventual decommissioning cost and shall post financial surety in an amount equal to or greater than 125 percent of the engineer's estimated cost, to ensure proper decommissioning. All solar projects and decommissioning plans shall be subject to biennial review of current relevant economic factors associated with solar projects, solar technology and the solar industry, and may be subject to revised or escalated financial surety requirements, as determined to be necessary by the town board. Failure to maintain financial surety and current decommissioning plan shall be grounds for revocation and/or nullification of permit.

(Ord. No. 175, § 1(812.02(subd. 2(4)(n))), 3-26-2019)

Secs. 30-1720—30-1735. Reserved.

DIVISION 4. SUPPLEMENTARY SYSTEM STANDARDS

Sec. 30-1736. Additional standards.

In addition to the standards required in division 3 of this article, the following standards shall apply to all solar energy systems:

- (1) *Compliance with state building code.* All SESs shall require a building permit, shall be subject to the approval of the building official, and shall be consistent with the Minnesota State Building Code.

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- (2) *Compliance with state electrical code.* All photovoltaic systems shall comply with the Minnesota State Electrical Code.
 - (3) *Compliance with state plumbing code.* Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.
 - (4) *Compliance with state energy code.* All SESs shall comply with HVAC-related requirements of the energy code.
 - (5) *Utility notification.* No grid-intertied photovoltaic system shall be installed until the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
 - (6) *Security and equipment buildings.* Security and equipment buildings on the site of solar farms shall be permitted uses accessory to the solar farm.
 - (7) *Controlled access.* The owner or operator shall contain all unenclosed electrical conductors located above ground within structures that control access.

(Ord. No. 175, § 1(812.03), 3-26-2019)

APPENDIX 1. ANOKA COUNTY SHORELAND ORDINANCE¹¹

ORDINANCE #2019-6

Adopted by County Board Action on April 23, 2019

COUNTY OF ANOKA

Anoka County, Minnesota

SHORELAND MANAGEMENT ORDINANCE

1.0. STATUTORY AUTHORIZATION AND POLICY

Sec. 1.1. Statutory authorization.

This shoreland ordinance is adopted pursuant to the authorization and policies contained in M.S.A. Chapter 103F, Minnesota Regulations, Parts 6120.2500—6120.3900, and the planning and zoning enabling legislation in M.S.A. Chapter 394.

¹¹Editor's note(s)—Printed herein is the Anoka County Shoreland Ordinance, Ordinance Number 2019-6, adopted by the Anoka County Board on April 23, 2019, the provisions of which that are applicable to the Linwood Township are adopted by reference in section 30-575 of this Code. State law references, headings and catchlines have been made uniform and conform to the style used in the Code. Amendments to this county ordinance are indicated by parenthetical history notes immediately following the amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Any corrections or additions made for clarity are indicated by brackets.

Sec. 1.2. Policy.

The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Anoka County

2.0. GENERAL PROVISIONS AND DEFINITIONS

Sec. 2.1. Jurisdiction.

The provisions of this ordinance apply to the shorelands of all public waters located in the unincorporated areas of Anoka County, Minnesota for which there is no current Shoreland Ordinance, as identified in section 4.00[4.0] of this Ordinance. Specifically, land located within 1,000 feet from the ordinary high water level of a lake, pond, or flowage or 300 feet from a river or stream, or the landward extent of a floodplain designated by the local floodplain ordinance on a river or stream, whichever is greater.

Sec. 2.2. Enforcement.

The Anoka County Public Health and Environmental Services Department is responsible for the administration and enforcement of this ordinance. Except for provisions otherwise specifically addressed herein, the provisions of the Anoka County Administrative Procedures Ordinance and any amendments thereto or successor ordinance, shall apply to the administration and enforcement of this Ordinance. For the purposes of this ordinance, the term "Department," and in the Anoka County Administrative Procedures Ordinance, shall mean the Anoka County Public Health and Environmental Services Department.

Sec. 2.2.1. Violations.

Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitutes a misdemeanor and is punishable as defined by law and in the Administrative Procedures Ordinance. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section 3.2 of this ordinance.

In the event of a violation of this ordinance, the County may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations, and the County Attorney may institute such action.

Sec. 2.3. Severability.

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Sec. 2.4. Abrogation and greater restrictions.

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

Sec. 2.5. Definitions.

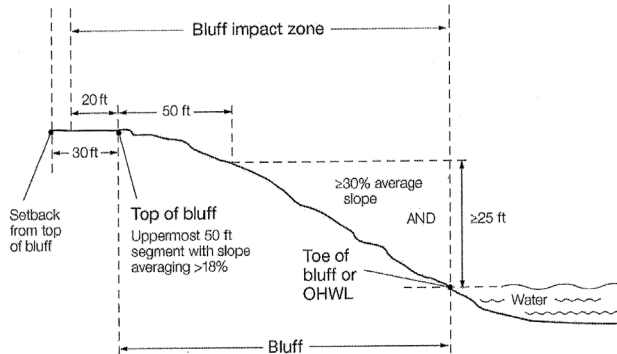
Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

2.5.1 *Accessory structure or facility.* Any building or improvement subordinate to a principal use.

2.5.2 *Animal feedlot.* A facility as defined by Minnesota Rules, Part 7020.0300.

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

- A. Part or all of the feature is located in a shoreland area;
- B. The slope rises at least 25 feet above the toe of bluff;
- C. The grade of the slope from the toe of the bluff to a point 25 feet or more above the toe of the bluff; and
- D. The slope must drain toward the waterbody.



Bluff, Bluff Impact Zone, Top and Toe of Bluff

2.5.4 *Bluff impact zone.* A bluff and land located within 20 feet of the top of a bluff.

2.5.5 *Bluff, Toe of.* The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

2.5.6 *Bluff, Top of.* For the purposes of measuring setbacks, the higher point of a 50-foot segment with an average slope exceeding 18 percent.

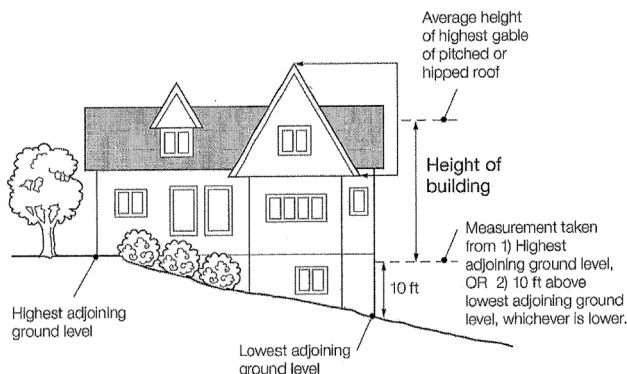
2.5.7 *Boathouse.* A facility as defined by M.S.A. § 103G.245.

2.5.8 *Buffer.* A vegetative feature as defined by M.S.A. § 103F.48.

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

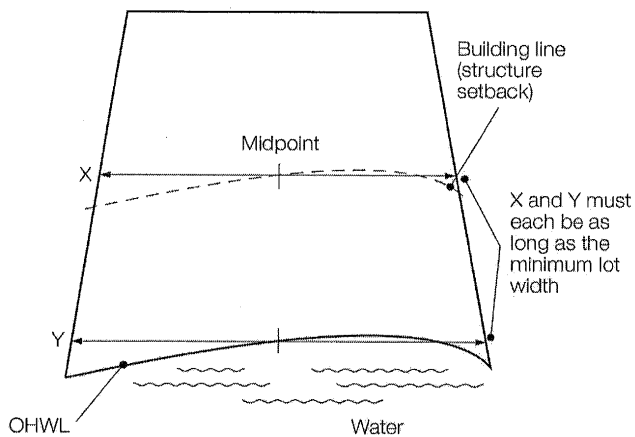
2.5.10 *Commercial planned unit developments.* Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented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

- 2.5.11 *Commercial use.* The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- 2.5.12 *Commissioner.* The commissioner of the Department of Natural Resources.
- 2.5.13 *Conditional use.* A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.
- 2.5.14 *Controlled access lot.* A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.
- 2.5.15 *Deck.* A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- 2.5.16 *Duplex, triplex, and quad.* A dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- 2.5.17 *Dwelling site.* A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- 2.5.18 *Dwelling unit.* Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- 2.5.19 *Extractive use.* The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under M.S.A. §§ 93.44 to 93.51.
- 2.5.20 *Forest land conversion.* The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
- 2.5.21 *Guest cottage.* A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
- 2.5.22 *Height of building.* The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.



Height of Building

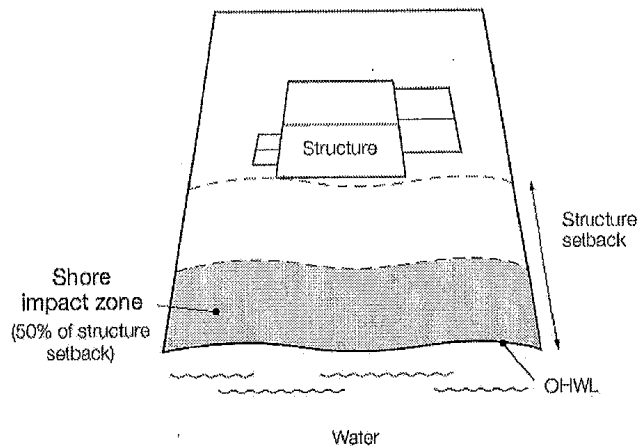
- 2.5.23 *Impervious surface.* A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces.
- 2.5.24 *Industrial use.* The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- 2.5.25 *Intensive vegetation clearing.* The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
- 2.5.26 *Lawn Area.* That portion of a lot required for the proper location and construction of a soil treatment system.
- 2.5.27 *Lot.* A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
- 2.5.28 *Lot width.* The minimum distance between:
- A. Side lot lines measured at the midpoint of the building line; and
 - B. Side lot lines at the ordinary high water level, if applicable.



Lot Width

- 2.5.29 *Metallic minerals and peat.* "Metallic minerals and peat" has the meaning given under M.S.A. §§ 93.44 to 93.51.
- 2.5.30 *Nonconformity.* Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.
- 2.5.31 *Ordinary high water level.* The boundary of public waters and wetlands and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

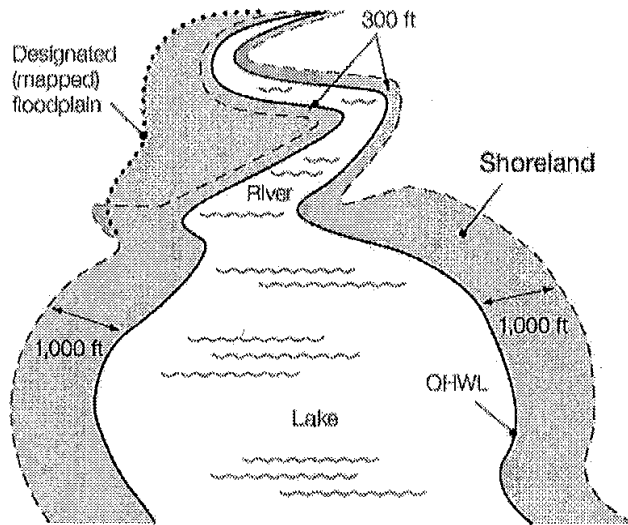
- 2.5.32 *Planned unit development.* A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- 2.5.33 *Public waters.* Any water as defined in M.S.A. § 103G.005, Subd[s]. 15, 15a.
- 2.5.34 *Residential planned unit development.* A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.
- 2.5.35 *Resort.* "Resort" has the meaning in M.S.A. § 103F.227.
- 2.5.36 *Semipublic use.* The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- 2.5.37 *Setback.* The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
- 2.5.38 *Sewage treatment system.* "Sewage treatment system" has the meaning given under Minn. R. part 7080.1100, Subp. 82.
- 2.5.39 *Sewer system.* Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- 2.5.40 *Shore impact zone.* Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.



Shore Impact Zone

- 2.5.41 *Shoreland.* "Shoreland" means land located within the following distances from public waters:

- A. 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and
- B. 300 feet from a river or stream, or the landward extent of a floodplain designated by the local floodplain ordinance on a river or stream, whichever is greater.



Definition of Shoreland

- 2.5.42 *Shore recreation facilities.* Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.
- 2.5.43 *Significant historic site.* Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the state register of historic sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S.A. § 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- 2.5.44 *Steep slope.* Lands having average slopes over 12 percent, as measured over horizontal distances of 50, feet or more, which are not bluffs.
- 2.5.45 *Structure.* Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.
- 2.5.46 *Subdivision.* Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- 2.5.47 *Suitability analysis.* An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.
- 2.5.48 *Variance.* "Variance" means the same as that defined in M.S.A. § 394.27, Subd. 7.

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- 2.5.49 *Water-oriented accessory structure or facility.* A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under M.S.A. § 103G.245 are not a water-oriented accessory structures.
- 2.5.50 *Water-dependent use.* The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.
- 2.5.51 *Wetland.* "Wetland" has the meaning given under Minnesota Rule, part 8420.0111.

3.0. ADMINISTRATION

Sec. 3.1. Purpose.

The purpose of this Section is to identify administrative provisions to ensure the ordinance is administered consistent with its purpose when a shoreland as defined in this ordinance is not otherwise regulated by a local shoreland ordinance or other applicable building code.

Sec. 3.1.1. Board of adjustment.

- A. A Board of Adjustment is hereby established and vested with such authority as hereinafter provided and as provided by M.S.A. § 394.27. Such Board shall consist of at least three (3) and not more than seven (7) members, excluding any elected officer of the County or employee of the Board of County Commissioners. The Board members shall be appointed and removed as determined by action of the County Board of Commissioners.
- B. The Board of Adjustment shall elect a chairman and vice chairman from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations.
- C. The meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify.
- D. The Board of Adjustment shall have the following powers:
- (1) To grant a variance as provided in this ordinance.
 - (2) To interpret zoning district boundaries.
 - (3) To permit the extension of a zoning district where the boundary lines thereof divides a lot in one ownership at the time of the passage of this ordinance, but such extension of any district shall not exceed one hundred (100) feet.
 - (4) To grant conditional use permits as specified in this Ordinance.
- E. [(5)] To hear and decide appeals from and to review any order, requirements, decision or determination made by an administrative official charged with enforcing this ordinance.
- F. [E.] Such appeal shall be taken in such time as shall be prescribed by the Board of Adjustment by general rule, by filing with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Board of

Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and decide the same within a reasonable time. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the Board's decision shall be stated.

Sec. 3.2. Permits.

3.2.1 A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 8.3 of this ordinance.

3.2.2 A certificate of compliance, consistent with Minnesota Rules Chapter[Part] 7082.0700[,] Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

Sec. 3.3. Application materials.

Application for permits and other zoning applications such as variances shall be made to the Department on the forms provided. The application shall include the necessary information so that the Department can evaluate how the application complies with the provisions of this ordinance.

Sec. 3.4. Certificate of shoreland compliance.

The Department shall issue a certificate of compliance for each activity requiring a permit as specified in Section 3.2 of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 2.2 of this ordinance.

Sec. 3.5. Variances.

Variances may only be granted in accordance with M.S.A. § 394.27 and are subject to the following:

3.5.1 A variance may not circumvent the general purposes and intent of this ordinance; and

3.5.2 For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter[Part] 7082.0700, Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

Sec. 3.6. Conditional uses.

All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:

3.6.1 The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

3.6.2 The visibility of structures and other facilities as viewed from public waters is limited;

3.6.3 There is adequate water supply and on-site sewage treatment; and

3.6.4 The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

Sec. 3.7. Mitigation.

3.7.1 In evaluating all variances, conditional uses, and building permit applications, the County shall consider, for the purpose of protecting adjacent properties, and the public interest:

- A. Advanced storm water runoff management treatment;
- B. Reducing impervious surfaces;
- C. Increasing setbacks from the ordinary high water level;
- D. Restoration of wetlands;
- E. Limiting vegetation removal and/or riparian vegetation restoration;
- F. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
- G. Other conditions the zoning authority deems necessary.

3.7.2 In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.

Sec. 3.8. Nonconformities.

3.8.1 All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to M.S.A. § 394.36, Subd. 5 and this ordinance for alterations and additions; repair after damage; discontinuance of use; and intensification of use.

3.8.2 All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Sections 5.0 to 8.0 of this ordinance. Any deviation from these requirements must be authorized by a variance.

Sec. 3.9. Notifications to the department of natural resources.

3.9.1 All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. Anoka County will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.

3.9.2 All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

3.9.3 All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

- 3.9.4 Any request to change the shoreland management classification of public waters within Anoka County must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, Part 6120.3000, Subp. 4.
- 3.9.5 Any request to reduce the boundaries of shorelands of public waters within Anoka County must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

Sec. 3.10. Mandatory EAW.

An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, Part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29, and 36a.

4.0. SHORELAND CLASSIFICATION SYSTEM AND LAND USES

Sec. 4.1. Shoreland classification system.

- 4.1.1 Purpose. To ensure that shoreland development on the public waters of Anoka County is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, Part 6120.3300.
- 4.1.2 The shoreland area for the waterbodies listed in Sections 4.13 to 4.15[4.1.3 to 4.1.5] are defined in Section 2.550 and are shown on the Official Shoreland Zone Map.
- 4.1.3 Lakes are classified as follows:

<i>Lake Classification</i>	<i>DNR Public Waters I.D. #</i>
General Development	
Martin	2-34
Coon	2-42
George	2-91
Unnamed - Sec[.] 17-20; T.33; R.24	2-94
Recreational Development	
Linwood	2-26
Rogers	2-104
Typo (public water that crosses Anoka Co Boundaries)	30-9
Natural Environment	
Higgins	2-2
Rondeau	2-15
Howard	2-16
Columbus	2-18
Crossways	2-19
Island	2-22

Skunk	2-25
Boot	2-28
Unnamed Sec. 27 & 28; T.33; R.[.]22	2-30
Unnamed Sec. 27 & 34; T.33; R.22	2-31
Little Coon	2-32
Fawn	2-35
Mud	2-105
Norris	2-106
Burns	2-122
Unnamed Sec. 6; T.33; R.25	2-124
Goose	2-127
Pinnakers	2-128
Pickrel	2-130
Bear	2-131
Bass	2-135
Benjamin	2-136
Mud (public water that crosses Anoka County Boundaries	82-168
West Twin (public water that crosses Anoka Co. Boundaries	71-1
Tamarack	2-21
Unnamed Sec[.] 5; T.33; R.22	2-24
Rice	2-43
Grass	2-92
Hickey	2-96
Mud	2-97
Swan	2-98
Unnamed Sec[.] 19 & 20; T.33; R.25	2-134
McCann	2-138
Unnamed Sec[.] 17, 20; T.32; R.22	2-520
Long (public water that crosses Anoka County Boundaries	30-2

4.1.4 Rivers and Streams are classified as follows:

<i>River and Stream Classification</i>	<i>Legal Description</i>
	Urban/agricultural/Transition; Forested/Remote
Ford Brook	Sec[.] 11; frm T.33; R.25; S2; to T32; R.25

Cedar Creek (public water that crosses Anoka County Boundaries)	Sec[.] 28; frm T.34; R.23; S6; to T32; R.24
Seeyle Brook (public water that crosses Anoka County Boundaries)	Sec[.] 26; frm T34; R.25; S8; to T33; R.24
Coon Creek	Sec[.] 14; frm T31; R24; S35; to T31; R.24
Rice Creek (public water that crosses Anoka County Boundaries)	Sec[.] 14; frm T31; R22; S36; to T31; R. 23
West Branch Sunrise River (public water that crosses Anoka County Boundaries)	Sec[.] 28; frm T34; R22; S36; to T34; R. 22
Sunrise River (public water that crosses Anoka County Boundaries)	Sec[.] 35; frm T33; R 22; S24; to T33; R 22

4.1.5 All public rivers and streams shown on the Public Waters Inventory Map for Anoka County, a copy of which is adopted by reference, not given a classification in Section 4.14 shall be considered "Tributary."

Sec. 4.2. Land uses.

4.2.1 Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.

4.2.2 Shoreland district land uses listed in Sections 4.23 and 4.24[4.2.3 and 4.2.4] are regulated as:

- A. Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed;
- B. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 3.6 of this ordinance and any additional conditions listed in this ordinance; and
- C. Not permitted uses (N). These uses are prohibited.

4.2.3 Land uses for lake classifications:

<i>Land Uses</i>	<i>General Development</i>	<i>Recreational Development</i>	<i>Natural Environment</i>
Single residential	P	P	P
Duplex, triplex, quad residential	P	P	C
Residential PUD	C	C	C
Water-dependent commercial - As accessory to a residential planned unit development	C	C	C
Commercial	P	P	C
Commercial PUD - Limited expansion of a commercial planned unit development	C	C	C

involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 10.0 of this ordinance are satisfied.			
Parks & historic sites	C	C	C
Public, semipublic	P	P	C
Industrial	C	C	N
Agricultural: cropland and pasture	P	P	P
Agricultural feedlots - New	N	N	N
Agricultural feedlots - Expansion or resumption of existing	C	C	C
Forest management	P	P	P
Forest land conversion	C	C	C
Extractive use	C	C	C
Mining of metallic minerals and peat	C	C	C

4.2.4 Land uses for river and stream classifications:

<i>Land Uses</i>	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agriculture</i>	<i>Urban</i>	<i>Tributary</i>
Single residential	P	P	P	P	P	P
Duplex, triplex, quad residential	C	P	P	P	P	P
Residential PUD	C	C	C	C	C	C
Water-dependent commercial - As accessory to a residential planned unit development	C	C	C	C	C	C
Commercial	C	C	C	C	P	P
Commercial PUD - Limited expansion of a commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the	C	C	C	C	C	C

provisions of Section 10.0 of this ordinance are satisfied.						
Parks & historic sites	C	C	C	C	C	C
Public, semipublic	C	C	C	C	P	P
Industrial	N	C	N	N	C	C
Agricultural: cropland and pasture	P	P	P	P	P	P
Agricultural feedlots - New	N	N	N	N	N	N
Agricultural feedlots - Expansion or resumption of existing	C	C	C	C	C	C
Forest management	P	P	P	P	P	P
Forest land conversion	C	C	C	C	C	C
Extractive use	C	C	C	C	C	C
Mining of metallic minerals and peat	C	C	C	C	C	C

4.2.5 Overlapping Districts. Where the shoreland district of two or more lakes or streams with differing classification overlap, the Department shall modify the district boundaries based upon topographic divide.

5.0. SPECIAL LAND USE PROVISIONS

Sec. 5.1. Commercial, industrial, public, and semipublic use standards.

5.1.1 Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:

- A. The use complies with provisions of Section 7.0;
- B. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
- C. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- D. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
 - (1) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - (2) Signs placed within the shore impact zone are:

-
- (a) No higher than ten feet above the ground, and no greater than 32 square feet in size; and
 - (b) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
- (3) Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.

5.1.2 Commercial, industrial, public, and semi-public uses that are not water-dependent must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

Sec. 5.2. Agriculture use standards.

5.2.1 Buffers.

- A. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- B. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.

5.2.2 New animal feedlots are not allowed in shoreland of watercourses or in bluff impact zones. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:

- A. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020;
- B. Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more; and,
- C. Old feedlots not currently in operation may resume operation consistent with M.S.A. § 116.0711.

Sec. 5.3. Forest management standards.

5.3.1 The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.

5.3.2 Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district.

Sec. 5.4. Extractive use standards.

Extractive uses are conditional uses and must meet the following standards:

5.4.1 *Site Development and Restoration Plan.* A site development and restoration plan must be developed, approved, and followed over the course of operation. The plan must:

- A. Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations;

- B. Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion; and
- C. Clearly explain how the site will be rehabilitated after extractive activities end.

5.4.2 *Setbacks for Processing Machinery.* Processing machinery must meet structure setback standards from ordinary high water levels and from bluffs.

Sec. 5.5. Metallic mining standards.

Mining of metallic minerals and peat is a conditional use provided the provisions of M.S.A. §§ 93.44 to 93.51, are satisfied.

6.0. DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS

Sec. 6.1. Purpose.

To establish dimensional and performance standards that protect shoreland resources from impacts of development.

Sec. 6.2. Lot Area and width standards.

After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in Sections 6.25 and 6.26[6.2.5 and 6.2.6], subject to the following standards:

- 6.2.1 Only lands above the ordinary high water level can be used to meet lot area and width standards;
- 6.2.2 Lot width standards must be met at both the ordinary high water level and at the building line;
- 6.2.3 The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property and a connection is made thereto;
- 6.2.4 Residential subdivisions with dwelling unit densities exceeding those in Sections 6.2.5 and 6.2.6 are allowed only if designed and approved as residential PUDs under Section 10.0 of this ordinance; and
- 6.2.5 Lake Minimum Lot Area and Width Standards:

	<i>Riparian</i>		<i>Nonriparian</i>	
	<i>Lot Area (sf)</i>	<i>Lot Width (ft)</i>	<i>Lot Area (sf)</i>	<i>Lot Width (ft)</i>
General Development - No Sewer				
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490
General Development - Sewer				
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245
Recreational Development - No Sewer				

Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490
Recreational Development - Sewer				
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245
Natural Environment - No Sewer				
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800
Natural Environment - Sewer				
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

6.2.6 River/Stream Minimum Lot Width Standards. There are no minimum lot area requirements for rivers and streams. The lot width standards in feet are:

	<i>Urban & Tributary</i>					
	Remote	Forested	Transition	Agricultural	No Sewer	Sewer
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

Sec. 6.3. Special residential lot provisions.

6.3.1 Unless restricted by local building codes, Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following standards:

- A. Each building must be set back at least 200 feet from the ordinary high water level;
- B. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
- C. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- D. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.

6.3.2 Unless restricted by local building codes, one guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 6.25 and 6.26[6.2.5 and 6.2.6], provided the following standards are met:

- A. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit;
- B. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
- C. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

6.3.3 Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:

- A. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in item 6.33.4 [this item 6.3.3];
- B. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

Ratio of lake size to shore length (acres/mile)	Required percent increase in frontage
Less than 100	25%
100 - 200	20%
201 - 300	15%
301 - 400	10%
Greater than 400	5%

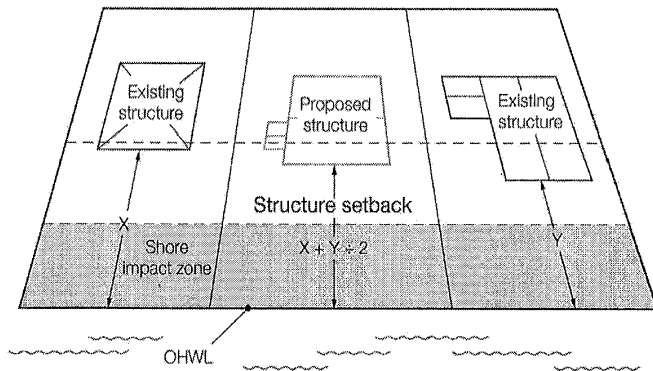
- C. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
- D. Covenants or other equally effective legal instruments must be developed that:
 - (1) Specify which lot owners have authority to use the access lot;
 - (2) Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;
 - (3) Limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water;
 - (4) Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and
 - (5) Require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

Sec. 6.4. Placement, height, and design of structures in shoreland management areas.

6.4.1 *Placement of Structures and Sewage Treatment Systems on Lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions:

Classification	Structures		Sewage Treatment System
	No Sewer	Sewer	
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75
General Development	75	50	50
Rivers and Streams			
Remote	200	200	150
Forested and Transition	150	150	100
Agriculture, Urban and Tributary	100	50	75

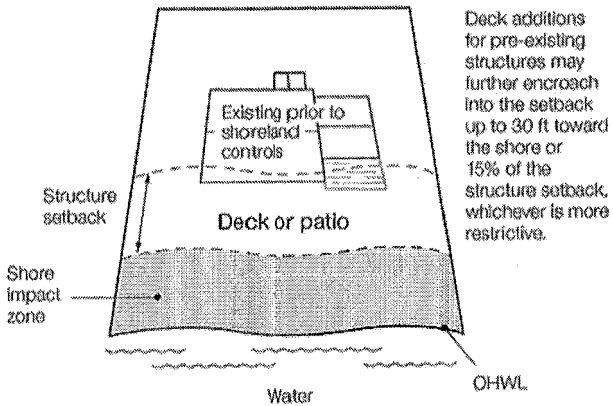
- A. *OHWL Setbacks.* Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 7.3 of this ordinance, may be set back a minimum distance often (10) feet from the OHWL;
- B. *Setback averaging.* Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;



Structure Setback Averaging

- C. *Setbacks of decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:
 - (1) The structure existed on the date the structure setbacks were established;

- (2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- (3) The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or is no closer than 30 feet from the OHWL, whichever is more restrictive; and
- (4) The deck is constructed primarily of wood and is not roofed or screened;



Deck Encroachment

D. *Additional structure setbacks.* Unless setbacks established in local building codes are more restrictive, structures must also meet the following setbacks, regardless of the waterbody classification:

<i>Setback from:</i>	<i>Setback (ft)</i>
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	30
Side and Rear Lot Lines	10
Protected type 3, 4, 5 wetland	50

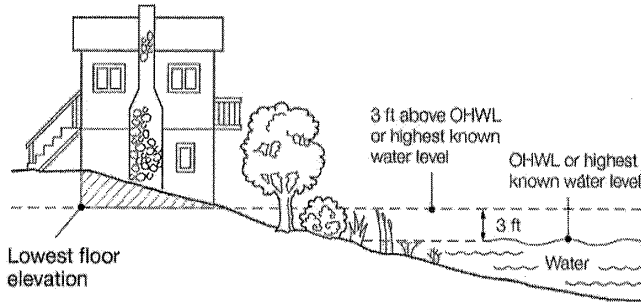
E. *Bluff Impact Zones.* Structures, impervious surfaces, and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

6.4.2 *Height of Structures.* Unless restricted by local building codes, all structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

6.4.3 *Lowest Floor Elevation.* Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

A. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

- B. For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, Parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
- C. If the structure is floodproofed instead of elevated under items .1 and .2 above [items A and B above], then it must be floodproofed in accordance with Minnesota Rules, Part 6120.5900, Subp. 3(D).



Lowest Floor Elevation

6.4.4 *Significant Historic Sites.* No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

Sec. 6.5. Water supply and sewage treatment.

In communities that do not have a state approved subsurface sewage treatment ordinance, the provisions of the Anoka County Sewage Treatment Ordinance, and any amendments thereto or successor ordinance, shall apply as if fully set forth herein.

6.5.1 *Water supply.* Any public water supply system must be compliant with the Minnesota Department of Health Drinking Water Protection Program and the Minnesota Pollution Control Agency.

6.5.2 *Sewage treatment.* Any premises used or intended to be used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with a state-approved municipal sewage ordinance and the Anoka County Sewage Treatment Ordinance.

7.0. PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES IN SHORELAND AREAS

Sec. 7.1. Placement and design of roads, driveways, and parking areas.

Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters and comply with the following standards:

-
- 7.1.1 Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
 - 7.1.2 Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met;
 - 7.1.3 Private facilities must comply with the grading and filling provisions of Section 8.3 of this ordinance; and
 - 7.1.4 For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

Sec. 7.2. Stairways, lifts, and landings.

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts, and landings must meet the following design requirements:

- 7.2.1 Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
- 7.2.2 Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public-space recreational uses, and planned unit developments by conditional use permit;
- 7.2.3 Canopies or roofs are not allowed on stairways, lifts, or landings;
- 7.2.4 Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- 7.2.5 Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- 7.2.6 Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of subitems 7.21 to 7.25[7.2.1 to 7.2.5] and the requirements of Minnesota Rules, Chapter 1341.

Sec. 7.3. Water-oriented accessory structures or facilities.

Each residential lot may have one water-oriented accessory structure or facility if it complies with the following provisions:

- 7.3.1 The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. The structure or facility may include detached decks or at-grade patios, not exceeding eight feet above grade at any point;
- 7.3.2 The structure or facility is not in the Bluff Impact Zone;
- 7.3.3 The setback of the structure or facility from the ordinary high water level must be at least ten feet;
- 7.3.4 The structure is not a boathouse or boat storage structure as defined under M.S.A. § 103G.245;

-
- 7.3.5 The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - 7.3.6 The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or sidewalls or used as a storage area;
 - 7.3.7 The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
 - 7.3.8 As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the shoreline; and
 - 7.3.9 Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 6.43 if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

8.0. VEGETATION AND LAND ALTERATIONS

Sec. 8.1. Purpose.

Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.

Sec. 8.2. Vegetation management.

- 8.2.1 Removal or alteration of vegetation must comply with the provisions of this subsection except for:
 - A. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
 - B. The construction of public roads and parking areas if consistent with Section 7.1 of this ordinance;
 - C. Forest management uses consistent with Section 5.3 of this ordinance; and
 - D. Agricultural uses consistent with Section 5.2 of this ordinance.
- 8.2.2 Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 5.3 of this ordinance.
- 8.2.3 Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - A. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - B. Existing shading of water surfaces along rivers is preserved;
 - C. Cutting debris or slash shall be scattered and not mounded on the ground; and

D. Perennial ground cover is retained.

8.2.4 Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.

8.2.5 Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

Sec. 8.3. Grading and filling.

8.3.1 Grading and filling and activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 7.1 of this ordinance.

8.3.2 Permit Requirements.

A. Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section 8.33[8.3.3] of this ordinance must be incorporated into the permit.

B. For all other work, including driveways not part of another permit, a grading and filling permit is required for:

- (1) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
- (2) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

8.3.3 Grading, filling and excavation activities must meet the following standards:

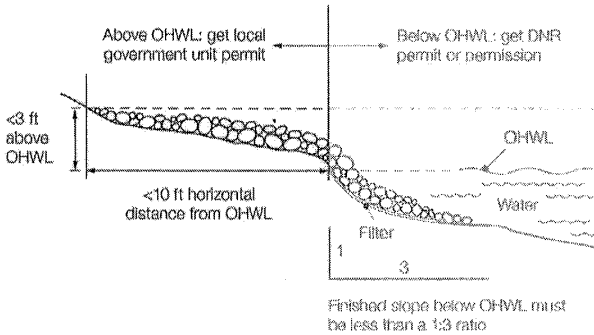
A. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers.

B. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:

- (1) Limiting the amount and time of bare ground exposure;
- (2) Using temporary ground covers such as mulches or similar materials;
- (3) Establishing permanent vegetation cover as soon as possible;
- (4) Using sediment traps, vegetated buffer strips or other appropriate techniques;
- (5) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
- (6) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- (7) Fill or excavated material must not be placed in bluff impact zones;
- (8) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under M.S.A. ch. 103G;
- (9) Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

(10) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:

- (a) the finished slope does not exceed three feet horizontal to one foot vertical;
- (b) the landward extent of the riprap is within ten feet of the ordinary high water level; and
- (c) the height of the riprap above the ordinary high water level does not exceed three feet.



Riprap Guidelines

8.3.4 Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

Sec. 8.4. Stormwater management.

8.4.1 General Standards.

- A. When possible, existing natural drainageways, 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 as soon as possible, and appropriate facilities or methods used to retain sediment on the site.
- C. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration 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.

8.4.2 Specific Standards.

- A. The combined area of all buildings and impervious surfaces on a parcel of land may not exceed 25% of the total area of the parcel or 25% of the buildable area, whichever is more restrictive.
- B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.
- C. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, Part 6115.0231.

9.0. SUBDIVISION/PLATTING PROVISIONS

Sec. 9.1. Purpose.

To ensure that new development minimizes impacts to shoreland resources and is safe and functional.

Sec. 9.2. Land suitability.

Each lot created through subdivision, including planned unit developments authorized under Section 10.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

Sec. 9.3. Consistency with other controls.

Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed to use the lots for their intended purpose.

Sec. 9.4. Water and sewer design standards.

- 9.4.1 A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 — 7081 must be provided for every lot.
- 9.4.2 Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, Parts 7080.2200 to 7080.223 or site conditions described in [Minnesota Rules,] Part 7081.0270, Subparts 3 to 7, as applicable.
- 9.4.3 Lots that would require use of holding tanks are prohibited.

Sec. 9.5. Information requirements.

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

- 9.5.1 Topographic contours at two-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;
- 9.5.2 The surface water features required in M.S.A. § 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;
- 9.5.3 Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- 9.5.4 Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments,

and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

9.5.5 Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

9.5.6 A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

Sec. 9.6. Dedications.

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

Sec. 9.7. Platting.

All subdivisions that cumulatively create five or more lots or parcels that are 2½ acres or less in size shall be processed as a plat in accordance with M.S.A. § 462.358, Subd. 3a (cities) and M.S.A. chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

Sec. 9.8. Controlled access lots.

Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 6.33[6.3.3] of this ordinance.

10.0. PLANNED UNIT DEVELOPMENTS (PUDs)

Sec. 10.1. Purpose.

Unless prohibited by local building codes, this Section shall be utilized to protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.

Sec. 10.2. Types of PUDs permissible.

Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land in compliance with Minnesota Rules, Parts 6120.3800. Deviation from the minimum lot size standards of Section 6.2 of this ordinance is allowed if the standards in this Section are met.

Sec. 10.3. Processing of PUDs.

Planned unit developments must be processed as a conditional use. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 10.5. Approval cannot occur until all applicable environmental reviews are complete.

Sec. 10.4. Application for a PUD.

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

- 10.4.1 Site plan and/or plat showing:
 - A. Locations of property boundaries;
 - B. Surface water features;
 - C. Existing and proposed structures and other facilities;
 - D. Land alterations;
 - E. Sewage treatment and water supply systems (where public systems will not be provided);
 - F. Topographic contours at two-foot intervals or less; and
 - G. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).
- 10.4.2 A property owner's association agreement (for residential PUDs) with mandatory membership, and consistent with Section 10.6 of this ordinance.
- 10.4.3 Deed restrictions, covenants, permanent easements or other instruments that:
 - A. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - B. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 10.6 of this ordinance.
- 10.4.4 A master plan/site plan describing the project and showing floor plans for all commercial structures.
- 10.4.5 Additional documents necessary to explain how the PUD will be designed and will function.

Sec. 10.5. Density determination.

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

- 10.5.1 *Identify Density Analysis Tiers.* Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high-water level at the following intervals, proceeding landward:

Classification	<i>Tier Depth</i>	
	<i>No Sewer (ft)</i>	<i>Sewer (ft)</i>
General Development Lakes - 1st tier	200	200
General Development Lakes - all other tiers	267	200
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320

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All Rivers	300	300
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10.5.2 *Calculate Suitable Area for Development.* Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.

10.5.3 *Determine Base Density.*

- A. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.
- B. For commercial PUDs:
- (1) Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.
 - (a) For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.
 - (b) For dwelling sites (campgrounds), determine the area of each dwelling site as follows:
 - (i) For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.
 - (ii) For recreational vehicles, campers or tents, use 400 sf.
 - (2) Select the appropriate floor area/dwelling site area ratio from the "Floor Area/Dwelling Site Area Ratio" table below for the floor area or dwelling site area determined in Section 10.5.3.A.

	<i>Floor Area/Dwelling Site Area Ratio</i>		
Inside Living Floor Area or Dwelling Site (sf)	<ul style="list-style-type: none"> •General Development Lakes w/ Sewer - all tiers •General Development Lakes w/ No Sewer — 1st tier •Agricultural, Urban and Tributary Rivers 	<ul style="list-style-type: none"> •General Development Lakes w/ No Sewer - all other tiers •Recreational Developmental Lakes •Forested and Transition Rivers 	<ul style="list-style-type: none"> •Natural Environment Lakes •Remote Rivers
< 200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,120	.125	.064	.032

1,300	.133	.068	.034
1,400	.142	.072	.036
> 1,500	.150	.075	.038

- (3) Multiply the suitable area within each tier determined in Section 10.5.2 by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.
 - (4) Divide the total floor area or dwelling site area for each tier calculated in Section 10.5.3.B.(1) by the average inside living floor area for dwelling units or dwelling site area determined in 10.5.3.B.(1). This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
- C. Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any tier closer to the waterbody.
 - D. All PUDs with densities at or below the base density must meet the design standards in Section 10.6
- 10.5.4 *Determine if the Site can Accommodate Increased Density.*
- A. The following increases to the dwelling unit or dwelling site base densities determined Section 10.5.3 are allowed if the design criteria in Section 10.6 of this ordinance are satisfied as well as the standards in Section 10.5.4.B.:

<i>Shortland Tier</i>	<i>Maximum density increase within each tier (percent)</i>		
1st	50		
2nd	100		
3rd	200		
4th	200		
5th	200		

- B. Structure setbacks from the ordinary high water level:
 - (1) Are increased to at least 50 percent greater than the minimum setback; or
 - (2) The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

Sec. 10.6. Design criteria.

All PUDs must meet the following design criteria:

10.6.1 *General Design Standards.*

- A. All residential planned unit developments must contain at least five dwelling units or sites.
- B. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 6.5 of this ordinance. Sewage treatment systems must meet the setback standards of Section 6.41[6.4.1], item A of this ordinance.

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- C. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
 - D. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 6.3 and 6.4.
 - E. Shore recreation facilities:
 - (1) Must be centralized and located in areas suitable for them based on a suitability analysis.
 - (2) The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
 - (3) Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
 - F. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
 - G. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
 - H. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 7.3 of this ordinance and are centralized.

10.6.2 *Open Space Requirements.*

- A. Open space must constitute at least 50 percent of the total project area and must include:
 - (1) Areas with physical characteristics unsuitable for development in their natural state;
 - (2) Areas containing significant historic sites or unplatted cemeteries;
 - (3) Portions of the shore impact zone preserved in its natural or existing state as follows:
 - (a) For existing residential PUDs, at least 50 percent of the shore impact zone.
 - (b) For new residential PUDs, at least 70 percent of the shore impact zone.
 - (c) For all commercial PUDs, at least 50 percent of the shore impact zone.
- B. Open space may include:
 - (1) Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
 - (2) Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
 - (3) Non-public water wetlands.
- C. Open space shall not include:
 - (1) Dwelling sites or lots, unless owned in common by an owner's association;
 - (2) Dwelling units or structures, except water-oriented accessory structures or facilities;
 - (3) Road rights-of-way or land covered by road surfaces and parking areas;

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- (4) Land below the OHWL of public waters; and
 - (5) Commercial facilities or uses.

10.6.3 *Open Space Maintenance and Administration Requirements.*

- A. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means the instruments must prohibit:
 - (1) Commercial uses (for residential PUDs);
 - (2) Vegetation and topographic alterations other than routine maintenance;
 - (3) Construction of additional buildings or storage of vehicles and other materials; and
 - (4) Uncontrolled beaching of watercraft.
- B. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owner's association with the following features:
 - (1) Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
 - (2) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
 - (3) Assessments must be adjustable to accommodate changing conditions; and
 - (4) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

10.6.4 *Erosion Control and Stormwater Management.*

- A. Erosion control plans must be developed and must be consistent with the provisions of Section 8.3 of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
- B. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area, except that 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 8.0 of this ordinance.

Sec. 10.7. Conversions.

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

- 10.7.1 Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;
- 10.7.2 Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;

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- 10.7.3 Shore and bluff impact zone deficiencies must be evaluated, and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
- A. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - B. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and
 - C. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
- 10.7.4 Existing dwelling unit or dwelling site densities that exceed standards in Section 10.5 of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage.

11.0. AMENDING AND REPEALING PRIOR ORDINANCES

Sec. 11.1. Amending and repealing.

The enactment of this ordinance repeals and replaces Anoka County Ordinance No. 80-2, adopted on January 8, 1980; Ordinance No. 81-1 adopted on September 8, 1981; Ordinance No. 91-2 adopted on August 27, 1991 and Ordinance no. 92-1 adopted on January 14, 1992.

12.0. EFFECTIVE DATE

Sec. 12.1. Effective date.

This ordinance shall become effective upon approval by the Anoka County Board of Commissioners.

Ordinance No. 80-2, adopted on January 8, 1980;

Ordinance No. 81-1 adopted on September 8, 1981;

Ordinance No. 91-2 adopted on August 27, 1991;

Ordinance No. 92-1 adopted on January 14, 1992; and

Ordinance No. 2018-8 adopted on October 9, 2018.

Adopted by the Board of Commissioners of Anoka County, Minnesota, the 23rd day of April 2019.

CODE COMPARATIVE TABLE

2004 CODE

This table gives the location within this Code of those sections of the 2004 Code, as supplemented through June 21, 2007, which are included herein. Sections of the 2004 Code, as supplemented, not listed herein have been

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omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances and other legislation adopted subsequent thereto, see the table immediately following this table.

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CODE COMPARATIVE TABLE LEGISLATION

This table gives the location within this Code of those ordinances and other legislation which are included herein. Ordinances and other legislation not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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Ord. No. 125	1-10-2006	1(605.01(subd. 1))	26-215
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		1(605.01(subd. 4))	26-218
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		2	30-1076
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Ord. No. 136	1-13-2009	2	4-68
Ord. No. 138	4-14-2009	—	12-19, 12-20
Ord. No. 139	2-9-2010	—	6-125
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Ord. No. 145	10-8-2013	1(810.01)	16-82
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