Chapter 153: Zoning

Contents

SECTION 1. GENERAL PROVISIONS 1
§ 153.1.1 TITLE. 1
§ 153.1.2 INTENT AND PURPOSE. 1
§ 153.1.3 JURISDICTION. 1
§ 153.1.4 APPLICATION AND INTERPRETATION. 1
§ 153.1.5 RULES AND DEFINITIONS. 1
A 2
B 2
C 4
D 5
E 6
F 6
G 8
H 8
I 9
J 9
L 10
M 12
N 13
O 13
P 14
R 16
S 17
T 20
U 20
V 21
W 21
Y 21
Z 21
SECTION 2. ADMINISTRATION AND ENFORCEMENT 22
§ 153.2.1 ENFORCEMENT; VIOLATIONS. 22
§ 153.2.2 BUILDING PERMITS. 22
§ 153.2.3 SEPARABILITY. 22
§ 153.2.4 BUILDABLE LOTS OF RECORD. 23
§ 153.2.5 ZONING ADMINISTRATOR. 23
§ 153.2.6 ZONING ADMINISRATOR POWERS AND DUTIES. 23
§ 153.2.7 PLANNING COMMISSION. 23

§ 153.2.8 BOARD OF ADJUSTMENT. 24
§ 153.2.9 AMENDMENTS. 24
§ 153.2.10 VARIANCES AND APPEALS. 26
§ 153.2.11 CONDITIONAL AND INTERIM USE PERMITS. 28
SECTION 3. ZONING DISTRICTS AND LAND USE 34
§ 153.3.1 ESTABLISHMENT OF DISTRICTS. 34
§ 153.3.2 LAND USE TABLE 34
SECTION 4. R-A, RESIDENCE AGRICULTURAL DISTRICT 38
§ 153.4.1 INTENT. 38
§ 153.4.2 ALLOWED USES. 38
§ 153.4.3 LOT REQUIREMENTS 38
SECTION 5. R-1, LEGACY RESIDENTIAL DISTRICT 39
§ 153.5.1 INTENT. 39
§ 153.5.2 ALLOWED USES. 39
§ 153.5.3 LOT REQUIREMENTS. 39
§ 153.5.4 OTHER REQUIREMENTS. 39
SECTION 6. R-2, NEIGHBORHOOD RESIDENTIAL DISTRICT 40
§ 153.6.1 INTENT. 40
§ 153.6.2 ALLOWED USES. 40
§ 153.6.3 LOT REQUIREMENTS. 40
§ 153.6.4 OTHER REQUIREMENTS. 40
SECTION 7. R-3, MULTIPLE FAMILY RESIDENTIAL DISTRICT 41
§ 153.7.1 INTENT 41
§ 153.7.2 ALLOWED USES. 41
§ 153.7.3 LOT REQUIREMENTS 41
§ 153.7.1 OTHER REQUIREMENTS. 41
SECTION 8. RB-1, RESIDENTIAL BUSINESS DISTRICT 42
§ 153.8.1 INTENT. 42
§ 153.8.2 ALLOWED USES. 42
§ 153.8.3 LOT REQUIREMENTS. 42
§ 153.8.4 OTHER REQUIREMENTS. 42
SECTION 9. B-1, GENERAL BUSINESS DISTRICT 43
§ 153.9.1 INTENT. 43
§ 153.9.2 ALLOWED USES. 43
§ 153.9.3 LOT REQUIREMENTS. 43
§ 153.9.4 OTHER REQUIREMENTS. 43
SECTION 10. B-2, HIGHWAY BUSINESS DISTRICT 44
§ 153.10.1 INTENT. 44
§ 153.10.2 ALLOWED USES. 44
§ 153.10.3 LOT AND BUILDING REQUIREMENTS 44
§ 153.10.4 OTHER REQUIREMENTS. 44

SECTION 11. B-3, BUSINESS DISTRICT—ADJACENT TO RAILROAD 45
§ 153.11.1 INTENT. 45
§ 153.11.2 ALLOWED USES. 45
§ 153.11.3 LOT REQUIREMENTS. 45
§ 153.11.4 OTHER REQUIREMENTS. 45
SECTION 12. I-1, INDUSTRIAL DISTRICT 46
§ 153.12.1 PURPOSE AND INTENT. 46
§ 153.12.2 ALLOWED USES. 46
§ 153.12.3 LOT AND BUILDING REQUIREMENTS. 46
§ 153.12.4 OTHER REQUIREMENTS. 46
SECTION 13. GENERAL STANDARDS 47
§ 153.13.1 INTENT. 47
§ 153.13.2 PARKING AND LOADING. 47
§ 153.13.3 REQUIRED OFF-STREET PARKING. 48
§ 153.13.4 PARKING LOT STANDARD. 48
§ 153.13.5 REQUIRED LOADING BERTHS. 49
§ 153.13.6 ROAD SETBACK REQUIREMENTS. 49
§ 153.13.7 ACCESSORY BUILDINGS. 49
§ 153.13.8 FENCING, SCREENING AND LANDSCAPING. 50
§ 153.13.9 UNPLATTED PROPERTY. 51
§ 153.13.10 DWELLING UNIT RESTRICTIONS. 52
§ 153.13.11 PERFORMANCE STANDARDS. 52
§ 153.13.12 HEIGHT AND YARD EXCEPTIONS. 53
§ 153.13.13 MONUMENTS. 53
§ 153.13.14 NONCONFORMING USES. 53
§ 153.13.15 ANTENNAS AND TOWERS. 54
§ 153.13.16 WIND ENERGY SYSTEMS (WES). 56
§ 153.13.17 SWIMMING POOLS 56
SECTION 14. CLUSTER DEVELOPMENTS; PLANNED UNIT DEVELOPMENTS 59
§ 153.14.1 PERMITTED TYPES. 59
§ 153.14.2 CONDITIONAL USE REQUIREMENTS. 59
§ 153.14.3 APPLICATION. 59
§ 153.14.4 PUBLIC UTILITIES. 59
§ 153.14.5 SITE EVALUATION; SUITABLE AREA. 59
§ 153.14.6 DENSITY EVALUATION. 59
§ 153.14.7 MAINTENANCE AND DESIGN CRITERIA. 61
§ 153.14.8 EROSION CONTROL; STORMWATER MANAGEMENT. 61
§ 153.14.9 CENTRALIZATION AND DESIGN OF FACILITIES. 61
§ 153.14.10 CONVERSIONS. 62
§ 153.14.11 EXISTING STRUCTURES. 62
§ 153.14.12 NONCONFORMITIES. 63

§ 153.14.13 OPEN SPACE REQUIREMENTS. 64
SECTION 15. LANDSCAPING REGULATIONS 65
§ 153.15.1 TITLE. 65
§ 153.15.2 INTENT. 65
§ 153.15.3 GENERAL PROVISIONS. 65
§ 153.15.4 DESIGN STANDARDS. 65
§ 153.15.5 SLOPES AND WALLS. 66
§ 153.15.6 BUFFERS. 66
§ 153.15.7 STREET TREES. 67
§ 153.15.8 PARKING LOTS. 67
§ 153.15.9 MAINTENANCE. 68
§ 153.15.10 NATIVE VEGETATION 68
SECTION 16. SIGN REGULATIONS 69
§ 153.16.1 PURPOSE AND INTENT. 69
§ 153.16.2 GENERAL SIGN REGULATIONS. 69
§ 153.16.3 IDENTIFICATION SIGNS. 70
§ 153.16.4 ADVERTISING SIGNS. 70
§ 153.16.5 BUSINESS SIGNS. 70
§ 153.16.6 LICENSES AND PERMIT FEES. 70
§ 153.16.7 EXEMPTIONS. 71
SECTION 17. SHORELAND MANAGEMENT 72
§ 153.17.1 STATUTORY AUTHORIZATION AND POLICY 72
§ 153.17.2 GENERAL PROVISIONS AND DEFINITIONS 72
§ 153.17.3 ADMINISTRATION 72
§ 153.17.4 SHORELAND CLASSIFICATION SYSTEM AND LAND USES 74
§ 153.17.5 SPECIAL LAND USE PROVISIONS 75
§ 153.17.6 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS 77
§ 153.17.7 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES 82
§ 153.17.8 VEGETATION AND LAND ALTERATIONS. 84
§ 153.17.9 SUBDIVISION/PLATTING PROVISIONS 86
§ 153.17.10 PLANNED UNIT DEVELOPMENTS (PUDs) 87
SECTION 18. FLOODPLAIN ORDINANCE 93
§ 153.18.1 STATUTORY AUTHORIZATION AND PURPOSE. 93
§ 153.18.2 JURISIDICTION AND DISTRICTS. 93
§ 153.18.3 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS. 94
§ 153.18.4 FLOODWAY DISTRICT. 96
§ 153.18.5 FLOOD FRINGE DISTRICT. 97
§ 153.18.6 GENERAL FLOODPLAIN DISTRICT. 100
§ 153.18.7 SUBDIVISION STANDARDS. 101
§ 153.18.8 PUBLIC AND PRIVATE UTILITIES, SERVICE FACILITES, ROADS, BRIDGES, AND RAILROADS. 101

§ 153.18.9 MANUFACTURED HOMES AND RECREATIONAL VEHICLES. 102
§ 153.18.10 ADMINISTRATION. 102
§ 153.18.11 NONCONFORMITIES. 104
§ 153.18.12 VIOLATIONS AND PENALTIES. 105
§ 153.18.13 AMENDMENTS. 106
§ 153.18.14 EFFECTIVE DATE 106
SECTION 19-98 RESERVED 106
SECTION 99. FEE SCHEDULE 106
§ 153.99.1 FEE SCHEDULE 106
SECTION 100. EFFECTIVE DATE 106

Amendments

Following is a list of amendments on file at city hall and incorporated into this document:

1. June 2026: Amend Section 1.5 Rules and Definitions, 9.3 General Business District setbacks, 13.17 incorporate swimming pool standards, and 99.1-2 incorporate fee schedule

SECTION 1. GENERAL PROVISIONS

§ 153.1.1 TITLE.

1. This chapter establishes regulations for the creation of zones for the purpose of management of land use and for requiring permits for uses therein. This chapter defines certain rules and defines terms used, outlines administrative procedures and makes provision for violation of this chapter. This chapter identifies districts and allowable uses; provides for accessory and conditional uses; lot, yard, area and height requirements. It replaces existing ordinances or parts of ordinances inconsistent herewith.
2. This Ordinance shall be known as the “Zoning Ordinance of Waverly, Minnesota” and will be referred to as “this Ordinance.”

§ 153.1.2 INTENT AND PURPOSE.

Pursuant to the authority conferred by the state in Minnesota Statutes, Sections 462.351 to 462.365, as they may be amended from time to time, the city hereby exercises certain powers granted to municipalities for the purpose of:

A. Promoting and protecting the public health, safety and general welfare of the inhabitants of the City of Waverly;

B. Promoting orderly development of the residential, commercial, industrial, recreational and public areas;

C. Securing the most appropriate use of the land;

D. Preventing the overcrowding of the land and undue congestion of the population causing social and economic impacts upon the city;

E. Protecting and conserving the natural and scenic beauty and attractiveness of the community; and

F. Implementing the adopted plans and policies of the city.

§ 153.1.3 JURISDICTION.

The jurisdiction of this Ordinance shall apply to all areas within the incorporated boundaries of the City of Waverly, all areas where the city exercises “extraterritorial jurisdiction” and shall include those areas specifically designated for orderly annexation unless otherwise specified in the agreements.

§ 153.1.4 APPLICATION AND INTERPRETATION.

1. Where the conditions imposed by any provision of this chapter are either more or less restrictive than comparable conditions imposed by any law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
2. No structure over 200 square feet shall be erected, converted, enlarged, reconstructed or altered without first obtaining a building permit, and no structure or land shall be used for any purposes nor in any manner which is not in conformity with the provisions of this chapter.
3. 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.

§ 153.1.5 RULES AND DEFINITIONS.

1. For purposes of this chapter, words used in the singular number includes the plural, and the plural the singular; the present tense includes the past and future tenses and the future the present; the word “shall” is mandatory, the word “may” is permissive; all measured distances shall be to the nearest integral foot; whenever a word or term defined hereinafter appears in the text of this chapter its meaning shall be construed as set forth in the definition thereof.

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

A

ABUTTING. Making contact with or separated only by public thoroughfare, railroad, public utility right-of-way, or navigable waters.

ACCESS DRIVE or ***DRIVEWAY.*** Ingress/egress for the purpose of access from a public street or county road to private property.

ACCESSORY BUILDING. A subordinate building or structure on the same lot or part of the main building, occupies by or devoted exclusively to an accessory use.

ACCESSORY USE. A use naturally and normally incidental to, subordinate to and auxiliary to the principal permitted use of the premises.

ACCESSORY STRUCTURE. A structure, as defined in this ordinance, that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.

ACCESSORY STRUCTURE - ANTENNA TOWER. Accessory structures used to enclose transmission, power, or other equipment which are used in connection with antennas and towers, which are located on the ground near the antennas or towers, and which comply with all standards applicable to antennas and towers. ***ALLEY.*** A public right-of-way usually 20 feet or less in width which normally affords a secondary means of vehicular access to abutting property.

ANIMAL FEEDLOT. A facility as defined by Minnesota Rules, part 7020.0300.

ANTENNA. Any structure or device used to collect or transmit electrical magnetic waves, including but not limited to directional antennas such as panels, microwave and satellite dishes, and omni-directional antennas such as whip antennas.

B

BASE FLOOD. The flood having a one-percent chance of being equaled or exceeded in any given year. "Base flood" is synonymous with the term "regional flood" used in Minnesota Rules, part 6120.5000.

BASE FLOOD ELEVATION (BFE). The elevation of the base flood, regional flood, or one-percent annual chance flood. The term "base flood elevation" is used in the flood insurance study.

BASEMENT. Any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BASEMENT. The portion of a floor of a building which is wholly or partially, up to 50%, underground or below grade.

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 must drain toward the waterbody;

C. The slope rises at least 25 feet above the ordinary high water level; and

D. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

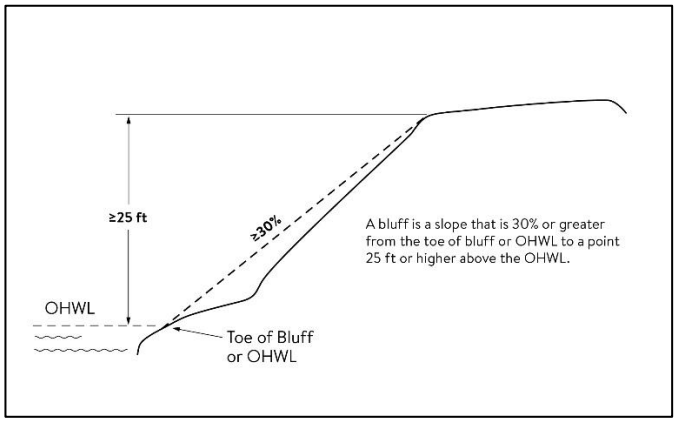
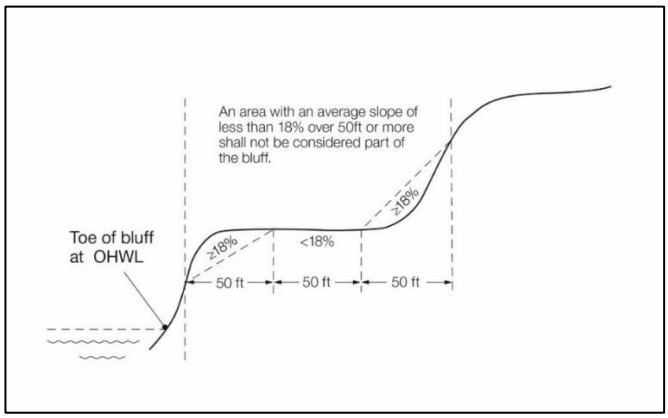
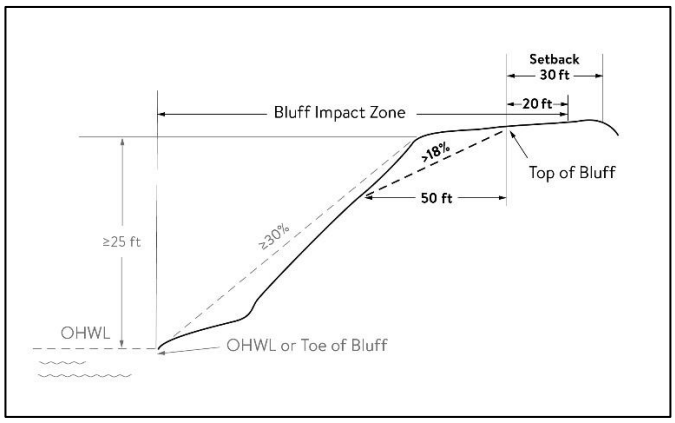


Figure 2. Exception to Bluff



BLUFF IMPACT ZONE. A bluff and land located within 20 feet of the top of a bluff (see Figure 3).

Figure 3. Bluff Impact Zone and Top of Bluff



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.

BLUFF, TOP OF. For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent (see Figure 3).

BOATHOUSE. A facility as defined by Minnesota Statutes, Section 103G.245.

BOARDING OR ROOMING HOUSE. Any dwelling occupied in any manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit are leased or rented to persons outside of the family, without any attempt to provide therein cooking or kitchen accommodations, providing that accommodations are not provided for more than ten persons.

BUFFER. A vegetative feature as defined by Minnesota Statutes, Section 103F.48.

BUILDABLE AREA. That portion of a lot that is the minimum contiguous area necessary to construct water supply systems, sewage treatment systems, public utilities, structures, and driveways while providing adequate setbacks. Except as otherwise provided, the “Buildable Area is that area remaining on a parcel after all setback requirements, bluffs, areas with slopes greater than 15 percent, easements and rights-of-way, historic sites, wetlands, sensitive resource management areas, and land below the ordinary high water level of public waters are subtracted. The “Buildable Area” may contain soils with limiting characteristics such as shallow bedrock or high water table.

BUILDING. Any structure, either temporary or permanent, having a roof, and used or built for the sheltered or enclosure of any person, animal or chattel or property of any kind, when any portion thereof is completely separated from every other part thereof by division walls from the ground up and without openings, each portion of the ***BUILDING*** shall be deemed as a separate ***BUILDING***.

BUILDING. See ***STRUCTURE***.

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

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.

BUILDING, PRINCIPAL. A building or structure in which is conducted the main or principal use of the lot on which the building or structure is situated.

BUILDING SETBACK LINE. The front line of the building or the legally established line which determines the location of the building with respect to the right-of-way line.

BUILDING SIGN. Any sign attached or supported by any Building.

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

C

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

CANNABIS RETAIL BUSINESSES. A retail location and the retail location(s) of mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, excluding lower-potency hemp edible retailers.

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

CARPORT. A structure permanently attached to a dwelling having one or more sides open.

CERTIFICATE OF OCCUPANCY. A certificate issued by the Building Official in accord with Building Code Section 109, as amended.

CERTIFICATE OF SURVEY. A legal graphic representation of the boundary survey of a parcel of real property along with the description of the land and the signed certification of a Minnesota licensed land surveyor. Unless waived by the Zoning Administrator, a Certificate of Survey must show boundaries of all structures on the parcel, and distance from lot lines and structures.

CHANNEL. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

CHILD CARE. See ***STATE LICENSED RESIDENTIAL FACILITIES***

CLEAR CUTTING. The removal of an entire stand of trees.

CLINIC. A public or proprietary institution providing diagnostic, therapeutic or preventive treatment

of ambulatory patients by a group of doctors acting in concert and in the same building for the purposes aforesaid.

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.

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

COMMERCIAL GREENHOUSE. A structure designed for growing plants in controlled environments, often used in agriculture or horticulture.

COMMISSIONER. The commissioner of the Department of Natural Resources.

COMPREHENSIVE PLAN or ***POLICY PLAN.*** A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the city and its environs, as defined in the planning and zoning book, and includes any unit or part of the plan separately adopted and any amendment to the plan or parts thereof.

COMMUNITY WATER AND SEWER SYSTEMS. Utilities systems serving a group of buildings, lots or any area of the community, with the design and construction of the utility systems as approved by the community and the state.

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.

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.

CRITICAL FACILITIES. Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in *ASCE 24-14, Flood Resistant Design and Construction,* as amended. Examples include health care facilities, facilities required for emergency response, power generating stations, communications towers, or electrical substations.

D

DAYCARE. A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day. See ***STATE LICENSED RESIDENTIAL FACILITIES*** for additional definitions.

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.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

DISTRICT ZONING. Any section of the unincorporated area of the city within certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DOG KENNEL. Any premise where three or more dogs over six month of age are kept per Chapter 92: Animals.

DRIVE THROUGH. A business that, by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles, excluding gasoline service stations as defined in this subdivision.

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.

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

DWELLING. A residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses or tourist homes.

A. ***ATTACHED DWELLING.*** A dwelling which is joined to another dwelling at one or more sides by a party wall.

B. ***MULTIPLE DWELLING.*** A building used or intended to be used as a dwelling by three or more families, where each dwelling unit is divided by a parts wall extending the full height of the ceiling. Each unit is capable of individual use and maintenance without trespassing upon adjoining properties and utilities and service facilities are independently serviceable.

C. ***SINGLE-FAMILY DWELLING.*** A dwelling occupied by only one family, and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for one family only.

D. ***TWO-FAMILY DWELLING.*** A dwelling so designed and arranged to provide cooking and kitchen accommodations and sanitary facilities for occupancy by two families.

E. ***SEASONAL DWELLING.*** A camper or recreational vehicle for seasonal use (6 months or less per calendar year) on a riparian lot and connected to city sewer and water.

E

EASEMENT. A grant by the owner of land to a person or persons or to the general public for a specific use of the land.

EQUAL DEGREE OF ENCROACHMENT. 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.

ESSENTIAL SERVICES. Those overhead or underground electric, gas, communication, hydrocarbon, steam, water or waste water transmission or distribution systems and structures necessary to service those systems; roads as defined elsewhere in this section; other utilities necessary to maintain the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith, but not including public buildings.

EXPANSION. Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.

EXTERIOR STORAGE or ***OPEN STORAGE.*** The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

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 Minnesota Statutes, Sections 93.44 to 93.51.

F

FAMILY. Persons living together on the premises in a single dwelling unit under one of the following conditions:

A. Four (4) or fewer unrelated persons, or;

B. Any number of persons related by blood, marriage or legal adoption, or;

C. Any number of persons related by blood, marriage or legal adoption, and two (2) unrelated persons.

A. ***FARM, GENERAL.***A farm on which crops and/or livestock are grown or fed for the purpose

of preparing livestock or products thereof, for sale, crops are sold or fed to livestock.

B. A ***GENERAL FARM*** shall be engaged in two or more aspects of the growing and/or raising of crops and/or livestock and shall not be considered to be an intensive livestock farm, and shall be ten acres in size.

FARMING. The cultivating or pasturing of a parcel of land or using it for the raising of livestock or fowl for commercial purposes.

FARMSTEAD. Property on which structures and a farm dwelling are located for management, storage and general farm operation.

FEEDLOT. A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts. See Minnesota Rules, part 7020.0300.

FEMA. Federal Emergency Management Agency.

FENCE. Any partition made of rails, timbers, chain link, boards, stone walls, hedges, vinyl or other materials, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or along the required yard.

FENCE - BOUNDARY-LINE. A fence that requires periodic maintenance and, in the case of vine or flowers being intertwined into a chain link fence or hedges, regular landscape maintenance.

FENCE FACE (.The finished side of a fence having no structural supports)

FENCE - FARM. An open type of fence of posts and horizontally run wire, further specified in Minnesota Statutes, section 344.02, Subd. I(a-d).

FENCE - MAINTENANCE-FREE. A fence constructed of chain link, steel, plastic or vinyl material.

FLOOD. A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.

FLOOD FRINGE. The portion of the one-percent annual chance floodplain located outside of the floodway.

FLOOD INSURANCE RATE MAP (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A ***FIRM*** that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY (FIS). The study referenced in Section 18.2, which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOODPLAIN. The beds, channel and the areas adjoining a wetland, lake or watercourse, or other source which have been or hereafter may be inundated by the base flood.

FLOODPLAIN, GENERAL. Those floodplains designated on the ***FLOOD INSURANCE RATE MAPS*** referenced in Section 18.2, but that do not have a delineated floodway.

FLOODPROOFING. A combination of structural and non-structural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.

FLOOR AREA, GROUND. The area within the exterior walls of the main building or structure as measured from the outside walls at the ground level, not including garages or enclosed or unenclosed porches and not including garages or accessory rooms having three or more exterior

sides.

FLOOR AREA RATIO. The numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which the building or buildings are located.

FLOOR PLAN. A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

FOREST LAND CONVERSION. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

FRONTAGE. The boundary of a lot which abuts an existing or dedicated public street.

G

GARAGE.

A. ***PRIVATE GARAGE.*** A garage with a capacity of not more than four power-driven vehicles for storage only, and which is erected as an accessory to a dwelling. Space to store up to two passenger vehicles may be rented to nonresidents.

B. ***PUBLIC GARAGE.*** Any premises, except those described as a private garage, used for the storage or care of power driven vehicles or where any vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

GASOLINE SERVICE STATION. A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of the commodities on or in the vehicles, but not including special facilities for the painting, major repair or similar servicing thereof.

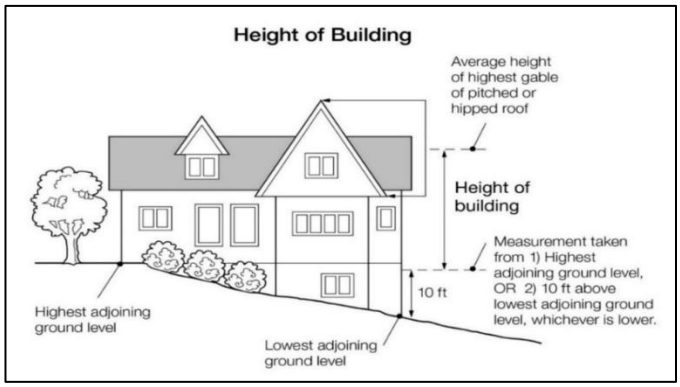
GUEST COTTAGE. A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

H

HARD SURFACED. A surface that is improved and maintained with an asphalt or portland cement binder material or such other surface as may be approved by the City, to provide a durable and dust free surface.

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 (see Figure 4).

Figure 4. Height of Building



HOME OCCUPATION. Any occupation of a service character not involving over the counter sales which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of the secondary use, other than permitted signs. This occupation shall be carried on or conducted only by members of a family residing in the dwelling and in connection with which there is kept no stock in trade or commodity for sale upon the premises. ***HOME OCCUPATION*** shall not involve the need for more than three parking spaces for

the occupant and visitors.

HOME EXTENDED BUSINESS. means an occupation or profession engaged in by the occupant of a dwelling unit, within said unit or accessory structure, which involves the storage of vehicles and equipment (as limited by this Ordinance and the conditions established by the City Council upon the review and recommendation of the Planning Commission); repair; service or assembly requiring equipment other than customarily found in a home; or the storage of stock in trade incidental to the performance of a service. The proposed activity shall be clearly incidental and secondary to the residential use of the premise, and shall only include the sale of merchandise incidental to the Home Extended Business.

I

INDUSTRIAL, HEAVY. Establishments involved in the manufacturing, fabrication or compounding of products, on a primarily wholesale basis, in particular those involving the use of mechanical power and machinery to produce products from raw materials, or to prepare or alter materials for use in a finished product, or to assemble parts into products where there is the creation of odor, dirt, dust and noise.

INDUSTRIAL, LIGHT. Establishments involved in the processing or assembly of products where the process involved is relatively clean and nuisance-free, in the creation of finished products for sale on a primarily wholesale basis.

INDUSTRIAL, SERVICE. Establishments involved in repair and servicing of industrial, or business machinery, equipment, products with some ancillary sales, repair, storage or salvage operations and truck stops.

INDUSTRIAL, WAREHOUSING DISTRIBUTION OR STORAGE. Establishments involved in the storage or distribution of materials or equipment on a primarily wholesale basis or as support to a service industry. Property can include equipment sales and rental and ancillary business offices.

ILLUMINATED SIGN. Any sign which contains an element designed to emanate artificial light internally or externally.

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, but not including decks or platforms where at least ¼ inch gaps are provided between deck boards that allows for water to drain/infiltrate.

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, gravel driveways, or permeable pavers; and other similar surfaces.

IMPROVEMENT. Making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

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

J

JUNKYARD, AUTOMOBILE WRECKING.

A. A place maintained for keeping, storing or piling in commercial quantities, whether temporarily, irregularly or continually; buying or selling at retail or wholesale any old, used or second- hand material of any kind, including used motor vehicles, machinery and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron or other metals or articles

which from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk.

B. This shall include a lot or yard for the keeping of unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment. This shall not prohibit the keeping of one unlicensed motor vehicle within a garage or other structure in residential districts or two unlicensed motor vehicles not including farm implements within a farm in the agricultural district.

L

LANDSCAPING. Plantings including trees, shrubs and grass.

LANDSCAPED AREA. The area within the boundaries of a given lot consisting primarily of plant material, including but not limited to grass, trees, shrubs, flowers, vines, ground cover and other organic plant materials. Inorganic materials, such as brick, stone, or aggregate.

LICENSED ENGINEER. An engineer who is licensed by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture and Interior Design.

LIGHT DUTY TRUCK. Any motor vehicle that has all three of the following:

A. 8,500 pounds Gross Vehicle Weight Rating or less;

B. vehicle curb weight of 6,000 pounds or less; and

C. basic vehicle frontal area less than 45 square feet.

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.

A. ***CORNER LOT.*** A lot situated at the intersection of two streets, the interior angle of the intersection not exceeding 135°.

B. ***THROUGH LOT.*** A lot which has a pair of opposite lot lines abutting two substantially paralleled 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 AREA. The area of a horizontal plane bounded by lot lines.

LOT COVERAGE. The part of percentage of the lot occupied by buildings or structures, including accessory building structures by impervious surfaces.

LOT DEPTH. The mean horizontal distance between the front lot line and the rear lot line.

LOT LINE. The property line bounding a lot except that where any portion of a lot extends into the public right-of-way shall be the lot line for applying this chapter.

A. ***FRONT LOT LINE.*** The boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the ***FRONT LOT LINE*** shall be designated by the owner and filed with the County Recorder.

B. ***REAR LOT LINE.*** The 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.

C. ***SIDE LOT LINE.*** Any boundary of a lot which is not a front lot line or a rear lot line.

LOT OF RECORD. Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an auditor's subdivision or a registered land survey that has been recorded in the Office of the County Recorder prior to the effective date of this chapter. ***LOT OF RECORD*** shall also include parcels of land for which a deed or contract for deed has been recorded in the office of the County Recorder prior to August 2, 1978, provided that the parcel or parcels were legally created in accord with ordinances in effect at the time the deed or contract was recorded.

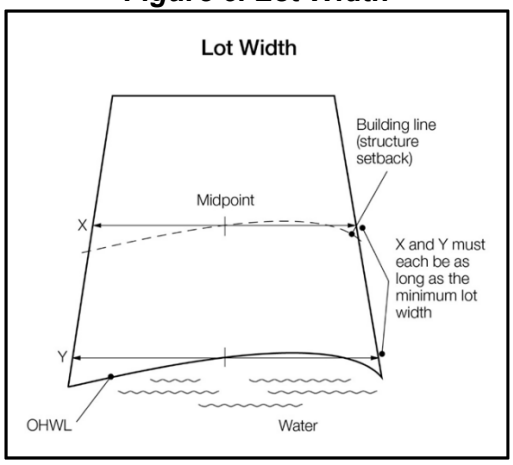
LOT, SUBSTANDARD. A lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the effective date of this chapter which does not meet the minimum lot area, structure setbacks or other dimensional standards of this chapter.

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 (see Figure 5).

Figure 5. Lot Width



LOWER-POTENCY HEMP EDIBLE. As defined under Minnesota Statutes, Section 342.01 subd. 50.

LOWEST FLOOR. The lowermost floor of the lowest enclosed area, including basement and crawl space. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement or crawl space area, is not considered a building's lowest floor.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3.

M

MAINTENANCE AND REPAIR. Upkeep or preservation of an existing structure or accessory structure or facility against normal wear and tear or degradation over time that does not change exterior dimensions. Examples include the rehabilitation or replacement of windows, siding, a roof, or exterior finishes such as paint or stain.

MANAGED NATURAL LANDSCAPE. A planned, intentional, and maintained planting of native or non-native grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, meadow vegetation, and ornamental plantings.

MANUFACTURED HOME. As defined in Minnesota Statutes, Section 327.31, Subdivision 6; or successor statutes and references in Section 150.01.

MANUFACTURED HOME PARK. Any site, lot, field or tract of land upon which two (2) or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

MARINA. Either an island or offshore commercial mooring facility for the concentrated mooring of seven or more watercraft or seaplanes wherein commercial ancillary services common to marinas are provided.

MEADOW VEGETATION. Grasses and flowering broad-leaf plants that are native to, or adapted to, the State of Minnesota and that are commonly found in meadow and prairie plant communities, not including noxious weeds.

METALLIC MINERALS AND PEAT*.* "Metallic minerals and peat" has the meaning given under

Minnesota Statutes, Sections 93.44 to 93.51.

MOBILE HOME. See ***MANUFACTURED HOME*** definition.

MOBILE HOME PARK. See ***MANUFACTURED HOME PARK*** definition.

MOTEL/HOTEL. A building or group of detached, semi-detached or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located, and which is designed, used or intended to be used primarily for accommodation of automobile transients.

MULTIPLE RESIDENCE or ***APARTMENT BUILDING.*** Three or more dwelling units in one structure.

N

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation, and includes any subsequent improvements to such structures.

NON-CONFORMING EXPAND or EXPANSION. Any increase in a dimension, size, area, volume or height, any increase in the area of use, any placement of a structure or part thereof where none existed before; any addition to a site feature such as a deck, patio, fence, driveway, parking area or swimming pool; any improvement that would allow the land to be more intensely developed; any move of operations to a new location on the property; any increase in intensity of use based on a review of the original nature, function or purpose of the non-conforming use; increase in the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees or such other factors deemed relevant by the city.

NON-COMFORMING IMPROVEMENT. Making the non-conforming use better, more efficient or aesthetically pleasing, including any change that does not replicate what pre-existed. A mere expansion, enlargement or intensification of a non-conforming use does not constitute an improvement for that reason alone.

NON-CONFORMING LAND USE. An activity using land, a building or structure, or a combination thereof, for a purpose that was lawful when established and which is not permitted by the provisions of existing land use regulations.

NON-CONFORMING STRUCTURE. A structure that was constructed in compliance with the land use regulations in effect at that time with respect to certain standards such as location, height, setback or size, but no longer complies in that regard with existing land use regulations.

NON-CONFORMING LOT. A lot that was lawfully established prior to adoption or applicable amendment of this chapter, which fails to conform to the present area or dimensional requirements of this chapter.

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.

NOXIOUS WEED shall have the meaning assigned by Minnesota Statutes, Section 18.77, Subd. 8.

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

NURSING HOME. A building with facilities for the care of children, the aged, infirm or place of rest for those suffering bodily disorder. The ***NURSING HOME*** shall be licensed by the State Board of Health, as provided for in Minnesota Statutes, Section 144.50 as it may be amended from time to time.

O

OCCUPANCY. The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include

change of tenants or proprietors

OFFICE OF CANNABIS MANAGEMENT. Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.

OFFICIAL MAP. A map adopted in accordance with Minnesota Statues Section 462.359 which may show existing and proposed future streets, roads, and highways of the municipality and county, the area needed for widening of existing streets, roads, and highways of the municipality and county, existing and proposed air space and subsurface areas necessary for mined underground space development pursuant to Minnesota Statutes Sections 462.351 to 462.364, and existing and future county state aid highways and state trunk highway rights-of-way.

OFF-STREET LOADING SPACE. A space accessible from a street, alley or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials. The space shall be of size as to accommodate one vehicle of the type used in the particular business.

OPEN SALES LOT or ***EXTERIOR STORAGE.*** Any land used or occupied for the purpose of buying and selling any goods, materials or merchandise and for the storing of same under the open sky prior to sale.

OPEN SPACE. - A ground level portion of a site that is permanently set aside for public or private open space use that will not be developed. Open space may be used as community open space or preserved as private green space that is permanently landscaped and maintained. Open space can include easements areas and other limited or restricted building areas as approved by City Council.

OPEN SPACE USE. A use oriented to and utilizing the outdoor, unimproved, natural character of an area, including trails, primitive campsites, waysides, parks and general recreation uses.

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.

ORNAMENTAL PLANTS. Grasses, perennials, annuals, and groundcovers purposefully planted for aesthetic reasons.

OUTLOT. A parcel of land, included in a plat, which is smaller than the minimum size permitted for lots and which is thereby declared unbuildable until combined through platting with additional land; or, a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or a parcel of land which is included in a plat and which is designated for public or private open space, right-of-way, utilities or other similar purposes.

OWNER. Any individual, firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient property interest in a property to commence and maintain proceedings under this Ordinance, or the owner of record.

P

PARKING SPACE.

A. ***PRIVATE PARKING SPACE.*** A surface with an asphalt or cement binder material or such other surface as may be approved by the City, to provide a durable and dust free surface that is permanently maintained on privately-owned property either within or outside of a building of sufficient size to store one standard automobile.

B. ***PUBLIC PARKING SPACE.*** An area sufficient in size to store one standard automobile, which has adequate access to a public street or alley.

PEDESTRIAN WAY. A public or private right-of-way across or within a block, to be used by pedestrians.

PERMITTED USE. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and performance standards (if any) of the district.

PERSON. Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law. Whenever the word ***PERSON*** is used in any section prescribing a penalty or fine, it shall include the partners or members of any corporation, who are responsible for the violation.

PERSONAL RECREATION FACILITIES. A private recreational space or equipment such as a tennis court, pool, pickle ball court, basketball court that is for noncommercial use by friends and family of the owner.

PLACE OF PUBLIC ACCOMMODATION. A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

PLACES OF WORSHIP. A building and uses, where persons regularly assemble for religious worship and which building, and uses, is maintained and controlled by a religious body organized to sustain public worship.

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.

PLANNING COMMISSION. The Planning Commission of the city.

PLAT. A drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Chapter 505 and containing all elements and requirements set forth in regulations adopted pursuant to Minnesota Statute Section 462.358 and Minnesota State Statutes Chapter 505.

POLE BUILDING. Any structure possessing the following characteristics: structural wood poles or timbers buried in ground on individual footings, metal wall coverings hung vertically of less than twenty-eight (28) gauge; or any structure constructed using post-frame design.

POOLS. As used in this chapter a ***POOL*** is an enclosure, designed, intended or used for the containment of 5,000 gallons of water or more and over 2 feet in depth, whether constructed below ground level or above ground level, which is designed, intended or used for swimming, wading, soaking or other recreational use by the owner or tenant of the property upon which the pool is constructed or by their family or invited guests including specifically, but not exclusively swimming pools, wading pools, lap pools, spas, whirlpools, jacuzzies, and excluding children's plastic play pools.

A. ***Permanent swimming pool.*** Any body of water contained by a steel, concrete, fiberglass vessel, or similar permanent material, whether in ground or above ground.

B. ***Temporary swimming pool.*** Any constructed pool, permanent or portable, which is intended for non-commercial use as a swimming pool by the owner's family and their guests.

PRACTICAL DIFFICULTIES. As defined in Minnesota Statutes, Section 462.357, Subdivision 6(2); or successor statutes.

PRELIMINARY LICENSE APPROVAL. OCM pre-approval for a cannabis business license for applicants who qualify under Minnesota Statute 342.17.

PRINCIPAL STRUCTURE OR USE. The main building which determines the predominant use as contrasted to accessory use or structure. Only one principal structure or use shall be permitted per lot, except as expressly permitted elsewhere in this chapter.

PROPERTY LINE. The boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project

developer and landowner.

PROTECTIVE COVENANT. A contract in readable form entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

PUBLIC LAND. Land owned or operated by a municipality, school district, county, state or other governmental units.

PUBLIC PLACE. A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.

PUBLIC NOTICES. Official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

PUBLIC UTILITY. Entities supplying gas, electric, transportation, sewer, water or land line telephone service to the general public, not including commercial wireless telecommunication service facilities.

PUBLIC STREET RIGHT OF WAY. The entire right of way of any public street.

PUBLIC WATERS. Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.

R

RAIN GARDENS. A depressed area landscaped with perennial native plant materials designed to provide natural filtration of runoff.

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

RECREATION.

A. ***COMMERCIAL OUTDOOR RECREATION.*** Commercial recreation which requires large land areas or location in a rural setting such as golf courses, driving ranges, flea markets, shooting ranges and the like, but not to include campgrounds nor recreational vehicle camps.

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

C. ***PUBLIC RECREATION.*** 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.

RECREATION EQUIPMENT. 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 or sheds utilized for storage of equipment.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Those vehicles not meeting this definition shall be considered a structure for the purposes of this ordinance. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation that is one foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the Floodway Data Tables, found in the Flood

Insurance Study.

REPLACEMENT AND RESTORATION. Reconstruction of part or all of an existing structure or accessory structure or facility that closely matches or replicates the preexisting structure or facility.

REPETITIVE LOSS. 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% of the market value of the structure before the damage occurred.

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.

RESIDENTIAL TREATMENT FACILITY. As defined under Minnesota Statute 245.462 subdivision 23.

RESORT. "Resort" has the meaning in Minnesota Statute, Section 103F.227.

RETAIL ESTABLISHMENT. Any place of business or portion of a place of business where THC Products are available for sale to the general public. Retail Establishments shall include, but are not limited to, grocery stores, convenience stores, tobacco products shops, gasoline service stations, bars, restaurants, CBD (Cannabidiol) stores, chiropractic/medical clinics, health/nutrition/supplement stores, and veterinary clinics. Retail Establishment shall not include any home-based business or sales out of any dwelling.

RETAIL STORE. A place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same zoning lot and include but not limited to those offering food, meat, drugs, clothing, art, jewelry, dry goods, notions, home supplies, paint, and wallpaper, as well as drive-in establishments such as automobile service stations, garages for vehicle storage and repair, motels, and restaurants which do not usually require on-site vehicular pick-up.

RETAIL REGISTRATION. An approved registration issued by the City or County to a state-licensed cannabis retail business.

REZONING. Changing any parcel or parcels from one zoning district to another through procedures established by this Ordinance.

S

SCHOOL. A public school as defined under Minnesota Statutes, Section 20A.05 or a nonpublic school that must meet the reporting requirements under Minnesota Statutes, Section 120A.24.

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.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SET BACK. 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.

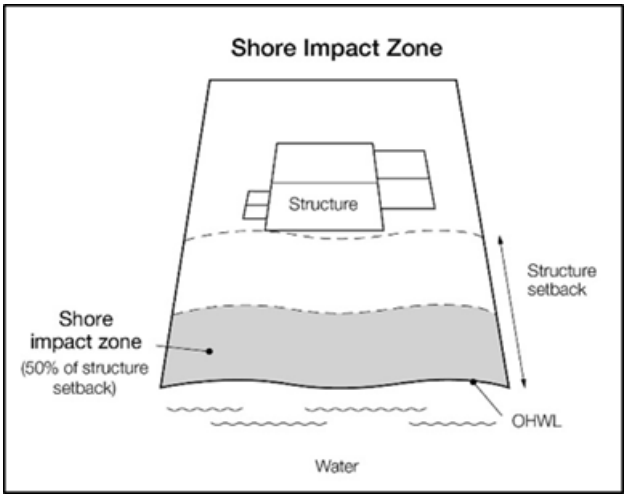
SETBACK MEASUREMENTS. All required setbacks shall be measured from the property line.

SEWAGE TREATMENT SYSTEM. "Sewage treatment system" has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82.

SEWER SYSTEM. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback (see Figure 6).

Figure 6. Shore Impact Zone

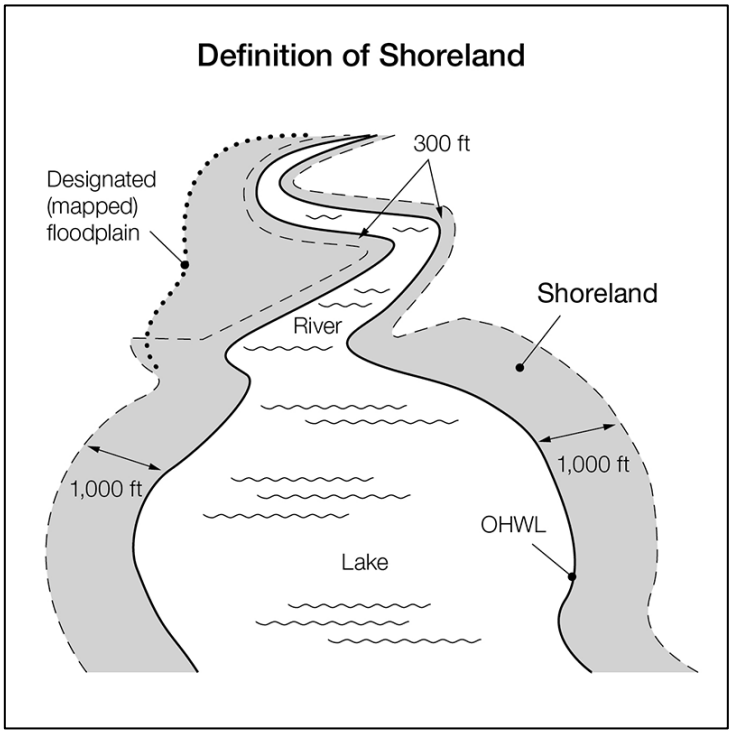


SHORELAND. "Shoreland" means land located within the following distances from public waters:

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 ordinance on a river or stream, whichever is greater (see Figure 7).

Figure 7. Definition of Shoreland



SHORE RECREATION FACILITIES. Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

SIGN.

A. ***ADVERTISING SIGN*** or ***BILLBOARD.*** A sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where the sign is located.

B. ***BUSINESS SIGN.*** A sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where the sign is located.

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 Minnesota Statutes, Section 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.

SITE PLAN**.** An illustration showing the existing conditions of the entire parcel, including the dimensions of the parcel, easements on or adjacent to the parcel, right-of-way on or adjacent to the parcel and any predominant topography platted parcels, streets, rights-of-way, easements and any predominant topography or natural features such as lakes and wooded areas

STAGE INCREASE. Any increase in the water surface elevation during the one-percent annual chance flood caused by encroachments on the floodplain.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STATE LICENSE. An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

STATE LICENSED RESIDENTIAL FACILITIES**.** A use which is required under Minnesota Statutes, Sections 462.357, as it may be amended from time to time.

A. ***"FAMILY DAY CARE"*** A day program providing care for not more than ten children at one time, and which is licensed by the county as a family day care home.

B. ***"GROUP DAY CARE"*** A day care program providing care for more than six children at one time. GROUP DAY CARE includes programs for children known as nursery schools, day nurseries, child care centers, play groups, day care centers for school age children, after school programs, infant day care centers, cooperative day care centers and Head Start programs.

C. ***"GROUP FAMILY DAY CARE"*** A family day care program providing care for no more than 14 children at any one time of which no more than ten are under school age.

D. ***"SUPERVISED LIVING FACILITY"*** For persons with developmental disabilities or related conditions where supervision, counseling, housing and DHS-licensed habilitative or rehabilitative program services are provided to serve five or more developmentally disabled clients.

STEEP SLOPE. Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

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

STRUCTURE. Anything which is built, constructed or erected;, including decks, a gas or liquid

storage tank that is principally above ground, or manufactured home. Recreational vehicles not considered travel ready, as detailed in Section 18.9, shall also be considered a structure for the purposes of this ordinance. Exceptions include aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

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

SUBSTANTIAL DAMAGE. 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. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. 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 ordinance, "historic structure" is defined in 44 CFR § 59.1.

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.

T

TEMPORARY FAMILY HEALTH CARE DWELLING. See Minnesota Statutes Section 462.3593.

TOWER. Any free-standing ground or roof-mounted pole, spire, structure or combination of them taller than fifteen (15) feet, including supporting lines, cables, wires, braces and masks, not wholly contained within a building or other structure and intended primarily for the mounting of an antenna, meteorologic device, rotor blades or similar apparatus above grade.

TOWER. Any pole, spire, or lattice structure, or combination thereof, to which an antenna is attached, or which is designed for an antenna to be attached, and all supporting materials.

TOWER, COMMERCIAL. A Tower designed or used for Commercial Wireless Telecommunications Services, public radio transmission or commercial television transmission.

TOWER, MULTI-USER. A Tower with antennas of more than one Commercial Wireless Telecommunications Service provider or governmental entity attached.

TOWER, SINGLE-USER. A Tower with only the antennas of a single user attached, although the Tower may be designed to accommodate antennas of multiple users as required by this Ordinance.

TOWNHOUSE. Single-family attached units in structures housing three or more dwelling units contiguous to each other, only by the share of one common wall and each dwelling unit shall have separate and individual front and rear entrances.

TURF-GRASS LAWN. A lawn comprised mostly of grasses commonly used in regularly cut lawns or play areas (such as bluegrass, fescue, and ryegrass blends), intended to be maintained at a height of no more than eight (8) inches.

U

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

V

VARIANCE. "Variance" means the same as that defined in 44 CFR § 59.1 and Minnesota Statutes, Section 462.357, Subd. 6(2).

W

WATERCOURSE. A channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term applies to either natural or artificially constructed channels.

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 uses typically found in shoreland areas.

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, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.

WETLAND. “Wetland” has the meaning given under Minnesota Rule, part 8420.0111.

Y

YARD. An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A ***YARD*** extends along a lot line at right angles to the lot line to a depth or width specified in the yard regulations for the zoning district in which the lot is located.

A. ***FRONT YARD.*** A yard extending across the front of the lot between the side lot lines and lying between the front line of the lot and the nearest line of the building.

B. ***REAR YARD.*** A yard extending across the full width of the lot and lying between the nearest line of the building.

C. ***SIDE YARD.*** A yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear.

Z

ZONING ADMINISTRATOR. The person duly appointed by the City Council as the individual charged with the responsibility of administering and enforcing this Ordinance..

ZONING AMENDMENT. A change authorized by the City, either in the allowed use within a district or in the boundaries of the district.

ZONING DISTRICT. An area or areas of the City (as delineated on the Zoning Map) set aside for specific uses with specific regulations and provisions for use and development as defined by this Ordinance.

ZONING DISTRICT OVERLAY. A zoning district containing regulations superimposed upon other zoning district regulations and where the more restrictive district use regulations shall apply.

ZONING MAP. The map setting forth the boundaries of the Zoning use Districts of the City, which map is a part of this Ordinance.

SECTION 2. ADMINISTRATION AND ENFORCEMENT

§ 153.2.1 ENFORCEMENT; VIOLATIONS.

1 This chapter shall be administered and enforced by the City Council or its authorized representative.

2 Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof shall be guilty of a misdemeanor and, upon conviction, shall be fined or be imprisoned the maximum permitted by state statutes and each day that a violation exists shall constitute a separate offense. Persons violating this Ordinance shall be responsible to pay for all staff time and reasonable attorneys fees associated with enforcement of the Ordinance.

§ 153.2.2 BUILDING PERMITS.

1 Building Permit Required.

No structure, fence, or sign may be erected, converted, enlarged, moved, demolished, reconstructed, or altered without obtaining a Building Permit, except agricultural fences in the Agricultural and Rural Residential Districts shall not require a building permit.

2 The terms “Structure” and “Fence” are defined in Section 153.1.5 of this Ordinance.

3 Short-term Rental is defined in Chapter 117.

4 No structure or land may be used for any purpose nor in any manner that does not conform with this Ordinance's provisions.

5 The Building Official will issue a Building Permit only after determining that the building plans and the application comply with this Ordinance.

6 If the Building Code does not require a Building Permit, a Site Permit must still be obtained to ensure compliance with setback, height, and use restrictions, and this Ordinance

7 Application. Building Permit Applications must be made to the Building Official on forms furnished by the Zoning Administrator's office. Site Permit Applications must be submitted to the Zoning Administrator on forms to be furnished by the Zoning Administrator's office.

8 Fee. Each applicant shall pay the required fees as established by the City Council's resolution at the time of application. Fees submitted with complete applications are non-refundable.

9 Plan. Each Building Permit Application to construct or alter any building with a foundation must be accompanied by a Certificate of Survey, if deemed necessary, drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected as well as existing structures, easements and ingress and egress routes. Building Permit Applications must also contain any other information the Building Official or City Clerk deems necessary.

10 Municipal Improvements. Subject to a Development Agreement, all municipal improvements serving the property must be completed (with roadways having at least one lift of blacktop) before building permits will be issued.

11 Certificate of Occupancy. No building or structure hereafter erected shall be occupied or used in whole or in part until a certificate of occupancy is issued stating that the building or structure complies with the provisions of this chapter. The certificate of occupancy shall be issued upon conducting a final inspection finding the building or structure satisfactory.

§ 153.2.3 SEPARABILITY.

1 If any court of competent jurisdiction declares any provision of this Ordinance invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.

2 If any court of competent jurisdiction declares invalid the application of any provision of this Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in

said judgment.

§ 153.2.4 BUILDABLE LOTS OF RECORD.

All lots which were separate tax parcels, were legally recorded in the office of the County Recorder, and were of legally sufficient size to meet minimum lot size requirements for a building at the time of this Ordinance's adoption October 14, 2025 shall be considered lots of records and shall continue to be legally buildable. It is the obligation of the owner of the property to demonstrate to the satisfaction of the Zoning Administrator that the lot is a lot of record which was legally buildable at the time of the adoption of this Ordinance.

§ 153.2.5 ZONING ADMINISTRATOR.

The City Council will appoint a Zoning Administrator who will administer and enforce this Ordinance. The City Council may authorize the Zoning Administrator to appoint assistants.

§ 153.2.6 ZONING ADMINISRATOR POWERS AND DUTIES.

1. To receive and review applications for building permits and issue building permits if such permit requests are in full compliance with the provisions of this Ordinance.
2. To receive and review application requests for action by the City Council and/or Planning Commission and provide such information, data, and testimony as may be necessary for action to be taken.
3. To make inspections to discover violations and check for compliance with this Ordinance. If violations of this Ordinance are discovered, the Zoning Administrator will notify the violators and take the necessary steps to correct the violation.
4. To maintain records of all actions taken pursuant to the provisions of this Ordinance.
5. To assist the public in complying with and understanding their responsibilities and rights under this Ordinance.
6. To identify and locate jurisdiction and zoning district boundaries and public waters by on-site investigation, interpretation of official maps, and other appropriate methods.
7. To forward a summary of all permits applied for and issued by date to the Planning Commission no less than once a month to be reviewed by the Planning Commission at their monthly meetings.
8. To accompany Planning Commission representatives on site visits.

§ 153.2.7 PLANNING COMMISSION.

1. **ESTABLISHMENT** There is hereby established per Section 33.02 of the Waverly Code of Ordinances. The Planning Commission shall be the City Planning Agency authorized by Minn. Stats. § 462.354.
2. **POWERS AND DUTIES.** The Planning Commission is advisory, except as other powers and duties are imposed on it by Sections 462.351 to 462.365 of Minnesota Statutes or by other state statutes or City ordinances. The Planning Commission has the powers and duties outlined in Chapter 33 Section 02 as well as the following:
    A. The Planning Commission shall hold the public hearings and will review conditional and interim use permits and rezoning applications and make recommendations to the City Council as to whether or not these applications should be granted, and if so, what conditions should apply. The City Council may hold an additional public hearing, if deemed necessary, and make the final decision on all conditional and interim use permit and rezoning applications.
    B. The Planning Commission shall hold the public hearing and will review variance requests and make recommendations to the City Council. The City Council, acting as the Board of Adjustment, will make the final decision on all variances.
    C. The Planning Commission will assist in developing the Comprehensive Land Use Plan and review amendments to the Plan for the City and make recommendations to City Council.

D. The Planning Commission may prepare zoning and subdivision ordinances and review amendments to these ordinances and recommend such ordinances to the City Council.

E. The Planning Commission will review appeals of decisions made by the Zoning Administrator and make recommendations to City Council. The City Council, acting as the Board of Adjustment, will make the final decision on all appeals of decisions of the Zoning Administrator.

F. The Planning Commission will have such additional duties and responsibilities as may be assigned by the City Council.

G. The Planning Commission may appoint a viewing committee to conduct site visits or may request that the Chair conduct site visits and report back to the Planning Commission.

§ 153.2.8 BOARD OF ADJUSTMENT.

1 **ESTABLISHED.** Waverly City Council will act as the Board of Adjustment (BOA), as allowed in Minnesota Statute, Section 462.354, as it may be amended from time to time.

2 **POWERS AND DUTIES.** The City Council, acting as the BOA, shall have the following powers and duties:

A. Hear and decide appeals where it is alleged there is an error in any order, requirements, decision or determination made by an administrative official or designee;

B. Hear and decide requirements for variances from this chapter of city code under the process specified in Section 153.2.4 of this chapter; and

C. Review all questions and appeals as they may arise regarding the interpretation of this chapter.

3 **PROCESS.**

A. Appeals may be taken by any person aggrieved or by any officer, department ,board, or commission of the city.

B. Any appeal decisions from the BOA shall be final except the appeals to District Court.

§ 153.2.9 AMENDMENTS.

1 **PURPOSE AND INTENT.**

A. City Council may adopt amendments to this chapter and the zoning map in relation to land uses within a zoning district or to the location of district lines. Such amendments shall not be issued indiscriminately but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the comprehensive plan. Amendments must be adopted by a majority vote of the city council. The adoption or amendment of any portion of a zoning and land management ordinance which changes all or part of the existing classification of a zoning district from residential to either a commercial or an industrial district, requires a two-thirds majority vote of the city council.

B. The following are the types of amendments the council may make:

1. A change in a district's boundary (rezoning)
2. A change in a district's regulations
3. A change in any other provision of this chapter

C. Initiation of Proceedings. An amendment to the Zoning Ordinance or Zoning Map may be initiated by the City Council, the Planning Commission or by a petition of affected property owners (as described below)

1. By action of city staff
2. By petition of an owner of property which is proposed to be rezoned or for which district regulation changes are proposed
3. By action of the city council or planning commission

2 PROCEDURE.

A. The property owner or their agent shall meet with the Zoning Administrator to explain the situation and obtain an application form.

B. Application. A person proposing a zoning amendment or change, including a rezoning, must fill out and submit to the Zoning Administrator a Zoning Application form at least thirty (30) days prior to the Planning Commission's next scheduled meeting. The application must be accompanied by the required fee and detailed materials fully explaining the proposal for an amendment to this Ordinance. The application must include a site plan showing the following, as applicable:

   1. Site Description (legal description).
   2. A Certificate of Survey.
   3. Site plan drawn to scale showing the parcel and building dimensions, area and setbacks.
   4. Location of all existing and proposed buildings and their square footage.
   5. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, sidewalks, vehicular circulation, and snow storage locations.
   6. Landscaping and screening plans.
   7. Waste facilities including enclosure and screening.
   8. Drainage and grading plan.
   9. Sanitary sewer and water plan with estimated use per day.
   10. Soil type.
   11. Any additional written or graphic information required to complete the review of compliance with this Ordinance by the Zoning Administrator or the Planning Commission.

C. Fees. A fee the City Council shall establish by resolution must accompany the application. An additional fee may be charged for atypical projects, which in the opinion of the Zoning Administrator will require additional staff time and/or City Expenditures. In such case, the applicant will be required to reimburse the City for administrative time, professional services and costs incurred by the City.

D. Completeness Review of Application. The Zoning Administrator will review the application and notify the applicant within fifteen (15) business days if the application is incomplete. If it is incomplete, the Zoning Administrator will document, in writing, what is needed to make the application complete.

E. Public Hearing. Once the application has been deemed complete, the Zoning Administrator will set a date for the official public hearing.

   1. Published Notice. The City will publish notice of the public hearing's time, place and purpose at least once in the City's official newspaper at least ten (10) days before the public hearing.
   2. Mailed Notice to Property Owners. The City will also mail notice of the public hearing's time, place and purpose not less than ten (10) days and not more than thirty (30) days before the hearing date to all individual property owners within three hundred fifty (350) feet, or the ten (10) closest property owners, whichever is greatest, of the parcel included in the request. The Zoning Administrator must attest and make a part of the proceedings' records a copy of the notice and list of the owners and addresses to which the notice was sent. A property owner's failure to receive notice or a defective notice shall not invalidate any proceedings.

F. Planning Commission Review and Recommendation. An amendment not initiated by the Planning Commission will be referred to the Planning Commission for review. The Zoning Administrator shall refer the application to the Planning Commission, together with the

Zoning Administrator's review and recommendations. An application may not be acted upon by the City Council prior to the recommendation of the Planning Commission unless the Planning Commission fails to make a recommendation within sixty (60) days.

G. The Planning Commission shall consider the request at their next regularly scheduled meeting and shall make a recommendation and report to the City Council. After reviewing the proposed zoning amendment or rezoning application the Planning Commission will make a written report and recommendation to the City Council.

H. The applicant or the applicant's representative must appear before the Planning Commission in order to answer questions concerning the Amendment, unless waived by the City.

I. City Council's Review. Upon receiving the Planning Commission's report and recommendation, the City Council will make the final decision with regard to rezonings. In any event, the City Council will act on an amendment request by petition within sixty (60) days after the Zoning Administrator receives the application and has deemed it complete or the City may extend the time for consideration under state law.

J. Vote Required. Approval of any amendment to this Ordinance requires approval by a majority vote of the full City Council, except that the adoption or amendment of any portion of this Ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of the full City Council per Minnesota Statutes, Sections 462.357 Subd.2(b).

K. Resubmission. No application of a property owner, which is substantially the same as an application of a denied rezoning request, shall be resubmitted for a period of one (1) year from the date of denial. The City Council may permit a new application if, in its opinion, new evidence or a change or circumstances warrant reconsideration.

L. Appeal. A petitioner may appeal the City Council's decision to the Wright County District Court as provided by law.

3 **EFFECTIVE DATE.** Unless the City Council provides otherwise, a zoning amendment will not become effective until after the City Council approves and publishes an Ordinance reflecting the amendment.

4 **RECORDING.** A certified copy of all Ordinances amending the Zoning Ordinance or rezoning any property shall be filed with the Wright County Recorder. The rezoning of any abstract or registered property shall include the legal description of the property involved.

5 **ZONING MAP.** The Zoning Administrator shall revise the City's Official Zoning Map each time property within the City is rezoned. The applicant shall pay all costs of changes to the Official Zoning Map.

§ 153.2.10 VARIANCES AND APPEALS.

1 **PURPOSE AND INTENT.** Pursuant to Minnesota Statutes, Section 462.357, subd. 6, as it may be amended from time to time, the City may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property. Variances shall only be permitted:

A. When they are in harmony with the general purposes and intent of the ordinance; and

B. When the variances are consistent with the comprehensive plan.

2 **APPLICATION AND PUBLIC HEARING.** The procedures for applying for a variance from this chapter are as follows:

A. The property owner or his agent shall meet with the zoning administrator to describe his or her situation, to be advised of the procedures and to obtain an application form.

B. The applicant shall file the completed application form together with the required exhibits with the zoning administrator and shall pay a filing fee as set by City Council. The application must include a site plan showing the following, as applicable:

1. Site description (legal description)

2. Letter explaining the special circumstances and conditions which the applicant alleges exist which are peculiar to the land, structures or buildings involved.
3. A Certificate of Survey.
4. Site plan drawn to scale showing the parcel and building dimensions, area and setbacks.
5. Location of all existing and proposed buildings and their square footage.
6. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, sidewalks, vehicular circulation, and snow storage locations.
7. Landscaping and screening plans.
8. Waste facilities including enclosure and screening.
9. Drainage and grading plan.
10. Sanitary sewer and water plan with estimated use per day.
11. Soil type.
12. Any additional written or graphic information required to complete the review of compliance with this Ordinance by the Zoning Administrator or the Planning Commission.

C. Completeness Review of Application. The Zoning Administrator will review the application and notify the applicant within fifteen (15) business days if the application is incomplete. If it is incomplete, the Zoning Administrator shall document in writing what is needed to make the application complete.

D. Once the application is deemed complete, the Zoning Administrator shall set a date for the official public hearing.
   1. Published Notice. The City will publish notice of the Public Hearing's time, place and purpose at least once in the City's official newspaper at least ten (10) days before the public hearing.
   2. Mailed Notice to Property Owners. The City will also mail notice of the public hearing's time, place and purpose not less than ten (10) days and not more than thirty (30) days before the hearing date to all individual property owners within three hundred fifty (350) feet or nearest ten (10) property owners, whichever is greater, of the parcel included in the request. The Zoning Administrator must attest and make a part of the proceedings' records a copy of the notice and list of the owners and addresses to which the notice was sent. A property owner's failure to receive notice or a defective notice shall not invalidate any proceedings.

E. Planning Commission Review and Recommendation. After the Zoning Administrator has reviewed the application and the date has been set for the public hearing, the Zoning Administrator shall refer the application to the Planning Commission, together with the Zoning Administrator's review and recommendations regarding the application. The Planning Commission shall consider the request at their next regularly scheduled meeting and shall make a recommendation and report to the City Council.
   1. The applicant or the applicant's representative must appear before the Planning Commission in order to answer questions concerning the Amendment, unless waived by the City.

F. Decision by City Council, acting as the Board of Adjustments. Upon receiving the Planning Commission's report and recommendation as to whether or not a variance should be granted. the City Council will make the final decisions on all variances. Approval of any Variance to this Ordinance will require passage by a majority of the votes cast.

G. Conditions and/or Revisions. If the City Council grants the Variance, it may impose conditions it considers necessary to protect public health, safety and welfare. The City Council may also revise the variance to ensure that it is the minimum variance required.

H. Written Findings. The City Council will issue written findings stating the reasons for its decision and any conditions imposed, and will serve a copy if its decision on the applicant by U.S. mail, within ten (10) days after its decision. In any event, the City Council will make a decision on each Variance application within sixty (60) days after the Zoning Administrator receives the application or will extend the time for consideration under state law.

I. Recording. A certified copy of every Variance to abstract or registered property shall be filed with the Wright County Recorder. The variance shall include the legal description of the property involved.

J. Resubmission. No application, which is substantially the same as and application of a denied Variance shall be resubmitted for a period of one (1) year from the date of the denial. The City Council may permit a new application if, in its opinion, new evidence or a change in circumstances warrant reconsideration.

3 **FINDINGS.** No variance in the provisions or requirements of this Ordinance shall be authorized by the City Council unless it finds evidence that the following facts and conditions exist:

A. Unique Circumstances. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district. The unique circumstances did not result from the acts of the property owner.

B. Necessary to Preserve Reasonable Use of the Property. The property cannot be put to a reasonable use without the variance. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity.

C. Not Merely Economic. The possibility of increased financial return or economic consideration will not in itself be deemed sufficient to warrant a variance if a reasonable use for the property exists under this Ordinance's terms. This means that cost or money savings cannot be the only reason for the variance.

D. Maintains the Character of the Neighborhood. The variance will not alter the area's essential character of the neighborhood.

E. Meets the Spirit of this Ordinance and Comprehensive Plan. The variance maintains the spirit and intent of this Ordinance and the Comprehensive Plan.

4 **OTHER CONSIDERATIONS.**

A. Non-Permitted Use. The City Council may not permit as a variance any use that is not permitted under this Ordinance for property in the zone where the affected person's land is located.

B. Variances in Floodplain Districts. No variance shall have the effect of allowing a Floodplain District 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.

C. Conditions. The City Council may impose conditions in granting variances to insure compliance and protect adjacent properties.

D. Public Property. No setback variances will be approved to allow buildings to be erected within public property or right-of-way.

5 **LAPSE OF VARIANCE.** If within one (1) year after granting a Variance the work permitted is not started, such variance shall become null and void unless a petition for an extension has been approved by the City Council.

§ 153.2.11 CONDITIONAL AND INTERIM USE PERMITS.

1 **PURPOSE AND INTENT.**

The purpose and intent of allowing conditional uses is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public safety as authorized in Minnesota Statutes, Section 462.3595.

2 The purpose and intent of allowing interim uses to:

A. To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction;

B. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district; or

C. To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

PROCEDURE.

A. The property owner or their agent shall meet with the Zoning Administrator to explain the situation and obtain an application form. A person applying for a conditional or interim use permit must submit an application to the Zoning Administrator at least thirty (30) days prior to the Planning Commission's next scheduled meeting. The application must be accompanied by the required fee and detailed exhibits fully explaining the specific request together with such information as is necessary to show compliance with this Ordinance. The application must include a site plan showing the following, as applicable:

1. Site description (legal description)
2. Letter explaining the special circumstances and conditions which the applicant alleges exist which are peculiar to the land, structures or buildings involved.
3. A Certificate of Survey.
4. Site plan drawn to scale showing the parcel and building dimensions, area and setbacks.
5. Location of all existing and proposed buildings and their square footage.
6. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, sidewalks, vehicular circulation, and snow storage locations.
7. Landscaping and screening plans.
8. Waste facilities including enclosure and screening.
9. Drainage and grading plan.
10. Sanitary sewer and water plan with estimated use per day.
11. Soil type.
12. Any additional written or graphic information required to complete the review of compliance with this Ordinance by the Zoning Administrator or the Planning Commission.
13. Uses the City Council determines to be substantially similar to those lists in specific zoning districts and not determinantal to the City's general health and welfare.

B. Fees. A fee the City Council shall establish by resolution must accompany the application. An additional fee may be charged for atypical projects, which in the opinion of the Zoning Administrator will require additional staff time and/or City Expenditures. In such case, the applicant will be required to reimburse the City for administrative time, professional services and costs incurred by the City.

C. Completeness Review of Application. The Zoning Administrator will review the application and notify the applicant with fifteen (15) business days if the application is incomplete. If it is incomplete, the Zoning Administrator document in writing what is needed to make the application complete.

D. Public Hearing & Notice. Once the application is deemed complete, the Zoning

Administrator will set a date for the official public hearing.

1. Published Notice. The City will publish notice of the public hearing's time, place and purpose at least once in the City's official newspaper at least ten (10) days before the public hearing.
2. Mailed Notice to Property Owners. The City will also mail notice of the public hearing's time, place and purpose not less than ten (10) days and not more than thirty (30) days before the hearing date to all individual property owners within three hundred fifty (350) feet or the ten (10) closest property owners, whichever is greatest, of the parcel included in the request. The Zoning Administrator must attest and make a part of the proceeding's records a copy of the notice and list of the owners and addresses to which the notice was sent. A property owner's failure to receive notice or a defective notice shall not invalidate any proceedings.

E. Planning Commission Review and Recommendation. After the Zoning Administrator has reviewed the application and the date has been set for the public hearing, the Zoning Administrator shall refer the application to the Planning Commission, together with the Zoning Administrator's review and recommendations.

1. The Planning Commission shall consider the request at their next regularly scheduled meeting and shall make a recommendation and report to the City Council as to whether the City Council should approve or deny the application. If approval is recommended, the Planning Commission may suggest conditions to be attached to the Conditional Use Permit
2. The applicant or the applicant's representative(s) must appear before the Planning Commission in order to answer questions concerning the Conditional Use Permit application.

F. City Council Review. Upon receiving the Planning Commission's report and recommendation, the City Council will consider the application at its next regular meeting, and make the final decision.

1. Vote Required. Approval of a Conditional Use Permit will require passage by a majority of the votes cast.
2. Conditions. If the City Council grants the Conditional Use Permit, it may impose conditions to it, or the Planning Commission, considers necessary to protect the public health, safety and welfare.
3. Written Findings. The City Council will issue written findings stating the reasons for its decision and any conditions imposed, and will serve a copy of its decision on the applicant by U.S. mail, within ten (10) days after its decision. In any event, the City Council will make a decision on each Conditional Use Permit application within sixty (60) days after the Zoning Administrator receives a completed application or may extend the time for consideration under state law.

G. Appeal. An applicant may appeal the City Council's decision to the Wright County District Court as provided by law.

H. Amendments. An application for an amendment to a Conditional Use Permit will be administered in the same manner as a Conditional Use Permit.

I. Resubmission. No application, which is substantially the same as an application of a denied Conditional Use Permit shall be resubmitted for a period of one (1) year from the date of denial. The City Council may permit a new application if, in its opinion, new evidence or a change of circumstances warrant reconsideration

3 Criteria for a Conditional or Interim Use Permit

In granting a Conditional Use Permit, the City Council will consider the advice and recommendation of the Planning Commission and the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding land, including land values. Among other things, the City Council must make the following findings when applicable.

A. Not a Burden on Public Facilities. The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

B. Compatible with Existing and Planned Adjacent Uses. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for existing and planned uses in the area.

C. No Adverse Affect on Adjacent Properties. The structure and site will not have an appearance, traffic, noise, odors, fumes, dust, vibration, light or emission levels or other features that will have an adverse effect upon adjacent properties for purposes already in use or permitted.

D. Related to the Needs of the City. The use is reasonably related to the overall needs of the City and to existing land uses.

E. Consistent with the Comprehensive Plan**.** The proposed use is in compliance with the Land Use Plan and other portion of the Comprehensive Plan adopted by the City.

F. Not a Traffic Hazard. The use will not cause a traffic hazard or congestion.

G. Adequate Parking and Loading. That maximum measures have been or will be taken to provide maximum off-street parking and loading space to serve the proposed use.

H. Not Detrimental to Health, Safety and Welfare. The proposed use will not be detrimental to the public health, safety, comfort and general welfare of the City.

I. Floodplain. For property located in Floodplain districts, the criteria set out in the Floodplain Ordinance will be met.

J. Shoreland. For property located in Shore land districts, the criteria set out in the Shoreland Management requirements will be met.

K. Feedlots. Feedlots will meet the requirements of this Ordinance and all other applicable ordinances.

4 ADDITIONAL CONDITIONS

In permitting a new conditional or interim use or the alteration of an existing conditional or interim use, the Planning Commission may recommend the imposition of and the City Council may impose conditions considered necessary to protect the best interest of the surrounding area or the City as a whole, in addition to the standards and requirements expressly specified by this Ordinance. These conditions may include, but are not limited to the following:

A. Increasing the required lot size or yard dimensions.

B. Limiting the height, size, number or location of buildings.

C. Controlling the location and number of vehicle access points.

D. Increasing the street width.

E. Increasing the number of required off-street parking spaces.

F. Limiting the number, size, location or lighting of signs.

G. Requiring diking, berming, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.

H. Designating sites for open space.

I. Designating operating hours and noise levels.

J. Any other condition the Planning Commission or City Council deems necessary to protect the public interest.

K. Additional Conditions may be imposed on property located in a floodplain in accord with the Floodplain Ordinance.

L. Additional Conditions may be imposed on property covered by the Shore land Ordinance.

5 CHANGES IN CONDITIONAL AND INTERIM USES

Any change involving structural alteration, enlargement, intensification of use, or similar change not specifically permitted by the Conditional or Interim Use Permit issued shall require an amended Conditional or Interim Use Permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator will maintain a record of all Conditional or Interim Use Permits issued including information on the use, location, and conditions imposed by the City Council, and such other information as may be appropriate.

6 RECORDING CONDITIONAL AND INTERIM USE PERMITS

A certified copy of any Conditional or Interim Use Permit shall be filed with the Wright County Recorder. The Conditional or Interim Use Permit shall include the legal description of the property involved.

7 REVOCATION

In the event that the applicant violates any of the conditions set forth in this permit, the City Council shall have the authority to revoke a Conditional or Interim Use Permit..

8 CERTIFICATION OF TAXES PAID

Before the City Council approves a Conditional or Interim Condition Use permit application, the City Council may request that the applicant provide certification that there are not delinquent property taxes, special assessments, interest, or utility fees due upon the parcel of land to which the interim use permit application relates.

9 LAPSE/EXPIRATION

If within one (1) year after granting a Conditional or Interim Use Permit the use has not been started, then the permit will become null and void unless the City Council has approved a petition for an extension. Conditional and Interim Use Permits expire if the authorized use ceases for any reason for more than six (6) months. Conditional Use Permits expire if the use is abandoned. A use is considered abandoned if the use is replaced by another use or discontinued for more than six (6) months.

10 COMPLIANCE

A. Revocation. The City Council may revoke a Conditional or Interim Use Permit if it determines that the permit's terms and conditions are not being complied with.

B. Procedure. The Building Inspector, Zoning Administrator, any Council member or the Mayor may bring before the City Council notice of a potential violation involving the terms or conditions of a Conditional or Interim Use Permit which has been issued in the City. In such event the Building Inspector or Zoning Administrator shall investigate the violation and report back to the Council. If the Council determines that proceedings to consider revocation of the permit are warranted, the Council shall provide five (5) days written notice to the owner of the property, as shown on the property tax records for which the Conditional or Interim Use Permit has been issued, of the time and place at which the Council will consider the revocation. The property owner shall have an opportunity to be heard after which time the Council may take all appropriate actions including the revocation and termination of the Conditional or Interim Use Permit t.

C. Costs of Enforcement. It shall be a term of any Conditional or Interim Use Permit issued by the City, whether or not specifically stated, that the property owner(s) shall pay all staff and reasonable attorney's fees associated with enforcement of the terms of the Conditional or Interim Use Permit.

11 TERMINATION OF INTERIM USE. An interim use shall terminate on the happening of any of the following events, whichever occurs first:

A. The date or event stated in the permit.

B. Upon violation of conditions under which the permit was issued.

C. Upon change in the zoning ordinance which renders the use non-conforming.

D. The property is redeveloped to a permitted or conditional use allowed in the respective zone

district.

SECTION 3. ZONING DISTRICTS AND LAND USE

§ 153.3.1 ESTABLISHMENT OF DISTRICTS.

1 The following district classifications are hereby established within the jurisdiction of this chapter:

A. R-A, Residence Agricultural district;

B. R-1, Legacy Residential district;

C. R-2, Neighborhood Residential district;

D. R-3, Multi-family Residential district;

E. RB-1, Residential Business district;

F. B-1, General Business district;

G. B-2, Highway Business district;

H. B-3, Business district – adjacent to railroad;

I. I-1, Industrial district; and

2 The boundaries of the districts enumerated in this section are hereby established and adopted as shown upon the map on file with the City Clerk/Treasurer and designated the “official zoning map of the city,” and dated October 2025, as may be amended, and bearing the signature of the Mayor and City Clerk/Treasurer. The map is hereby made a part of this chapter as if the same were fully set forth herein.

3 The boundaries of districts are the center lines of streets; the center lines of alleys, the rear lot lines where there are not alleys and the side lines of recorded lots, designated distances where land is unplatted or section lines.

4 Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case the Council, the Planning Commission or a property owner may request a study by the city 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 Council and/or Planning Commission upon receipt of the staff study may, if appropriate, initiate an amendment of this chapter to provide for particular use under consideration or may find that the use is not compatible for development within the city.

§ 153.3.2 LAND USE TABLE

1 The following permitted, conditional, interim uses in Waverly are set forth in the table below, organized by general use types and zoning district. Said table and all the notations, references, and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference.

2 Uses which were legally existing as of October 14, 2025, the date of adoption of this Ordinance, shall be considered legal nonconforming uses and may continue subject to the provisions of this section. Whenever in any zoning district, a use is neither specifically permitted nor denied, the use shall be subject to the judgment of the city administrator.

3 Pursuant to authority granted by Minnesota Statutes, Sections 462.3593, Subdivision 9, the city opts-out of the requirements of Minnesota Statutes, Sections 462.3593, which defines and regulates temporary family health care dwellings.

Use Type C = Conditional use I = Interim use P = Permitted use Blank = Not allowed	R-A	R-1	R-2	R-3	RB-1	B-1	B-2	B-3	I-1
ACCESSORY USES									
Accessory Use – Commercial/Office						P	P	P	P
Accessory Use - Operation and storage of vehicles, machinery and equipment	P								
Accessory Structure – Private or Personal Use	P	P	P	P	P				
Accessory Structure – Commercial Use					P	P	P	P	P
Boarding or renting rooms, not more than two persons	P	P	P						
Fencing (See Section 153.13.8)	P	P	P	P	P	P	P	P	P
Home occupation	P	P	P	P	P				
Home Extended Business	C	C			C				
Landscaping (See Section 15)	P	P	P	P	P	P	P	P	P
Loading and unloading areas					P	P	P	P	P
Parking (See Section 153.13.2)	P	P	P	P	P	P	P	P	P
Personal recreational facility	P	P	P	P	P				
Personal Storage, Indoor	P	P	P	P	P	P	P	P	P
Personal Storage, Outdoor	P				I			C	P
Temporary sales, farm products outdoor sales, service or rental					I	I	I	I	I
Other uses incidental to a permitted use					P				
AGRICULTURAL USES									
Agriculture, not raising/keeping animals	P								
Commercial greenhouse						P	P		
General farm	P								
Kennels, animal hospitals, stables	P								
One (1) mobile home connected with use of the farm	P								
Packaging agricultural products									C
Roadside stand of garden produce	P								
COMMERCIAL USES									
Automobile sales and services							P	C	
Banks, without drive through					P	P	P	P	
Banks, including drive through								P	
Bars, taverns, night clubs						P	P	P	
Cannabis Cultivation (see Chapter 153.400)									I
Cannabis Delivery (see Chapter 153.400)						I	I		I
Cannabis or Hemp Manufacturing (see Chapter 153.400)									I
Cannabis Retail (see Chapter 153.400)						I	I		I
Cannabis Transportation (see Chapter 153.400)						I	I		I
Cannabis Wholesaling (see Chapter 153.400)									I
Car wash								P	
Clinics, medical, optical, and dental					P	P	P	P	
Clinics, veterinary								P	
Commercial recreation						P	P	P	P
Commercial retail up to 3,000 sq. ft.					P	P	P	P	
Commercial retail > 3,000 sq. ft						P	P	P	

Use Type C = Conditional use I = Interim use P = Permitted use Blank = Not allowed	R-A	R-1	R-2	R-3	RB-1	B-1	B-2	B-3	I-1
Convenience store with fuel facilities					C	C	C	C	
Convenience store without fuel facilities					P	P	P	P	
Contractor and storage yard									I
Funeral homes					C	P	P	P	
Historic sites					P				
Hotel/motel						P	P		
Laboratory, dental or medical								P	
Laboratory, research and testing						P	P		
Mixed residential-commercial development					C	C	C		
Open air display areas for sale, incidental to indoor sales.							I		
Open sales lot					I				
Private clubs and lodges						P			
Professional use up to 3,000 sq. ft.					P	P	P	P	
Professional use > 3,000sq. ft.						P	P	P	
Licensed day care facility (12 or fewer persons)	P	P	P	P	P	P	P	P	P
Licensed day care facility (13 through 16 persons)				P	P	P	P	P	P
Licensed group family day care (14 or fewer children)	P	P	P	P	P	C	C	C	P
Licensed residential facility, including assist living (6 or fewer persons)	P	P	P	P	P	C	C	C	
Licensed residential facility, including assist living (7 through 16 persons)	C	C	C	C	C	C	C	C	
Rental of products or equipment including mobile home sale lots							I		
Repair, rental and servicing						P	P	P	
Restaurants						P	P	P	
INDUSTRIAL USES									
Antennas, towers, and accessory structures									P
Community solar gardens									I
Contractors equipment and storage yards									I
Industrial planned unit development									C
Industrial, Light								P	P
Industrial, Service									P
Industrial, Warehousing distribution or storage facilities									P
Wholesale business and warehousing									P
RESIDENTIAL USES									
Bed and breakfast					C				
Living quarters for persons employed on the premises	P						P		P
Lodging and rooming houses					C				
Manufactured Homes	P	P	P	P					
Manufactured Home Parks			C	C					
Multi-family buildings			P	P	C				
Nursing homes		C	C	C					
Residential planned-unit development	C		C	C					
Single family dwellings	P	P	P						

Use Type C = Conditional use I = Interim use P = Permitted use Blank = Not allowed	R-A	R-1	R-2	R-3	RB-1	B-1	B-2	B-3	I-1
Two-family dwellings	P	P	P		P				
Townhomes		C	P	P	C				
INSTITUTIONAL/PUBLIC USES									
Cemeteries		C							
Essential services, related equipment and structures	P	P	P	P	P	P	P		
Government and municipal buildings	C	C	C	C	P	P	P	P	
Hospitals	C	~~C~~	~~C~~			P	P		
Libraries, museums, memorial buildings	C	C	C						
Places of worship	C	C	C		P				
Public parks (recreation)	P	P	P	P	P				
Public or semipublic recreational buildings, community centers	P	C	C	C					
Public recreational areas	P								
Public transportation terminals						P	P		
Public utility buildings and structures	C	C	C	C		P	P	P	P
Schools	C	C	C						

SECTION 4. R-A, RESIDENCE AGRICULTURAL DISTRICT

§ 153.4.1 INTENT.

It is the intent of this district to provide areas within the city for agricultural operations and preserve areas with limited access to roads and public utilities by limiting development until such time that public infrastructure is available.

§ 153.4.2 ALLOWED USES.

For allowed uses, see land use table in Section 153.3.2

§ 153.4.3 LOT REQUIREMENTS

Minimum Area	20,000 square feet for single-family homes
Maximum Area	NA
Minimum Lot Width	75 feet at the public R-O-W line
Maximum Residential Density	1 unit per 40 acres
Front Yard/Road Setback	Setback requirements based on road classification. See Section 153.13.6 Road Setback Requirements
Side Yard Setback	15 feet
Rear Yard Setback	30 feet
Maximum Height:	35 feet for residential buildings No height requirements for agricultural buildings and essential service structures
Corner Lots	Front yard setbacks required on all sides along a public street
Intensive farming	Shall be located at least 1,000 from non-farm residential uses, developed property of any class, or lands planned for other development

SECTION 5. R-1, LEGACY RESIDENTIAL DISTRICT

§ 153.5.1 INTENT.

It is the intent of this district to permit the development of single and two-family dwellings in developed areas of the city on small lots with urban services; to provide reasonable standards for the development; to allow property owners to maintain and improve the existing homes; to prohibit the use of land which would be incompatible with or detrimental to the essential residential character of the districts.

§ 153.5.2 ALLOWED USES.

For allowed uses, see land use table in Section 153.3.2

§ 153.5.3 LOT REQUIREMENTS.

Minimum Area	10,000 square feet for single family homes 5,000 square feet for two-family homes
Minimum Lot Width	50 feet at the public R-O-W line
Minimum Lot Depth	150 feet
Front Yard/Road Setback	Setback requirements based on road classification. See Section 153.13.6 Road Setback Requirements
Side Yard Setback	10 feet
Rear Yard Setback	30 feet
Maximum Height:	35 feet for residential buildings
Corner Lots	Front yard setbacks required on all sides along a public street

§ 153.5.4 OTHER REQUIREMENTS.

1. For property within 1,000 feet of a designated public lake or waterway, see Section 17 for additional requirements that may supersede these lot requirements.
    (1) Existing riparian lots zoned R-1 on Waverly Lake that are one (1) acre or less may have a road setback less than 30 feet but no closer than 10 feet from the lot line.
2. For property within a designated floodplain or fringe area, see Section 18 for additional requirements that may supersede these lot requirements.
3. For other standards related to topics such as parking, accessory buildings, fencing, landscaping, and towers, see Section 13.
4. Farm animals are an interim use in single family homes. See Section 92.22 for standards and requirements for the keeping of animals.

SECTION 6. R-2, NEIGHBORHOOD RESIDENTIAL DISTRICT

§ 153.6.1 INTENT.

It is the intent of this district to provide for the orderly development of suburban style residential neighborhoods; permit the development of single-family homes, twin homes, and duplexes; to provide reasonable standards for the development; to prohibit the use of land which would be incompatible with or detrimental to the essential residential character of the districts.

§ 153.6.2 ALLOWED USES.

For allowed uses, see land use table in Section 153.3.2

§ 153.6.3 LOT REQUIREMENTS.

	Single Family	Townhomes	3 or More
Minimum Area	9,000 square feet	5,000 square feet per unit	18,000 square feet for multifamily buildings, plus 1,500 square feet for each additional unit above 3 units
Minimum Lot Width at public ROW line	75 feet	32 feet	150 feet
Minimum Lot Depth	125 feet	125 feet	125 feet
Front Yard/Road Setback	Setback requirements based on road classification. See Section 153.13.6 Road Setback Requirements		
Side Yard Setback	10 feet	10 feet	15 feet
Rear Yard Setback	30 feet	30 feet	30 feet
Maximum Height:	35 feet for residential buildings		
Corner Lots	Front yard setbacks required on all sides along a public street		

§ 153.6.4 OTHER REQUIREMENTS.

1. For property within 1,000 feet of a designated public lake or waterway, see Section 17 for additional requirements that may supersede these lot requirements.
2. For property within a designated floodplain or fringe area, see Section 18 for additional requirements that may supersede these lot requirements.
3. For other standards related to topics such as parking, accessory buildings, fencing, landscaping, and towers, see Section 13.
4. Farm animals are an interim use on lots with single family homes. See Section 92.22 for standards and requirements for the keeping of animals.

5

SECTION 7. R-3, MULTIPLE FAMILY RESIDENTIAL DISTRICT

§ 153.7.1 INTENT

The intent of the Multiple Family Residential District is to allow for the development of small scale multifamily housing that meets the needs of the community while maintaining its rural character. This district is intended to provide reasonable standards for density and design to ensure that such development is compatible with surrounding land uses, avoids overcrowding, and provides housing for a range of ages and incomes.

§ 153.7.2 ALLOWED USES.

For allowed uses, see land use table in Section 153.3.2

§ 153.7.3 LOT REQUIREMENTS

Minimum Area	12,000 square feet
Number of Permitted Units based on lot Acreage	Lot requirements by unit type 2,500 square feet for each Efficiency unit 3,000 square feet for each One-Bedroom unit 3,500 square feet for each Two-Bedroom unit 4,000 square feet for each Three-Bedroom unit
Minimum Lot Width	N/A
Minimum Lot Depth	N/A
Front Yard/Road Setback	Setback requirements based on road classification. See Section 153.13.6 Road Setback Requirements
Side Yard Setback	20 feet
Rear Yard Setback	20 feet
Maximum Height:	Three stories feet or 40 feet in height
Corner Lots	Front yard setbacks required on all sides along a public street
Impervious Surface Maximum	50 percent

§ 153.7.1 OTHER REQUIREMENTS.

1 For property within 1,000 feet of a designated public lake or waterway, see Section 17 for additional requirements that may supersede these lot requirements.

2 For property within a designated floodplain or fringe area, see Section 18 for additional requirements that may supersede these lot requirements.

3 For other standards related to topics such as parking, accessory buildings, fencing, landscaping, and towers, see Section 13.

SECTION 8. RB-1, RESIDENTIAL BUSINESS DISTRICT

§ 153.8.1 INTENT.

The purpose of this district is to allow the continuation of existing residential and commercial development in an older area of the City adjacent to a major transportation corridor where municipal sewer and water systems are available and where existing development is mixed residential and commercial.

§ 153.8.2 ALLOWED USES.

For allowed uses, see land use table in Section 153.3.2

§ 153.8.3 LOT REQUIREMENTS.

Minimum Area	9,000 square feet
Minimum Lot Width	75 feet at the public R-O-W line
Front Yard/Road Setback	Setback requirements based on road classification. See Section 153.13.6 Road Setback Requirements
Side Yard Setback	10 feet
Rear Yard Setback	30 feet
Maximum Height:	35 feet

The exception to these setback requirements is in a block where two or more principal structures have already been constructed facing the same street - the setbacks for the remaining lots in that block fronting on the same street shall be determined by the average setback of the existing buildings.

§ 153.8.4 OTHER REQUIREMENTS.

1. For property within 1,000 feet of a designated public lake or waterway, see Section 17 for additional requirements that may supersede these lot requirements.
2. For other standards related to topics such as parking, accessory buildings, fencing, landscaping, and towers, see Section 13.

SECTION 9. B-1, GENERAL BUSINESS DISTRICT

§ 153.9.1 INTENT.

It is the intent of this district to provide for goods and services that serve customers from the community or region; to provide places of employment; and to provide for shopping- center type developments where one use is located within a building.

§ 153.9.2 ALLOWED USES.

For allowed uses, see land use table in Section 153.3.2

§ 153.9.3 LOT REQUIREMENTS.

Minimum/Maximum Area	N/A
Minimum Lot Width	N/A
Front Yard/Road Setback*	Setback requirements based on road classification. See Section 153.13.6 Road Setback Requirements
Side Yard Setback*	20 feet if abutting any residence. Otherwise, no requirement*
Rear Yard Setback*	20 feet if abutting any residence. Otherwise, no requirement*
Maximum Height:	45 feet

*For lots immediately abutting Elm Avenue between 4th Street North and 6th Street North, the front yard/road setback and the side yard setback requirements are waived the rear lot setback is reduced to 10 feet.

§ 153.9.4 OTHER REQUIREMENTS.

1. For property within 1,000 feet of a designated public lake or waterway, see Section 17 for additional requirements that may supersede these lot requirements.
2. For other standards related to topics such as parking, accessory buildings, fencing, landscaping, and towers, see Section 13.

SECTION 10. B-2, HIGHWAY BUSINESS DISTRICT

§ 153.10.1 INTENT.

It is the intent of this district to provide for and limit the establishment of automobile-oriented or dependent commercial and service activities.

§ 153.10.2 ALLOWED USES.

For allowed uses, see land use table in Section 153.3.2

§ 153.10.3 LOT AND BUILDING REQUIREMENTS

Minimum Area	As necessary for the use
Minimum Lot Width	80 feet at the public R-O-W line
Front Yard/Road Setback	Setback requirements based on road classification. See Section 153.13.6 Road Setback Requirements
Side Yard Setback	10 feet
Rear Yard Setback	20 feet
Maximum Height:	45 feet for commercial structures Essential service structures shall be as necessary
Corner Lots	Front yard setbacks required on all sides along a public street
Parking Lots Setback	10 feet from all public streets 10 feet with a parking screen if along residential district 5 feet along all other sides
Maximum Impervious Surface Coverage	Based on stormwater system 80% if lot not serviced by sufficient stormwater system 100% if lot is serviced by sufficient stormwater system

§ 153.10.4 OTHER REQUIREMENTS.

1. For property within 1,000 feet of a designated public lake or waterway, see Section 17 for additional requirements that may supersede these lot requirements.
2. For other standards related to topics such as parking, accessory buildings, fencing, landscaping, and towers, see Section 13.
3. Where adjacent structures within the same block have different front yard setbacks from those required, the front yard setback shall be the average of the adjacent structures. If there is only one adjacent structure, the setback shall be the average of the adjacent structure and the required setback.

SECTION 11. B-3, BUSINESS DISTRICT—ADJACENT TO RAILROAD

§ 153.11.1 INTENT.

It is the intent of this district to provide for the establishment of commercial and service activities which serve the needs of the community and region and to provide multiple use buildings in an area which has certain limitations due to the location of the railroad tracks.

§ 153.11.2 ALLOWED USES.

For allowed uses, see land use table in Section 153.3.2

§ 153.11.3 LOT REQUIREMENTS.

Minimum/Maximum Area	N/A
Minimum Lot Width	100 feet
Front Yard/Road Setback	Setback requirements based on road classification. See Section 153.13.6 Road Setback Requirements
Side/Rear Yard Setback	N/A
Maximum Height:	45 feet

§ 153.11.4 OTHER REQUIREMENTS.

1. For property within 1,000 feet of a designated public lake or waterway, see Section 17 for additional requirements that may supersede these lot requirements.
2. For other standards related to topics such as parking, accessory buildings, fencing, landscaping, and towers, see Section 13.
3. Compliance with Section 153.13.4(B) is required with the exception that parking lots in this zoning district will be required to be constructed and maintained with blacktop or concrete material only and proper surface water drainage is maintained.

SECTION 12. I-1, INDUSTRIAL DISTRICT

§ 153.12.1 PURPOSE AND INTENT.

This district is intended to provide for light industrial warehousing and manufacturing activities which have adequate and convenient access to major streets and which can compatibly exist adjacent to non-industrial development. Activities that produce air or noise pollution will be restricted from this district.

§ 153.12.2 ALLOWED USES.

For allowed uses, see land use table in Section 153.3.2.

§ 153.12.3 LOT AND BUILDING REQUIREMENTS.

Minimum Area	As necessary for the use
Minimum Lot Width	100 feet at the public R-O-W line
Front Yard/Road Setback	Setback requirements based on road classification. See Section 153.13.6 Road Setback Requirements
Side Yard Setback	10 feet
Rear Yard Setback	20 feet
Maximum Height:	45 feet
Railroad Loading Facility	No side or rear yard required if a property abuts a railroad siding and will install a railroad loading facility
Parking Lots Setback	10 feet from all public streets 10 feet with a parking screen if along residential district 5 feet along all other sides
Maximum Impervious Surface Coverage	Based on stormwater system • 80% if lot not serviced by sufficient stormwater system • 100% if lot is serviced by sufficient stormwater system

§ 153.12.4 OTHER REQUIREMENTS.

1. For property within 1,000 feet of a designated public lake or waterway, see Section 17 for additional requirements that may supersede these lot requirements.
2. For other standards related to topics such as parking, accessory buildings, fencing, landscaping, and towers, see Section 13.
3. Where this district abuts a residential district a 40-foot landscape buffer shall be required.

SECTION 13. GENERAL STANDARDS

§ 153.13.1 INTENT.

The intent of this subchapter is to establish general development performance standards. The regulations provided herein shall apply equally to all districts except where special provisions provided otherwise.

§ 153.13.2 PARKING AND LOADING.

1 In all zoning districts, off-street parking facilities for the storage of motor vehicles for the use of occupants, employees and patrons of the buildings or structures hereafter erected, altered or extended after the effective date of this chapter shall be provided and maintained as herein prescribed.

2 Loading space shall not be construed as supplying off-street parking space.

A. Whenever a use requiring off-street parking is increased in floor area, and the use is located in a building existing on or before the effective date of this chapter, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.

B. For the purpose of this section, “floor area,” in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients or patients as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise, less 10%.

C. Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve.

D. Where a use is not specifically mentioned, off-street parking requirements shall be the same as for similar use.

3 Access drives may be located adjacent to property lines except that they shall not be placed closer than five feet to any side or rear lot line unless the rear or side yard is adjacent to an alley. The number and types of access drives onto streets and alleys may be controlled and limited by the City Council in the interests of public safety and efficient traffic flow.

A. Access drives onto a county road shall require a review and approval by the County Engineer. The County Engineer shall determine the appropriate location, size and design of the access drives and may limit the number of access drives in the interest of public safely and efficient traffic flow. City Council approval must be obtained.

B. Access drives to principal structures which traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The city shall review all access drives (driveways) for compliance with accepted community access drive standards. All driveways shall have a minimum width of ten feet with a road strength capable of supporting emergency and fire vehicles. The maximum width should be no more than enough to accommodate a three-car garage.

C. All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway or an existing private roadway approved by the City Council.

D. Existing driveway access shall be the responsibility of the city when the street line is improved. If a property owner desires to install a new driveway which will cut on the improved curb line, the financial responsibility will remain with the property owner.

E.

§ 153.13.3 REQUIRED OFF-STREET PARKING.

The amount of required off-street parking spaces for new uses, buildings, additions thereto and additions to existing buildings, as specified previously, shall be determined in accordance with the following and the spaces required and shall be irrevocably reserved for such use.

Use	Parking Standards
Single-Family and Two-Family	1 space per unit
Boarding House	2 spaces for each three persons with sleeping accommodations
Senior Housing	1 space per unit
Multi-family and Townhomes	1.5 spaces per unit
Motel and Hotel	1 space per unit, plus 1 additional space for each ten units and 1 space for each employee on largest shift
Church, Theater, Auditorium	1 space for each 4 seats based on capacity of the main assembly hall
Medical, Dental, Hospital Out-Patient Clinic	1 space for each 110 square feet of net floor area or 7.5 spaces per doctor, whichever is greater
Drive-In Establishment and Convenience Food	1 space for each 35 square feet of gross floor area but not less than 15 spaces
Office Buildings and Professional Office	1 space for each 250 square feet of floor area.
Bowling Alley	5 spaces per alley, plus additional spaces as may be required for related uses within the principal structure
Gas station	At least 4 spaces, plus 2 off-street parking spaces for each service stall. For sale of items not strictly automotive related, will require additional spaces within the principal structure.
Auto Repair, Bus Terminal, Marine Sales/Repair, Trade Shops < 6 people, Garden/ Building Material Stores	8 spaces plus 1 space for each 2 employees on maximum shift, or at a minimum 1 space for each 500 square feet of floor area.
Retail Store and Service Business	1 space for each 200 square feet of floor area. Where 50% of gross floor area is devoted to storage, warehousing or industry, 1 space for each 200 square feet for public sales/service, plus 1 space for each employee on largest shift.
Restaurants, Cafe, Private Clubs, Bars, Taverns and Nightclubs	1 space for each 60 square feet of gross floor area
Funeral Home	At least 20 parking spaces for each chapel or parlor, plus 1 space for each chapel/parlor, plus 1 space for each funeral vehicle on site. Aisle space is also required for funeral processions.
Manufacturing, Fabricating, or Processing, Warehouse and Storage	At least 8 spaces plus 1 space for each 2 employees on the largest shift or at a minimum 1 space for each 500 square feet of floor area.

§ 153.13.4 PARKING LOT STANDARD.

In all districts where off-street parking lots are permitted or required, off-street parking lots shall be constructed and maintained subject to the following regulations:

A. Adequate ingress and egress shall be provided as approved by the city.

B. The parking lots shall be maintained in a useable dust-proof condition, such as concrete, blacktop or properly treated crushed rock, or some other permanently surfaced area and

shall be kept graded and drained to dispose of surface water.

C. Whenever the parking lot boundary adjoins property zoned for residential use, a setback of eight feet from the lot line shall be required and maintained.

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

E. Plans for the construction of any parking lot and driveways must be approved by the city before construction is started. No land shall be used for parking until approved by the city.

§ 153.13.5 REQUIRED LOADING BERTHS.

In connection with any structure which is to be erected or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, with a gross floor area of 10,000 square feet or more, there shall be off-street loading provided on the basis of the following:

Gross Floor Area (Square Feet)	Minimum Required Loading Berths
10,000 to 16,000	**1**
16,000 to 40,000	**2**
40,000 to 70,000	**3**
70,000 to 100,000	**4**
Each additional 40,000	**One additional**

§ 153.13.6 ROAD SETBACK REQUIREMENTS

Except where more strict standards are provided in this Ordinance, the following minimum building setback requirements shall apply based on roadway:

Road Classification	Roads	Front Yard / Road Setback
Federal and State Highways	Highway 12	40 feet for road right of way
County Roads, City Street local or private	All other roads in the city	30 feet for road right of way line

*The more restrictive setback shall apply.

§ 153.13.7 ACCESSORY BUILDINGS.

1 In all residential districts, detached accessory buildings shall be located in the rear yard. When located within ten feet of the rear wall of the principal building, they shall comply with all yard requirements applicable to the principal building in the district. Where accessory buildings are to be located more than ten feet from a rear wall of the principal building, they shall not be located closer than four feet from an adjoining side or rear lot line. All accessory buildings shall setback a minimum of 30 feet from all street right-of-way lines. Accessory building are further limited not to exceed over one story or 16 feet in height. In business and industrial districts, accessory buildings and uses may occupy any of the ground area which the principal building is permitted to occupy provided they meet the minimum required building setbacks.

2 In residential districts, the size of accessory buildings will be determined by the total lot size of properties which are listed as one tax parcel and which are non-separable and will not be subdivided in the future. The following property size/accessory building size scale is adopted:

Property Size	Accessory Building Size
Less than 10,000 square feet	940 square feet
At least 10,000 square feet	1,000 square feet
At least 12,500 square feet	1,100 square feet

At least 15,000 square feet	1,200 square feet

3 Accessory buildings over 200 square feet or those to be used for human habitation shall be required to obtain a building permit for new construction or remodeling. Freestanding accessory buildings without foots do not require a building permit.

§ 153.13.8 FENCING, SCREENING AND LANDSCAPING.

1 Screening.

In all residential and business districts, all materials and equipment, except as provided in the district provisions of this chapter, shall be stored within a building or structure or screened so as not to be visible from adjoining properties, except the following:

1. Useable laundry equipment (clothes lines);
2. Recreational equipment and vehicles; and
3. Construction and landscaping material currently being used on the premises.

B. In all commercial and industrial districts adjacent to residential districts and not divided by streets, there shall be provided along the property line a 20-foot-wide planting strip composed of grass, trees and shrubs. A screening fence may be utilized when approved by the Planning Commission. The fence shall not exceed eight feet in height or be less than six feet in height.

2 Landscaping. In all zoning districts, the lot area remaining after providing for parking, driveways, loading, sidewalks or other requirements shall be planted and maintained in sod/ grass, shrubs or other acceptable vegetation or landscaping techniques. Refer to §§ 153.15.1 *et seq.* for landscaping regulations.

3 Fencing.

A. Permit required. No person shall construct any fence without first making application for and securing an administrative permit. A site survey and/or boundary survey should be submitted with the application. A description of the construction type is also required along with the application for a permit.

B. Locations.

1. All fences, including boundary-line and maintenance-free types, shall be located no closer than two feet from any side or rear property lot line on the property of the person constructing the fence, unless a written agreement, describing the variance and who will be responsible for maintaining the fences and the property between these fences, is signed by both property owners and on file with the city prior to the approval of the administrative fence permit.
2. On corner lots, no fence or screening material shall be permitted within the sight visibility triangle that is 20 feet from the intersection on all sides.

C. Maintenance of setbacks. In all cases, unless indicated differently, the maintenance of all setbacks would be the responsibility of each home owner.

D. Height Determination. In the case of grade separation, height shall be determined on the bases of measurement from the average point between the highest and lowest grade.

E. Construction and maintenance.

1. Fences shall be constructed in a workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Fences shall be maintained in a condition of reasonable repair and shall not be allowed to become a danger or constitute a nuisance, public or private. Any fence that is or becomes dangerous to the public safety, health or welfare is a public nuisance, and the

city may commence proper proceedings for abatement thereof.

2. The side of any fence considered to be its face (i.e., the finished side having no structural supports) shall face the abutting property or street right-of-way.
3. Electric fences shall be permitted only when related to agricultural uses, but not as boundary fences.
4. Barbed-wire fences shall only be permitted for agricultural, business or industrial purposes. Barbed-wire fences for business or industrial purposes are subject to regulations set forth in Section 153.13.8.3(G) of this ordinance.

F. Residential fencing and screening.

1. Except as provided herein, fences shall be at least 5% open for passage of air, light and drainage.
2. Except as provided herein, fences shall not exceed six feet in height unless a conditional use permit is approved, depending upon the circumstance.
3. Fences extending across front yards and side yards abutting a public right-of-way shall not exceed 48 inches in height, shall be at least 75% open space for passage of air and light, and shall not be permitted within the traffic visibility triangle.
4. Natural water flow cannot be restricted by the fence.

G. Business and industrial fencing.

1. Industrial/commercial fences may not exceed eight feet in height unless a conditional use permit is approved, depending upon the circumstance.
2. No fence shall be allowed in the front yard of a business use except by special use permit.
3. Except in a required front yard, business and industrial fences may be erected as provided herein.
4. Business and industrial fences with barbed-wire security arms shall be erected with a minimum height of six feet (measured without the security arm). The security arm shall be angled in such a manner that it extends only over the property of the permit holder and does not endanger the public. Security fencing shall be prohibited within a required front yard or when located along a property line abutting a residential use.

H. Solid walls. Solid walls, up to six feet in height, that are not part of buildings may be constructed and maintained only in the buildable area of a lot.

I. Compliance.

1. Fences installed after December 11, 2012, will be required to conform to the regulations within this section.
2. Fences installed prior to December 11, 2012, will be legal nonconforming uses. If a nonconforming fence is removed, replacement of the fence will require compliance with this section in its entirety.

§ 153.13.9 UNPLATTED PROPERTY.

1 Any person desiring to improve unplatted property shall submit to the city a survey of the property and information on the location and dimensions of proposed buildings, location of easements crossing the property and information which may be necessary to insure conformance to city ordinances.

2 All buildings shall be so placed so that they will not obstruct future streets which may be constructed in conformity with existing streets.

3 The city shall review the lot survey to determine if the division and creation of the property was in compliance with the statutes and regulations applicable at the time of the division. If the city finds that the division of the property was in compliance with legal requirements applicable at the time of the division, the lot shall be recognized and development of the property shall be allowed in

conformance to the building and zoning regulations of the city. If the city finds that the division of the property was not in compliance with legal requirements applicable at the time of the division, the lot shall not be recognized and current standards and procedures for platting shall be imposed.

4 If property is proposed to be subdivided or developed, it shall comply with Ch. 152 of this code.

§ 153.13.10 DWELLING UNIT RESTRICTIONS.

1 No basement, except when used as a portion of the living space of the family, cellar, garage, tent or accessory building shall at any time be used as a residence or dwelling unit, temporarily or permanently.

§ 153.13.11 PERFORMANCE STANDARDS.

1 All sewage facilities shall be connected to the city sewer facilities. This provision shall not apply to temporary construction sites or portable units as otherwise permitted by the city.

2 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.

3 The emission of smoke by any use shall be in compliance with and regulated by the state pollution control standards, Minnesota Rules, Chapters 1009 and 7011, as it may be amended from time to time.

4 The emission of dust, fly ash or other particulated matter by any use shall be in compliance with and regulated by the state pollution control standards, Minnesota Rules, Chapters 1009 and 7011, as it may be amended from time to time.

5 The emission of odorous matter in a quantity as to be offensive shall not be permitted. The emission of odor by any use shall be in compliance with and regulated by the state pollution control standards, Minnesota Rules, Chapters 1009 and 7011, as it may be amended from time to time.

6 All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and as measured at any property line, shall not exceed the minimum standards established by Minnesota Rules, Chapter 7030, as it may be amended from time to time.

7 The following uses shall be prohibited in all zoning districts:

A. Final disposal facility for mixed municipal solid waste, hazardous waste, industrial waste, incinerator ash or infectious waste;

B. New sanitary landfill;

C. Incineration of any solid waste, mixed municipal solid waste, hazardous waste, industrial waste or infectious waste or contaminated soils;

D. Disposal, treatment or processing of hazardous waste or infectious waste;

E. Storage of hazardous waste;

F. Processing of waste tires to produce tire derived products;

G. Tire dump or disposal of waste tires;

H. Refused derived fuel facility;

I. Recycling facility, except by conditional use permit;

J. Transfer station or transfer facility;

K. Energy recovery facility;

L. Open dump;

M. Disposal of construction debris or demolition debris; and

N. Composting facility (except municipal which is permitted).

8 Topographical alterations and excavations are hereby adopted as stated herein.

§ 153.13.12 HEIGHT AND YARD EXCEPTIONS.

1 Chimneys, cooling towers, elevator bulk head, fire towers, drive-in movie theater screens, grain elevators, silos, penthouses, stacks, tanks, water towers, pumping towers, radio or television towers, monuments, cupolas, steeples and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located, shall not be included in calculating the height of the principal structure.

2 Outside stairways, fire escapes, fire towers, porches, platforms, decks, balconies, boiler flues and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts or unoccupied space.

A. This provision shall not apply to one fireplace or one chimney, not more than eight feet in length and projecting not more than 30 inches into the allowable side yard space;

B. Nor cornices not exceeding 16 inches in width; nor

C. To platforms, terraces or steps below the first floor level; nor

D. To unenclosed porches or other ground level unenclosed projections not over one story in height which may extend into a front or rear yard not more than five feet, or into a side yard not more than four feet, the platform shall be restricted from the five-foot required side yard in the residence district.

§ 153.13.13 MONUMENTS.

The surveyor and/or developer shall be required to set and place all lot corners and survey control monuments within one year after recording a plat or sooner if specified by the City Council as provided in Minnesota Statutes, Section 505.02(1) as it may be amended from time to time. The City Council may require a financial guarantee to insure performance.

§ 153.13.14 NONCONFORMING USES.

1 **PURPOSE.** It is the purpose of this subchapter to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures and uses will be operated and maintained. It is necessary and consistent with the establishment of zoning districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this chapter that all non-conforming uses shall eventually brought into conformity.

2 **RIGHTS.** Pursuant to Minnesota Statutes, Section 462.357, subd. 1e, as it may be amended from time to time, any non-conformity, including the lawful use or occupation of land or premises existing at the time a city code amendment created the non-conformity, may be continued with any necessary approvals, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, unless authorized by this chapter.

3 **LAWFUL NON-CONFORMITY**. The burden of proof to show a lawful non-conformity rests with the applicant and/or property owner. Documentation as to a non-conformity existing prior to adoption or changes to this chapter of city code may be required if an application for any permit or zoning action is received.

4 **EXPANSION PROHIBITED.**

A. Lawful non-conforming uses and structures may not expand or intensify unless allowed to do so under this chapter or by other law (such as with the issuance of a special permit, if require). Only that portion of the land or structure in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this chapter, unless the value of the extension, enlargement, reconstruction, substitution or structural alteration of the structure does not exceed 50% of the assessor's market value of the structure at the time of the alteration and a building permit for the alterations is submitted to the city for approval within 180 days of the date of the removal or damage.

B. Substitution of new equipment or similar changes related to the non-conforming use may be permitted by the Board of Adjustment if such equipment or change will reduce the incompatibility of the non-conforming use with the neighboring uses. Application for the approval will follow the process of appeals. (See § 162.031 of this chapter.)

C. If the non-conforming use is discontinued or terminated for a period of 12 months, any future use of the structure or land shall conform to the provisions of this chapter.

5 **CHANGES AND SUBSTITUTIONS**. Once a non-conforming use or structure has been changed to conform, it shall not revert back to a non-conforming use or structure.

6 **SUBSTANDARD LOTS.** In any district, an allowable use and its accessory structures may be erected on any lawful non- conforming lot or parcel; providing, the lot or parcel was of record in the office of the county's Register of Deeds before the effective date of the ordinance establishing the minimum lot standard. The lot or parcel shall be in separate ownership from abutting lands, if abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter. If, in separate ownership, all other district requirements (uses, setbacks, building heights and the like) shall be complied with.

7 **PENALTY.** Any person, firm or corporation who fails to comply with the provisions of this chapter shall, upon conviction thereof, be guilty of a misdemeanor, subject to a fine of not more than $1,000 or imprisonment for not more than 90 days, or both. Each day a violation exists or continues shall constitute a separate offense.

§ 153.13.15 ANTENNAS AND TOWERS.

1 **PURPOSE.** The provisions contained in this section are intended to regulate antennas, towers and antenna and tower accessory structures. It is the policy of the city to allow only as many antennas and towers within the city as are reasonably necessary to provide reasonable access to communication services. To the maximum extent possible, antennas and towers shall be co-located or attached to existing structures, including specifically but not exclusively municipal water towers, in order to minimize the number of antenna and tower sites within the city.

2 **BUILDING CODE.** All Towers and Antennas erected, constructed, or located within the City, and all wiring, must comply with the requirements of the City Building Code, State Electrical Code and any other applicable codes or regulations.

3 **REGULATIONS.**

A. Anyone wishing to erect an antenna or tower shall file an application, along with a non-refundable application fee, in the form and amount established by the city. The application shall be reviewed by the City's zoning administrator and building official. The city administrator may refer applications to the Planning Commission or City Council for review.

B. The following regulations shall apply to antennas and towers in addition to any other requirements of the Waverly Zoning Ordinance. In the event of a conflict between these regulations and other requirements of the Waverly Zoning Ordinance, the more restrictive provision shall apply.

1. Antennas and towers shall be permitted in the R-A and I-1 districts only.
2. Antennas and towers shall not be located within two miles of another antenna or tower unless placed on or co- located on existing structures.
3. Antennas and towers shall not be located within 500 feet of a residential district.
4. The front yard setback for antennas and towers shall be the height of the antenna or tower, or the setback established for the zoning district in which the antenna or tower is located, whichever is greater.
5. The side yard setback for antennas and towers shall be the height of the antenna or tower, or the setback established for the zoning district in which the antenna or tower is located, whichever is greater.
6. The rear yard setback for antenna and towers shall be the height if the antenna or tower, or the setback established for the zoning district in which the antenna or tower is

located, whichever is greater.

7. Antennas and towers shall be of single pole construction only, and no lattice work structures, no oil derrick style structures, and no structures with guy wires shall be used or constructed.
8. Antennas and towers shall be designed and located to be visually unobtrusive, shall be appropriately screened, shall not be multi-colored, and shall contain no signage (including specifically but not exclusively logos), unless required by state and federal regulations.
9. Antennas and towers shall be enclosed by climber-resistant fencing.
10. Antennas and towers that are illuminated shall be constructed so that the light does not shine onto any residence, residential district, or roadway, unless required by state and federal regulations.
11. The structural integrity of antennas and towers shall be approved in writing by a licensed engineer.
12. Towers may not be illuminated by artificial means unless specially required by the Federal Aviation Administration or other federal or state authority or otherwise approved by City Council. Light fixtures used to illuminate parks, parking lots, or similar areas may be attached to the tower.
13. The owner, tenant, or operator of an antenna or tower and the owner of the land on which the antenna or tower is located shall maintain the grounds in good repair and in a neat and sanitary condition. All grass shall be mowed, weeds cut and removed, and other debris and rubbish stored in appropriate containers for prompt transport to sanitary landfills.
14. Antennas and towers shall be constructed so that no less than two additional antennas may be attached to the first structures erected. Applicants seeking to construct antennas and towers shall bear the burden of establishing that their facilities cannot reasonably be located on existing antennas and towers previously approved by the city or on other existing structures such as municipal water towers.
15. Obsolete or unused antennas and towers shall be removed within six months after operations cease. In the case of multiple operators sharing a single location, this provision shall not apply until all users cease operations for six months. After facilities are removed, the site shall be restored to its original, or improved, condition.

4 An antenna or tower that violates the Waverly Zoning Ordinance or endangers the public health, safety, or welfare of the citizens of the city, is hereby declared to be a nuisance. The city, upon reasonable notice to the owner, tenant, or operator of the antenna or tower, or to the owner of the land on which the antenna or tower is located, may require the abatement of the antenna or tower. If an antenna or tower poses an immediate threat to public health, safety, or welfare, the city may require immediate abatement. The city may also take direct action to abate such nuisances and may specifically and may specially assess the costs of the abatement to the property.

5 TOWER HEIGHT

A. **HEIGHT DETERMINATION.** A Tower's height must be determined by measuring the vertical distance from the Tower's point of contact with the ground to the Tower's highest point, including all Antennas or other attachments, and if the Tower is mounted upon another structure, the height of that structure plus the vertical distance from the Tower's point of contact with the structure must be added together to determine the Tower's height.

B. **HEIGHT RESTRICTIONS**. Notwithstanding anything to the contrary in the regulations applicable to a specific zoning district, Towers are subject to the following height restrictions:

1. In the R-A District, a Tower's maximum height is thirty-five (35) feet.
2. In all non-residential districts, a Tower's maximum height shall be one hundred-fifty (150) feet, except that in the I-1 districts a Tower may not exceed a maximum height of

one hundred ninety-nine (199) feet.

§ 153.13.16 WIND ENERGY SYSTEMS (WES).

1 **PURPOSE AND INTENT.** The purpose and intent of this chapter is regulate the installation and operation of Wind Energy Conversion Systems (WECS) within the City not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plant Siting Act (MS 116C.51 – 116C.697).

A. No more than one wind energy system (WES) per lot.

B. The height of all WES will be determined by calculating the height from the base of the tower to the highest point of the blades.

C. The WES shall be located to comply with the following minimum setback requirements:

1. From the nearest building: 300 feet or the height of the WES, whichever is greater;
2. From the nearest right-of-way: 300 feet or the height of the WES, whichever is greater;
3. From the nearest property line: 300 feet or the height of the WES, whichever is greater;
4. From recreation fields: 300 feet or the height of the WES, whichever is greater; and
5. No portion of the WES, including the blades, shall extend over any above ground power line or utility easement.

D. The WES shall be equipped with both automatic and manual braking systems capable of stopping the WES operation in high winds.

E. The WES shall be grounded to protect against lightning strikes in conformance with the National Electrical Code.

F. The WES shall not have a climbing apparatus within 12 feet of the ground.

G. The WES shall have a sign posted at the base of the tower that contains the following information:

1. A warning of high voltage;
2. The manufacturer's name;
3. An emergency telephone number; and
4. The emergency shutdown procedures.
5. The WES shall not have affixed or attached lights, reflectors, flashers or any other illumination, except for illumination devices required by FAA.
6. The WES shall be designed and constructed so as to not cause radio and television interference.
7. The city hereby reserves the right upon issuing any WES conditional use permit to inspect the premises on which the WES is located. If the WES is not maintained in safe and operational condition, the owner shall take immediate action to correct the situation.
8. All obsolete and unused towers and equipment must be removed within 12 months of cessation of operation at the site unless an exemption is granted by the Planning and Zoning Commission.

§ 153.13.17 SWIMMING POOLS

1 **PURPOSE AND INTENT.** The purpose and intent of this chapter is to regulate the installation and operation of Swimming Pools within the City comply with Minnesota's Residential Building Code to provide minimum safety requirements.

2 **Permitting**

A. All pools, residential swimming pools that are 24 inches or more in height and designed to contain 5,000 gallons or more of water, regardless of construction, require a permit.

1. *Temporary swimming pool.* All temporary swimming pools, whether submerged or

elevated are deemed to be a structure under the Zoning Ordinance. Temporary swimming pools greater than 24 inches in depth and more than 5,000 gallons shall require a one time lifetime permit. The temporary swimming pool, if dismantled or removed, shall be put up in the same location annually. A new permit shall be required if the location of the temporary swimming pool changes or the size or dimensions of the pool changes. The applicant shall pay the respective fees established by council resolution for such permit. Temporary swimming pools less than 24 inches in depth and less than 5,000 gallons are exempt from a permit

2. Permanent swimming pool and spas. Permanent swimming pools and spas over 24 inches in depth at any point and 5,000 gallons or larger require a building permit. The construction, plumbing and electrical work connected with any pool or spa to be constructed shall be subject to inspection and shall conform to all applicable building codes of the city and state. Permanent swimming pools that do not exceed 24 inches in depth at any point and less than 5,000 gallons require a zoning permit

B. .Application for a swimming pool permit shall be made to the City. A fee set by the Council shall be submitted with the application to cover costs incurred. The application for the permit shall include, without limitation, the following information:

1. Complete plans and specifications for the construction of the pool;
2. A site plan showing the location of all structures on the lot, including the house, garage, fences, trees, overhead or underground wiring, utility easements, and other significant improvements or natural features;
3. The proposed location of pumps, filters, electrical power source (if applicable), flushing and drainage, outlets, and other operational features; and
4. Location and specifications of protective fencing.

3 **Requirements.** Pools shall be constructed to avoid hazard or damage to the occupants of the subject property or the occupants of adjacent property and shall meet the minimum requirements as established in Ch. 153 of this code.

A. Pools shall be considered accessory structures in all residential districts and must comply with the setbacks as set forth in Ch. 153.

B. Pools shall only be constructed in rear yards.

C. All electrical installations shall comply with current building, electrical, and other applicable state and local codes.

4 **Fencing.** Pools deeper than 24 inches must have a non-climbable barrier of at least 48 inches to prevent people from gaining uncontrolled access.

A. Any opening between the bottom of the fence and the ground level shall not exceed three inches.

B. The combined height of the fence and the permanent pool sides together shall be at least four but no greater than eight feet in height.

C. Gates. All openings or points of entry into the pool area shall be equipped withself-closing gates or doors.

1. All gates and doors shall have a self-latching latch which shall be constructed and so placed as to be inaccessible to small children.
2. All gates and doors shall be closed and latched when the pool is not in use

D. A removable ladder are steps are allowed instead of a full fence when the following criteria are met:

1. The above-ground pool wall must be at least 48 inches (4 ft) high
2. There must be no deck, platform, or grading that allows someone to climb up
3. Ladder or steps must be secured when not in use. Secured means that the ladder is fully removed and stored away or that it is folded up, locked and covered to prevent use.

5 **Lighting** Any outdoor lighting of the pool shall not be permitted to spill or shine upon adjacent properties.

6 **Conduct.** The conduct of persons and the operation of pools shall be the responsibility of the owner and the tenant thereof

7 **Filling and Drainage.**

A. All back flushing water or pool drainage water shall be directed onto the property of the owner or onto approved drainage ways and not allowed to flow onto adjacent property. No pool water shall be drained directly into the city's sanitary sewer or storm sewer systems or onto public road.

B. The filling of pools from fire hydrants or other public facilities is prohibited without prior written approval of authorized city personnel.

8 **Inspections.**

A. The City shall have authority to inspect any residential swimming pool or spa whether considered permanent or temporary, at any reasonable time during the construction and thereafter to determine whether or not the provisions of this division regarding health, sanitation, operation, and safety applicable thereto are complied with.

B. The building official shall have the authority to enter upon any premises as may be deemed necessary to inspect work done and installations made under permits issued by the city.

C. No swimming pool shall be occupied or used at any time prior to complying with the provisions of this division and the final inspection and approval of the pool or spa and permanent fence by the building official even though containing water for construction purpose.

9 **Private rentals.** Pools in compliance with this chapter, in which access is provided to other parties or individuals for payment, must comply with the requirements for a public pool as set forth in the Minnesota Rules Chapter 4717. These include, but are not limited to:

A. Licensing with the state

B. Water quality monitoring

C. Provision of life-saving equipment

D. Health Inspections at a frequency as may be required to maintain any state licensures.

10 **Applicability.** The provisions of this chapter shall apply to all pools. Existing pools will be allowed 120 days from the date of passage to comply with the regulations as set forth in this chapter.

SECTION 14. CLUSTER DEVELOPMENTS; PLANNED UNIT DEVELOPMENTS

§ 153.14.1 PERMITTED TYPES.

1. Planned unit developments or PUDs are permitted for new projects on undeveloped land, redevelopment of previously built sites or conversions of existing buildings and land.
2. The land use districts in which they are permitted are identified in the land use district descriptions in § 153.4.2 and on the official zoning map of the city.

§ 153.14.2 CONDITIONAL USE REQUIREMENTS.

Planned unit developments shall require a planned unit development zoning of the property and shall also be processed as a conditional use permit as provided in § 153.2.11.

§ 153.14.3 APPLICATION.

1. Planned unit developments shall only be permitted when they meet the provisions of § 153.2.11 for a planned unit development district.
2. Planned unit developments shall be processed in accordance with the provisions of the conditional use permit section of this chapter.
3. The Zoning Administrator may require additional information and documentation to aid in the processing of planned unit developments in a shoreland zone. This may include but is not limited to surface water features, existing and proposed vegetative detail, deed restrictions, covenants, owners association by-laws, details of water oriented uses, long term plans for preservation and maintenance of open space and similar information.

§ 153.14.4 PUBLIC UTILITIES.

Public utilities including municipal sanitary sewer and water shall be available and be required for any planned unit development in the city.

§ 153.14.5 SITE EVALUATION; SUITABLE AREA.

1. Proposed new or expansions to existing planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in planned unit development areas.
2. Shoreland tier dimensions. The project parcel shall be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions	
Type of Lake	**Sewered (feet)**
General development lakes - first tier (riparian)	200
General development lakes - second and additional tiers	200
Natural environmental lakes	320

3. Suitable area calculation.
   A. The suitable area within each tier is calculated by excluding from the tier area all wetlands, bluffs or land below the ordinary high water level of public waters.
   B. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

§ 153.14.6 DENSITY EVALUATION.

1. The procedures for determining the “base” density of a PUD and density increase multipliers are as follows.

2 Allowable densities may be transferred from any tier to any other tier further from the waterbody, but shall not be transferred to any other tier closer.

A. Residential PUD “base” density evaluation. The suitable area within each tier is divided by the minimum single residential lot size standard for lakes to determine the maximum permitted density. Proposed locations and number of dwelling units or sites for residential planned developments are then compared with the tier, density and suitability analyses herein and the design criteria in § 153.14.7.

B. Commercial PUD “base” density evaluation. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes shall not include decks, patios, stoops, steps, garages or porches and basements, unless they are habitable space.

C. Floor area ratio.

1. Select the appropriate floor area ratio from the following table:

Commercial PUD Floor Area Ratios and Public Waters Classes	
Average Unit Floor Area (square feet)	**General Development Lakes**
400	.056
500	.065
600	.072
700	.082
800	.091
900	.099
1,000	.108
1,100	.116
1,200	.125
1,300	.133
1,400	.142
1,500 and above	.150

2. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

3. Divide the total floor area by tier, computed in division (B)(3)(b) above, by the average inside living area size determined herein. This yields a base number of dwelling units and sites for each tier.

4. Proposed locations and number of dwelling units or sites for the commercial planned development are then compared with the tier, density and suitability analyses herein and the design criteria in § 153.14.7.

D. Density increase multipliers.

1. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards listed herein are met or exceeded and the design criteria in § 153.14.7 below are satisfied. The allowable density increases herein below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the city and the setback is at least 25% greater than the minimum setback.

2. Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments:

Density Evaluation Tiers	Maximum Density Increase in Each Tier
First	50%
Second	100%
Third	200%
Fourth	200%
Fifth	200%

§ 153.14.7 MAINTENANCE AND DESIGN CRITERIA.

1 Before final approval of a planned unit development, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

2 Deed restrictions, covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means shall be provided to ensure long-term preservation and maintenance of open space. The instruments shall include all of the following protections:

A. Commercial uses prohibited (for residential PUDs);

B. Vegetation and topographic alterations shall be prohibited except by routine maintenance;

C. Construction of additional buildings or storage of vehicles and other materials shall be prohibited; and

D. Uncontrolled beaching of watercraft shall be prohibited.

3 Development organization and functioning: unless an equally effective alternative community framework is established, when applicable, all residential planned developments shall use an owners association with the following features:

A. Membership shall be mandatory for each dwelling unit or site purchasers and any successive purchasers;

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

C. Assessments shall be adjustable to accommodate changing conditions; and

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

§ 153.14.8 EROSION CONTROL; STORMWATER MANAGEMENT.

Erosion control and stormwater management plans shall be developed and the PUD shall:

A. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This shall be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips or other appropriate techniques shall be used to minimize erosion impacts on surface water features. Erosion control plans approved by the soil and water conservation district may be required if project size and site physical characteristics warrant.

B. Be designed and constructed to effectively manage reasonably expect quantities and qualities of stormwater runoff. Impervious surface coverage within any tier shall not exceed 25% of the tier area, except that for commercial PUDs 35% impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with § 153.17.17.

§ 153.14.9 CENTRALIZATION AND DESIGN OF FACILITIES.

Centralization and design of facilities and structures shall be done in accordance with the following standards:

A. Planned unit developments shall be connected to publicly-owned (municipal) water supply and sewer systems.

B. Dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification setback from the ordinary high water level, elevation above the surface water features and maximum height. Setbacks from the ordinary high water level shall be increased in accordance with § 153.14.7 for developments with density increases.

C. Shore recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas and launching ramps, shall be centralized and located in suitable areas. Evaluation of suitability shall include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock or relevant factors. The number of spaces provided for continuous beaching, mooring or docking of watercraft shall not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

D. Structures, parking areas and other facilities shall 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 city, assuming summer, leaf-on conditions. Vegetative and topographic screening shall be preserved, if existing, or may be required to be provided.

E. Accessory structures and facilities, except water oriented accessory structures, shall meet the required principal structure setback and shall be centralized.

F. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in § 153.17.11 and are centralized.

§ 153.14.10 CONVERSIONS.

Local governments may allow existing land uses and facilities to be converted to residential planned developments if all of the following standards are met:

A. Proposed conversions shall be initially evaluated using the same procedures for planned developments involving all new construction.

1. Inconsistencies between existing features of the development and these standards shall be identified.

B. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space and shore recreation facilities shall be corrected as part of the conversion or as specified in the conditional use permit.

C. Shore impact zone deficiencies shall be evaluated and reasonable improvements made as part of the conversion. These improvements shall include, where applicable, the following:

1. Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore impact zones;

2. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

3. If existing dwelling units are located in shore impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions shall 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.

§ 153.14.11 EXISTING STRUCTURES.

Existing dwelling unit or dwelling site densities that exceed standards in § 153.14.6 may be allowed to continue but shall not be allowed to be increased, either at the time of conversion or in the future. Efforts shall be made during the conversion to limit impacts of high densities by improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems or other means.

§ 153.14.12 NONCONFORMITIES.

All legally established nonconformities as of the date of this chapter may continue, but shall be administered according to applicable state statutes and other regulations of the city for future alterations and additions, repair or replacement after damage, discontinuance of use and intensification of use; except that the following standards shall also apply in shoreland areas:

A. Construction on nonconforming lots of record.

1. Lots of record in the Office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements herein listed may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.
2. A variance from setback requirements shall be obtained before any use, or building permit is issued for a lot where minimum setback requirements cannot be met. In evaluating the variance, the city shall consider sewage and water supply capabilities or constraints of the lot and shall deny the variance if municipal sewer cannot be provided.
3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements herein listed, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements herein listed as much as possible.

B. Additions/expansions to nonconforming structures.

1. All additions or expansions to the outside dimensions of an existing nonconforming structure shall meet the setback, height and other requirements of §§ 153.13.1 through 153.13.14 and §§ 153.16.1 through 153.16.7. Any deviation from these requirements shall be authorized by a variance.
2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
    a. The structure existed on the date the structure setbacks were established;
    b. A thorough evaluation of the property and structure reveals no reasonable location for a deck which would meet or exceed the existing ordinary high water level setback of the structure;
    c. The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
    d. The deck is constructed primarily of wood, and is not roofed or screened.

C. Nonconforming sewage treatment systems.

1. A sewage treatment system not meeting the requirements of §§ 153.14.1 through 153.14.13 must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provisions, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
2. The governing body of the city has been formal resolution notified the commissioner of

its program to identify nonconforming sewage treatment systems. The city will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed two years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

§ 153.14.13 OPEN SPACE REQUIREMENTS.

Planned unit developments shall contain open space meeting all of the following criteria:

A. At least 50% of the total project area shall be preserved as open space.

B. Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.

C. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

D. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.

E. Open space shall not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.

F. The appearance of open space areas, including topography, vegetation and allowable uses, shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means.

G. Shore impact zone.

1. The shore impact zone, based on normal structure setbacks, must be included as open space.

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

3. For commercial PUDs at least 50% of the shore impact zone must be preserved in its natural state.

SECTION 15. LANDSCAPING REGULATIONS

§ 153.15.1 TITLE.

This chapter of the city code of ordinances, providing for the administration and enforcement of landscaping regulations, shall be known and may be cited and referred to as the Landscaping Ordinance of the City of Waverly, MN.

§ 153.15.2 INTENT.

The intent of this chapter is to establish minimum standards for the preservation, installation, and maintenance of landscape plantings and landscaped open space in residential, commercial and industrial districts, to utilize landscaping and landscaping open space as an effective means of energy conservation, to preserve open space, to improve property values, and to maintain the aesthetic quality of the city, thereby promoting the health and general welfare of the city.

§ 153.15.3 GENERAL PROVISIONS.

1. Landscaping plantings shall not be placed so as to interfere with site drainage.
2. Landscape plantings shall not be placed in any public utility easement unless specifically permitted on the approved site plan.
3. Plantings shall not be placed where they may interfere with the maintenance of sanitary or storm structures, fire hydrants, or water valves, or any other public utility.
4. Landscape planting may not be placed within the public street right-of-way unless previously approved by the City Council.
5. The sight visibility triangle shall be maintained at all times.
6. All disturbed areas shall be restored with sod or seed, unless specifically approved otherwise. In residential districts or uses, the entire front yard, side yard, and rear yard to the building setback line shall be landscaped with sod and other vegetation. In all districts, the adjacent right-of-way shall be sodded.
7. In sites where vegetation existed and was retained during development, the required minimum quantity of planting may be reduced with two existing plantings equivalent to one required planting. No more than 50% of the required plants may be waived in this manner. Plants to be exchanged shall meet minimum size requirements as established herein.

§ 153.15.4 DESIGN STANDARDS.

1. The provisions below represent the minimum standards required for compliance with this chapter. These regulations are not intended to suppress creative design concepts or the use of variety in the landscape plan. Whenever practical, existing trees and vegetation should be preserved and incorporated into the overall design and layout of the site.
2. Minimum size. The minimum size for required plantings, other than those in required buffers, shall be as follows:
    A. Deciduous overstory trees shall be a minimum size of two-inch caliper at two feet above ball.
    B. Evergreen trees shall be a minimum height of six feet above grade.
    C. Ornamental trees shall be a minimum one and one-half-inch caliper in size.
3. Minimum quantity. The minimum number of plantings per site shall be as follows:
    A. Two trees shall be overstory shade trees.
    B. For all uses except one- and two-family residential dwellings, a minimum of 25% of all required trees shall be evergreen trees.
    C. For single-family residential, one-half of the tree requirement shall be provided in the rear yard.

4 Planting requirement. Values expressed in the table below are in addition to plantings required in buffer, screening, or parking lot plantings.

Residential	PUD	Commercial, Industrial
Two (2) trees per dwelling unit (does not include street trees)	One (1) tree per every 30 linear feet of private roadway plus 10% tree coverage at mature growth in all open space areas as approved by City Council.	One (1) tree per 2,000 square feet of provided open space

§ 153.15.5 SLOPES AND WALLS.

1 Slope. In no case shall a maintained slope be greater than 3:1. If a slope is greater than 3:1, appropriate maintenance-free landscaping, ground cover, and/or riprap shall be required.

2 Retaining walls. In cases where the use and construction of a retaining wall is required to preserve slope or provide additional developable land, such retaining wall shall be designed and constructed in such a way as to preserve a residential scale and character.

3 Walls above four feet.

A. All retaining walls above a height of four feet shall be tiered to allow the provision of landscaping to soften the wall.

B. Walls with a height greater than four feet require a building permit.

§ 153.15.6 BUFFERS.

1 It shall be recognized that the transition from one district to another district of contrasting and conflicting uses is across a line in theory, not in existence. Therefore, it shall be the intent of this chapter to require the actual provision of a physical barrier so as to reduce possible harmful or detrimental influence one zoning district use may have to an abutting and contrasting or conflicting zoning district use.

2 Conditions requiring a buffer:

A. Any lot in any residential or industrial district platted after the effective date of this chapter, having both its front and rear lot lines abutting a public thoroughfare, shall require a 30-foot buffer along and measured from the rear lot line. Lot depth should be increased appropriately to provide equivalent usable open space.

B. Buffer zones will be required where residential uses are adjacent to industrial, commercial, or business uses without separation from a road.

3 Buffer requirements:

A. A permanent earthen berm shall be provided were a buffer is required. Such berm shall be the minimum height as provided below. In no case shall a berm slope exceed 3:1.

B. Buffering will be 50 feet in width and 6 feet in height with 10-foot planting. Berms should be of natural design, with undulating heights and variety of landscape material.

C. Minimum buffer planting size shall be as follows:

1. Deciduous overstory - 21/4 inches.

2. Evergreen - 6 feet in height.

3. Ornamental - 13/4 inches.

D. In addition to the required permanent landscape buffer, the City Council may require a fence to provide additional screening.

E. Required yards shall be measured from the lot lines. Buffer yards may be included in yards required by this chapter. No building, parking, or structures shall be permitted within any buffer, unless authorized by the City Council.

F. In a residential subdivision, the developer of the subdivision shall be required to install the buffer improvements as required by this chapter. The owner of the property on which the buffer is located shall maintain the buffer in perpetuity.

G. In a situation where landscape requirements other than buffer requirements are required, those buffer requirements shall be in addition to all other requirements.

H. The need to establish a buffer as an easement shall be reviewed and identified during the development review process. Easements shall generally be required between different zoning districts and for buffering requirements of residential districts.

I. For single-family residential subdivisions, the landscape buffer shall be submitted for review and approval as public improvements, at the same time as the preliminary plat. For any type of development that requires a site plan review, the buffer plans shall be submitted as a part of the site plan submittal.

4 The City Council may reduce the required buffer under the following conditions:

A. Where the boundary line abuts permanent natural features which function as a buffer, including, but not limited to ponds, severe grades, or mature woodlands. The City Council may reduce the requirement in proportions that the natural features fulfill the requirement.

B. In those areas where the property abuts undeveloped property that is shown on the comprehensive plan as the same or a more intensive use.

C. The abutting property has provided a portion or the entire required buffer. On lots that have been platted or zoned prior to the adoption date of this chapter that can present evidence that the required buffer would render the property unbuildable, the Council may permit the construction of a substantial fence, as defined herein, not less than six feet in height. Landscaping provisions to soften the visual appearance of the fence shall be required.

D. In those areas that abut a public park, the buffer area for that portion of the boundary may be reduced.

§ 153.15.7 STREET TREES.

Street trees are required along all street frontages in every development in accordance with the following requirements:

A. Residential (R-1, PUD),Commercial (B-2, B-3) and Industrial (I-1) lots shall provide one overstory shade tree per 40 lineal feet of lot frontage. Such trees shall be of species approved by the City Council. Such trees shall be located within the street right-of-way.

B. In any development requiring more than 20 trees, no species selected for planting shall exceed 20% of the overall total of trees being planted.

§ 153.15.8 PARKING LOTS.

All off-street parking and loading area that contains more than 20 parking spaces, a minimum of 10% of the total hard surface area shall be utilized for landscaping, screening, and/or open space. The minimum requirements for off-street parking areas shall be as follows:

A. All rows of parking spaces shall provide a terminal island to protect parked vehicles, define driveways, confine moving traffic to driveways, and provide space for landscaping.

B. A landscaped island shall be provide within each row of parking spaces to prevent more than 12 vehicles from being parked side-by-side in an abutting configuration.

C. One ornamental or conifer tree shall be provided per 12 parking spaces. Tree plantings shall be located to reduce the visual impact of the parking surface.

D. Each tree shall be allocated a minimum landscape surface area of 200 square feet, exclusive of other shade trees.

E. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, ground cover, shrubs, or other appropriate landscaping treatment. Pavement, gravel, or similar treatment shall not be considered appropriate

landscape treatment.

F. Parking lot planting areas shall not be designed to accommodate winter snow storage.

§ 153.15.9 MAINTENANCE.

1 Landscaping as approved by a site plan shall be maintained in good condition so as to present a healthy, neat, and orderly appearance at all times. Landscaping shall be maintained to minimize property damage and public safety hazards, including the removal/ replacement of dead or decaying plant material, removal of low-hanging branches and those obstructing street lighting and maintenance of sight distance standards as set forth. Landscaping shall be maintained in accordance with the following standards:

A. Landscaping shall be kept visually free of insects and disease;

B. Landscaping areas shall be kept free from weeds and other volunteer plants;

C. Irrigation systems shall be maintained so as to eliminate water loss due to damaged, missing, or improperly operating sprinkler system components.

2 In the event a tree, shrub, or other plant causes damage to streets, sidewalks, trails, or other public improvements, the City Clerk/Treasurer shall order the removal and replacement of the offending plants.

3 All dead or diseased landscape plantings shall be replaced by the property owner with equivalent material in a timely fashion, or within 30 days, following written notice from the city.

4 If any landscaping is removed in violation of an approved site plan or plat, the property owner shall plant three times such amount, of equal quality and size, on such site or plat.

If it is impractical to replace such landscaping with an equal size, then several smaller-sized plantings, totaling, in aggregate, three times the size of the improperly removed landscaping, shall be required. If it is deemed unfeasible to plant all the required plantings on the site, the city may require that portions of this requirement be planted on public property.

5 Failure to maintain landscaping in accordance with the approved site plan shall constitute a violation of the approved site plan.

§ 153.15.10 NATIVE VEGETATION

1 **Intent.** The City determines that the installation and maintenance of managed natural landscapes is beneficial to the city's environment and residents in that they improve stormwater retention; increase water quality and biodiversity, and provide habitat for wildlife such as birds, butterflies and other beneficial insects and species. The City Council finds that establishing native or naturalistic plant communities is an acceptable landscape treatment. However, to protect the larger community, this change in vegetation must be appropriately planned, managed, and maintained, and the length of the transition period must be minimized, or the property is likely to create a public nuisance.

2 **Right to install and maintain a managed natural landscape.** An owner, authorized agent, or authorized occupant of any privately owned lands or premises may, consistent with this subsection and all other applicable laws, statutes, rules and ordinances, install and maintain a managed natural landscape.

3 **Requirements.**

A. Managed natural landscapes may include plants and grasses in excess of eight (8) inches in height and which have gone to seed, but may not include any noxious weeds and must be maintained so as to not include unintended vegetation.

B. Managed natural landscapes may not include any plantings, which due to location and manner of growth constitute a hazard to the public or may cause injury or damage to persons or property.

C. Managed natural landscapes shall not include turf-grass lawns left unattended for the purpose of returning to a natural state.

D. Except as part of a managed natural landscape as defined in this section, any weeds or

grass growing upon any lot or parcel of land in the city to a greater height than eight (8) inches or which have gone or are about to go to seed are hereby declared to be a nuisance condition and dangerous to the health, safety and good order of the city.

SECTION 16. SIGN REGULATIONS

§ 153.16.1 PURPOSE AND INTENT.

1 It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this ordinance is to:

A. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.

B. To establish standards which permit property owners the opportunity to identify and advertise themselves, goods, or services; to preserve and protect the value of land, buildings and landscapes and promote the attractiveness of the community; to ensure that signs in the City are not a safety hazard to lives and/or property; to eliminate confusion in locating goods, services and facilities, and to preserve order and to encourage business to erect permanent signs and discourage temporary and/or portable signs.

C. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.

D. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the City.

2 **Non-Commercial Speech.** Notwithstanding any other provisions of this sign ordinance, all signs of any size containing Non-Commercial Speech may be posted from August 1 in any general election year until 10 days following the general election and 14 weeks prior to any special election until 10 days following the special election.

3 **Substitution Clause.** The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial speech in lieu of any other commercial speech or non-commercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over any other non-commercial speech. This provision prevails over any more specific provision to the contrary.

4 All signs hereafter erected or maintained, except official, public, traffic and street signs shall conform to the provisions of this subdivision and any other ordinance or regulation of the city.

§ 153.16.2 GENERAL SIGN REGULATIONS.

1 Signs shall not be permitted within the public right-of-way or easements, except as erected by an official unit of government or public utilities for the direction of traffic or necessary public information.

2 Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.

3 Signs painted on a building shall be governed by the square footage limitations specified in the appropriate zoning districts. These shall be repainted when required to be kept in good condition, and shall be repainted, removed or painted out when, in the opinion of the City Council, they are not so maintained.

4 No sign shall be placed that resembles any official marker erected by a governmental agency or shall display the words as “stop” or “danger.”

5 No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any building or structure.

6 The owner, lessee or manger of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.

7. Advertising signs, business signs and name plate signs which may be or may hereafter become rotted, unsafe or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands upon notice of the City Council.
8. Where a sign is illuminated, the source of light shall not shine upon any part of a residence or into any residence district or any roadway.
9. No advertising or business sign shall be permitted in any residential district, except signs advertising a permitted home occupation limited to an overall area of four square feet.

§ 153.16.3 IDENTIFICATION SIGNS.

One identification sign, not exceeding 35 square feet in area and shall be permitted for the following uses: church, school, hospital, parks and recreation areas or similar uses. The signs shall be solely for the name of the use and its activities and may be illuminated, but not flashing.

§ 153.16.4 ADVERTISING SIGNS.

1. Advertising signs shall be limited to no more than two signs per facing or total of no more than four signs per structure.
2. Advertising signs shall be limited to not more than 30 feet in total length and a height of 14 feet above average grade.
3. Advertising signs shall be limited to an overall surface area on one side to 250 square feet.
4. No advertising sign structure shall be located within a radius of 1,000 feet of any existing advertising sign unless located in a business or industry district. Then they will be limited to not more than one for a lot of 100 feet frontage and to only one per each additional 100 feet of frontage.
5. No advertising sign shall be located within 100 feet of a dwelling, an adjoining residential district, an at-grade intersection of two or more roads or an at-grade intersection of any road and a railroad.
6. No advertising sign shall be permitted within ten feet of a road or highway right-of-way.

§ 153.16.5 BUSINESS SIGNS.

1. No more than one freestanding or pylon sign of not more than 35 square feet in surface area or more than 14 feet in height shall be permitted.
2. The total surface area of all business signs on a lot shall not exceed the sum of three-square feet per lineal foot of lot frontage or 20% of the front building surface area on which the sign is located or 300 square feet in surface area, whichever is greater.
3. No business sign shall project above the permitted building height of the district in which the sign is to be located.

§ 153.16.6 LICENSES AND PERMIT FEES.

1. From and after the effective date of this chapter, the owner or other person having control of any sign, except residential, professional and institutional name plate signs and church signs, shall file an application for a permit to install and maintain a sign subject to the approval of the zoning administrator.
    A. The zoning administrator shall approve or deny the sign permit in an expedited manner no more than 60 days from the receipt of the complete application, including applicable fee. All permits not approved or denied within 60 days shall be deemed approved.
    B. The city administrator may refer applications to the Planning Commission or City Council for review and input into the permitting process.
    C. If the permit is denied, the issuing authority shall prepare a written notice of denial within 10 days of its decision, describing the applicant's appeal rights, and send it by certified mail, return receipt requested, to the applicant.
2. The permit and inspection fee for advertising and business signs shall be established by resolution of the Council.

3 All signs not maintained and kept in good repair shall be subject to removal upon direction of the Council.

§ 153.16.7 EXEMPTIONS.

1 The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same, including size, area and location restrictions.

A. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building.

B. One sign up to sixteen (16) square feet in size per lot.

C. Governmental signs, including but not limited to, traffic control and other regulatory purpose signs, street signs, informational signs, danger signs, and railroad crossing signs.

D. Any public sign (directional, safety, danger, trespassing, traffic, warning or public information) whose primary purpose is to communicate community events erected by, or on the order of, a duly constituted public office of City, County, State or Federal governments in pursuance of their public duties and provided signs are erected by or on order of a public officer or employee in the performance of official duty.

E. Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface or when constructed of bronze or other incombustible material.

F. Window signs, provided that no more than half of an individual window is covered with signs or painting.

G. Flags of the United States, the state, the City, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such a flag shall not exceed 60 square feet in area and shall not be flown from a pole more than 40 feet in length. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulations as such.

H. Decorative lighting meeting this entire Ordinance's other requirements.

I. All non-commercial signs of any size may be posted from August 1 in a state general election year until ten days following the state general election.

2 Unless otherwise noted, no such sign shall be placed on fences, trees or other vegetation, public street/traffic signs, utility poles or City/public property. Signs in violation of this Subdivision may be removed by City personnel at their discretion, without advance notice to the sign owner.

SECTION 17. SHORELAND MANAGEMENT

§ 153.17.1 STATUTORY AUTHORIZATION AND POLICY

1 **Statutory Authorization**. This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

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 the City of Waverly.

§ 153.17.2 GENERAL PROVISIONS AND DEFINITIONS

1 **Jurisdiction.** The provisions of this ordinance apply to the shorelands of the public water bodies as classified in Section 153.17.4 of this ordinance, and to the shorelands of public water bodies greater than 10 acres in unincorporated areas in which the city has, by ordinance, extended the application of its zoning regulations as provided by Minnesota Statute, Chapter 462.357 Subd 1. Pursuant to Minnesota Rules, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance.

2 **Enforcement.** The City Administrator or designee is responsible for the administration and enforcement of this ordinance. 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. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section 153.17.3 of this ordinance.

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.

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.

§ 153.17.3 ADMINISTRATION

1 **Purpose.** The purpose of this Section is to identify administrative provisions to ensure the ordinance is administered consistent with its purpose.

2 **Permits.**

A. 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 153.17.8.3 of this ordinance.

B. A certificate of compliance, consistent with Minnesota Rules Chapter 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.

3 **Application materials.** Application for permits and other zoning applications such as variances shall be made to the City Administrator on the forms provided. The application shall include the necessary information so that the City Administrator or designee can evaluate how the application complies with the provisions of this ordinance.

4 **Certificate of Zoning Compliance.** The City Administrator shall issue a certificate of zoning

compliance for each activity requiring a permit as specified in Section 153.17.3.2 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 153.17.2.2 of this ordinance.

5 **Variances.** Variances may only be granted in accordance with Minnesota Statute Section 462.357 and are subject to the following:

A. A variance may not circumvent the general purposes and intent of this ordinance; and

B. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 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.

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:

A. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

B. The visibility of structures and other facilities as viewed from public waters is limited;

C. There is adequate water supply and on-site sewage treatment; and

D. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

7 **Mitigation.**

A. In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address~~,~~ the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:

1. Advanced storm water runoff management treatment;
2. Reducing impervious surfaces;
3. Increasing setbacks from the ordinary high water level;
4. Restoration of wetlands;
5. Limiting vegetation removal and/or riparian vegetation restoration;
6. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
7. Other conditions the zoning authority deems necessary.

B. 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.

8 **Nonconformities.**

A. All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to 462.357 Subd. 1e and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.

B. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, lowest floor elevations, and other requirements of Sections 153.17.5 to 153.17.8 of this ordinance. Any deviation from these requirements must be authorized by a variance.

9 **Notifications to the Department of Natural Resources.**

A. 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. The City of Waverly will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.

B. 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.

C. 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.

D. Any request to change the shoreland management classification of public waters within the City of Waverly 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.

E. Any request to reduce the boundaries of shorelands of public waters within the City of Waverly 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.

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.

§ 153.17.4 SHORELAND CLASSIFICATION SYSTEM AND LAND USES

1 **Shoreland Classification System.**

A. Purpose. To ensure that shoreland development on the public waters of City of Waverly is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.

B. The shoreland area for the waterbodies listed below and are shown on the Official Zoning Map.

C. Lakes are classified as follows:

1. General development (GD);

General Development Lake Name	DNR Public Waters I.D. #
Waverly Lake	*86-114*

2. Recreational development (RD); and

Recreational Development Lake Name	DNR Public Waters I.D. #
Little Waverly Lake	86-106

3. Natural environment (NE).

Natural Environment Lake Name	DNR Public Waters I.D. #

Carrigan Lake	*86-97*
Unnamed Lake	*86-105 (Section 3, Twp 118, Range 26)*

D. All public rivers and streams in Waverly shown on the Public Waters Inventory Map for Wright County, a copy of which is adopted by reference, not given a classification shall be considered "Tributary." The only watercourse in the city is Twelve Mile Creek, which will be consider Tributary and will be regulated following the Agricultural standards.

2 Land Uses.

A. 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.

B. Shoreland district land uses listed in the table below are regulated as:

1. Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed;
2. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 153.17.3.6 of this ordinance and any additional conditions listed in this ordinance; and
3. Not permitted uses (N). These uses are prohibited.

C. Land uses for lake classifications and watercourses:

Land Uses	GD	RD	NE	Ag. River
Single residential	P	P	P	P
Duplex, triplex, quad residential	P	P	C	P
Residential PUD	C	C	C	C
Water-dependent (Resorts are also Commercial PUDs)	C	C	C	C
Commercial	P	P	C	C
Commercial PUD (Expansion of PUD involving up to six additional units or sites allowed as a permitted use provided the provisions of Section 10.0 are satisfied.)	C	C	C	C
Solar Power Facilities (principal land use)	**C**	**C**	**C**	**C**
Parks & historic sites	C	C	C	C
Public, semipublic	P	P	C	C
Industrial	C	C	N	N
Agricultural: cropland and pasture	P	P	P	P
Agricultural feedlots: New	N	N	N	N
Agricultural feedlots: Expansion or resumption of existing	C	C	C	C
Forest management	P	P	P	P
Forest land conversion	C	C	C	C
Extractive use	C	C	C	C
Mining of metallic minerals and peat	P	P	P	P

§ 153.17.5 SPECIAL LAND USE PROVISIONS

1 Commercial, Industrial, Public, and Semipublic Use Standards.

A. Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:

1. The use complies with provisions of Section 153.17.7;

2. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
3. 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
4. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
    a. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and
    b. Signs placed within the shore impact zone are:
        i. No higher than ten feet above the ground, and no greater than 32 square feet in size; and
        ii. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
    c. 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.

B. 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.

2 Agriculture Use Standards.

A. **Buffers.**
1. 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.
2. 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.

B. New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:
1. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020;
2. 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,
3. Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711.

3 Forest Management Standards.

A. 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.

B. 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.

4 **Extractive Use Standards.** Extractive uses are conditional uses and must meet the following standards:

A. 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:

1. Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations;
2. Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion; and
3. Clearly explain how the site will be rehabilitated after extractive activities end.

B. Setbacks for Processing Machinery. Processing machinery must meet structure setback standards from ordinary high water levels and from bluffs.

5 **Metallic and Peat Mining Standards**. Mining of metallic minerals and peat is a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

§ 153.17.6 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS

1 **Purpose.** To establish dimensional and performance standards that protect shoreland resources from impacts of development.

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, subject to the following standards:

A. Only lands above the ordinary high water level and excluding right-of-way can be used to meet lot area and width standards;

B. Lot width standards must be met at both the ordinary high water level and at the building line;

C. The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;

D. Residential subdivisions with dwelling unit densities exceeding the following standards are allowed only if designed and approved as residential PUDs under Section 10.0 of this ordinance; and

E. **Lake Minimum Lot Area and Width Standards.**

1. General Development lake – **No sewer.**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
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

2. General development lake – **Sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

3. Recreational development lake – **No sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
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

4. Recreational development lake – **Sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
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

5. Natural environment lake – **No sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
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

6. Natural environment lake – **Sewer**

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
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

F. **River/Stream Minimum Lot Width Standards.** There are no minimum lot area requirements for rivers and streams. The lot width standards in feet are:

Lot Type	Agriculture
Single	150
Duplex	225
Triplex	300
Quad	375

3 Special Residential Lot Provisions.

A. Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following standards:

1. Each building must be set back at least 200 feet from the ordinary high water level;
2. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
4. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.

B. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Section 153.17.6.2, provided the following standards are met:

1. 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;
2. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
3. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

C. Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:

1. 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 D;
2. 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:

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%

3. 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
4. Covenants or other equally effective legal instruments must be developed that:
   a. Specify which lot owners have authority to use the access lot;
   b. Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;
   c. 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;
   d. Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and
   e. 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.

D. Access Easements. Easements providing access to boat docking and mooring facilities to non-riparian property owners are prohibited.

4 Placement, Height, and Design of Structures.

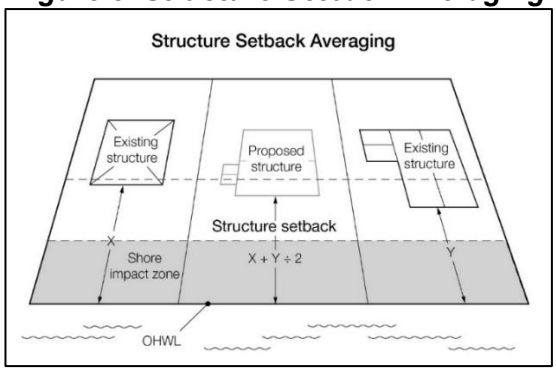
A. **OHWL Setback for Structures and Sewage Treatment Systems.** When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions. The structure setback standards for sewered properties can only be used if publicly owned sewer system service is available.

Waterbody Classification	Structures with No Sewer	Structures with Sewer	Sewage Treatment

			Systems
Natural Environment Lakes	150	150	150
Recreational Development Lakes	100	75	75
General Development Lakes	75	50	50
Agriculture, Urban, & Tributary Rivers	100	50	75

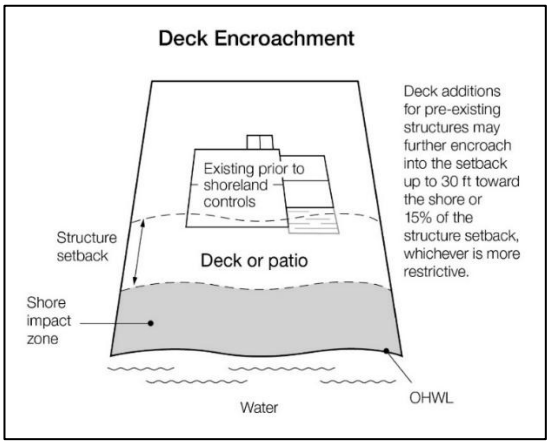
1. **OHWL Setbacks.** Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 153.17.7.3 of this ordinance, may be set back a minimum distance of ten (10) feet from the OHWL:
2. **Setback averaging.** Where principal 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 principal structure setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone (see Figure 8);

Figure 8. Structure Setback Averaging



3. **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:
   a. The structure existed on the date the structure setbacks were established;
   b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
   c. The deck encroachment toward the ordinary high water level does not exceed 15 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
   d. The deck is constructed primarily of wood, and is not roofed or screened (see Figure 9).

Figure 9. Deck Encroachment



4. **Additional structure setbacks.** Structures must also meet the following setbacks, regardless of the waterbody classification:

Setback from:	Setback (ft)
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	20
Right-of-way line setback exception for existing riparian lots zoned R-1 on Waverly Lake that are one (1) acre or less may have a road setback less than 30 feet but no closer than 10 feet from the lot line.	10

5. **Bluff Impact Zones.** Structures, impervious surfaces, and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

B. **Height of Structures.** All structures in residential districts in cities, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

C. Lowest Floor Elevation.

1. **Determining elevations.** Structures must be placed at an elevation consistent with the applicable floodplain regulatory elevations. Where these elevations are not known, the lowest floor, including basement, must be placed or flood-proofed at an elevation determined using the following methodology:

   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 (see Figure 10);

   b. For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If highest known flood elevation is not available, by placing the lowest floor at least three feet above the ordinary high water level (see Figure 10), or by conducting a technical evaluation to establish a flood protection elevation. Technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200.

2. Methods for placement.

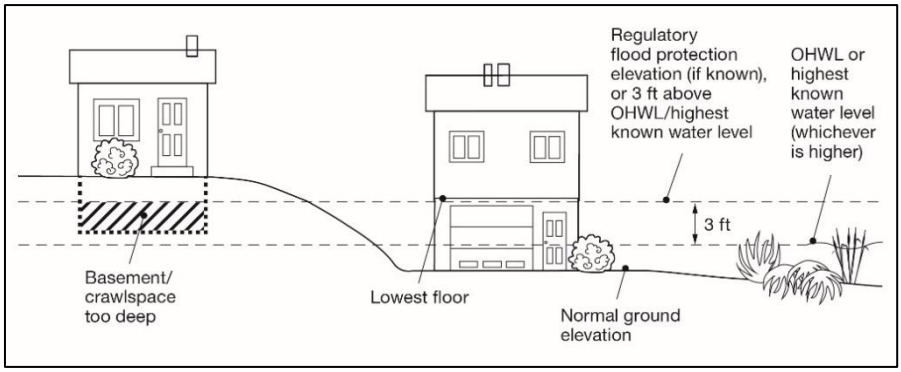
   a. In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in part A.

   b. If elevation methods involving fill would result in filling in the SIZ, then structures must instead be elevated through floodproofing methods in accordance with

6.43(B)(3) below;

c. If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins 1, 2 and 3

Figure 10. Lowest Floor Elevation



D. **Significant Historic Sites.** No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

5 **Water Supply and Sewage Treatment.**

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

B. **Sewage treatment.** Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Minnesota Rules, Chapters 7080 – 7081.

§ 153.17.7 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES

1 **Placement and Design of Roads, Driveways, and Parking Areas.** These facilities must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters. They must be constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local SWCD and comply with the following standards:

A. 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;

B. 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;

C. Private watercraft access ramps, approach roads, and access-related parking areas are prohibited.

D. 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.

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:

A. 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;

B. 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;

C. Canopies or roofs are not allowed on stairways, lifts, or landings;

D. 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;

E. 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

F. 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 sub items A through E above and the requirements of Minnesota Rules, Chapter 1341.

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:

A. 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 not exceeding eight feet above grade at any point or at-grade patios;

B. The structure or facility is not in the Bluff Impact Zone;

C. The setback of the structure or facility from the ordinary high water level must be at least ten feet;

D. The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;

E. 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;

F. 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;

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

H. 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

I. Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 153.17.6 if the structure is designed to accommodate internal flooding, 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.

4 Fences. Fences between principal structures and the waterbody are allowed if fences are:

A. Not higher than six feet.

B. Not located within the SIZ and BIZ, except for farm fences.

C. Not located in the regulatory floodplain, except for farm fences.

5 Lighting. Within the OHWL setback:

A. Lighting shall be fully shielded and directed away from the water.

B. Uplighting viewable from the water is prohibited.

§ 153.17.8 VEGETATION AND LAND ALTERATIONS

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.

2 **Vegetation Management.**

A. A vegetation permit is required prior to vegetative clearing in the shore impact zone and bluff impact zone and on steep slopes. No clearing is allowed until a plan is submitted and approved consistent with these vegetation management provisions.

B. Removal or alteration of vegetation must comply with the provisions of this subsection except for:

1. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
2. The construction of public roads and parking areas if consistent with Section 153.17.7.1 of this ordinance;
3. Forest management uses consistent with Section 153.17.5.3 of this ordinance; and
4. Agricultural uses consistent with Section 153.17.5.2 of this ordinance.

C. 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 153.17.5.3 of this ordinance.

D. 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:

1. Vegetation be maintained to screen structures, vehicles, or other facilities by at least 50% as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced. The maximum view corridor shall be less than 50 feet or one-third of the parcel width, whichever is less;
2. Existing shading of water surfaces along rivers is preserved;
3. Cutting debris or slash shall be scattered and not mounded on the ground; and
4. Perennial ground cover is retained.
5. Picnic areas, access paths, livestock watering areas, beaches and watercraft access areas are prohibited in bluff impact zones.

E. Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.

F. Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

G. Violations of the vegetation standards shall be subject to a Restoration Order including vegetation restoration plan and a three-year maintenance plan prepared by the land owner and approved by the zoning administrator. Near shore or highly erodible locations are to be restored with a mix of deep-rooted woody and herbaceous vegetation with high stem-density, suitable for the location.

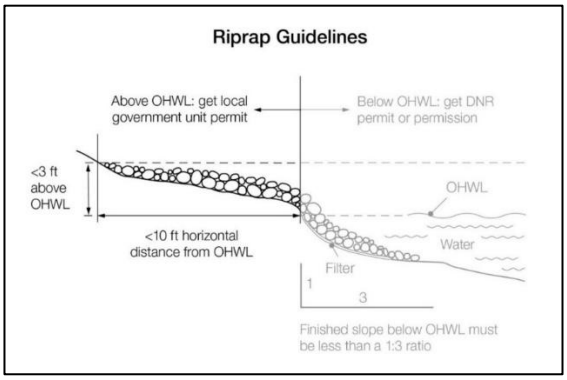
3 **Grading and Filling.**

A. Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 153.17.7.1 of this ordinance.

B. Permit Requirements.

1. 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 153.17.8.3C of this ordinance must be incorporated into the permit.
2. For all other work, including driveways not part of another permit, a grading and filling permit is required for:
   a. the movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and
   b. the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
   c. placement of retaining walls, including boulder walls within the SIZ and BIZ provided that:
      i. if the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.
      ii. the structures are used only to correct a documented existing erosion problem and not for aesthetic reasons.
      iii. the height and length are the minimum necessary to control the erosion problem and are not higher than 4 feet or longer than 10 feet, unless the zoning administrator determines that a larger wall is necessary to correct the erosion problem; and
      iv. walls are screened by vegetation to not be visible from the waterbody.
   d. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket is permitted if:
      i. if the project includes work at or below the OHWL, the commissioner has already approved or permitted the project;
      ii. the finished slope does not exceed three feet horizontal to one-foot vertical;
      iii. the landward extent of the riprap is within ten feet of the ordinary high water level; and
      iv. the height of the riprap above the ordinary high water level does not exceed three feet (see Figure 11).
      v. A vegetative buffer, consisting of deep rooted and woody vegetation, is to be established at a distance no less than ten feet from the landward extent of the riprap.

Figure 11. Riprap Guidelines



C. Grading, filling and excavation activities must meet the following standards:

1. 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;

2. 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:
    a. Limiting the amount and time of bare ground exposure;
    b. Using temporary ground covers such as mulches or similar materials;
    c. Establishing permanent, deep-rooted and dense vegetation cover as soon as possible;
    d. Using sediment traps, vegetated buffer strips or other appropriate techniques;
    e. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
    f. 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;
    g. Fill or excavated material must not be placed in bluff impact zones;
    h. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G; and
    i. Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties

D. 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.

4 **Stormwater Management.**

A. General Standards:
    1. 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.
    2. 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.
    3. 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 surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

B. Specific Standards:
    1. Impervious surfaces of lots must not exceed 25 percent of the lot area.
    2. 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.
    3. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

§ 153.17.9 SUBDIVISION/PLATTING PROVISIONS

1 **Purpose.** To ensure that new development minimizes impacts to shoreland resources and is safe

and functional.

2 **Land suitability.** Each lot created through subdivision, including planned unit developments authorized under Section 153.17.10 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.

3 **Consistency with other controls.** Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

4 **Water and Sewer Design Standards.**

A. A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.

B. 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 part 7081.0270, subparts 3 to 7, as applicable.

C. Lots that would require use of holding tanks are prohibited.

5 **Information requirements.**

A. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;

B. The surface water features required in Minnesota Statutes, section 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;

C. 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;

D. 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;

E. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

F. 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.

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.

7 **Platting**. All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapters 462.358 Subd. 3a *(cities)* and 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.

8 **Controlled Access Lots.** Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 153.17.6.3C of this ordinance.

§ 153.17.10 PLANNED UNIT DEVELOPMENTS (PUDs)

1 **Purpose.** 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.

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. Deviation from the minimum lot size standards of Section 153.17.6.2 of this ordinance is allowed if the standards in this Section are met.

3 **Processing of PUDs.** Planned unit developments in the shoreland district must be processed as a conditional use and comply with the provisions of this section in addition to those standards outlined elsewhere in the zoning and subdivision regulations. When there is a conflict in requirements, the more stringent of the requirements shall be applied. 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 153.17.10.5. Approval cannot occur until all applicable environmental reviews are complete.

4 **Application for a PUD.** The applicant for a PUD must submit the following documents prior to final action on the application request:

A. Site plan and/or plat showing:
   1. Locations of property boundaries;
   2. Surface water features;
   3. Existing and proposed structures and other facilities;
   4. Land alterations;
   5. Sewage treatment and water supply systems (where public systems will not be provided);
   6. Topographic contours at ten-foot intervals or less; and
   7. 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).

B. A property owner's association agreement (for residential PUD's) with mandatory membership, and consistent with Section 153.17.10.6 of this ordinance.

C. Deed restrictions, covenants, permanent easements or other instruments that:
   1. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
   2. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 153.17.10.6 of this ordinance.

D. A master plan/site plan describing the project and showing floor plans for all commercial structures.

E. Additional documents necessary to explain how the PUD will be designed and will function.

5 **Density Determination**. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

A. **Step 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:

Waterbody Classification	No Sewer (ft)		Sewer (ft)
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
All Rivers	300		300

B. **Step 2**. Calculate Suitable Area for Development. Calculate the suitable area within each

tier by excluding all road rights-of way or easements, wetlands, bluffs, or land below the ordinary high water level of public waters.

C. **Step 3.** Determine Base Density:

1. 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 or river frontage by the minimum single residential lot width.
2. For commercial PUDs:
   a. 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.
      i. 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.
      ii. For dwelling sites (campgrounds), determine the area of each dwelling site as follows:

         For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.

         For recreational vehicles, campers or tents, use 400 sf.

   b. Select the appropriate **floor area/dwelling site area ratio** from the following table for the floor area or dwelling site area determined in Step 3.2.a.

Inside Living Floor Area or Dwelling Site Area (sf)	General Development Lakes w/Sewer –1st tier Agricultural Rivers	General Development Lakes w/no sewer – all other tiers Recreational Development Lakes	Natural Environment Lakes
≤ 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
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
≥ 1,500	.150	.075	.038

   c. Multiply the suitable area within each tier determined in Step 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.
   d. Divide the total floor area or dwelling site area for each tier calculated in Step 3.2.c by the average inside living floor area for dwelling units or dwelling site area determined in Step 3.2.a. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
3. 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.

4. All PUDs with densities at or below the base density must meet the design standards in Section 153.17.10.6.

D. Step 4. Determine if the Site can Accommodate Increased Density:

1. The following increases to the dwelling unit or dwelling site base densities determined in Step 3 are allowed if the design criteria in Section 153.17.10.6 of this ordinance are satisfied as well as the standards in Section 10.54, item B:

Shoreland Tier	Maximum density increase within each tier (percent)
1st	50
2nd	100
3rd	200
4th	200
5th	200

2. Structure setbacks from the ordinary high water level:

a. Are increased to at least 50 percent greater than the minimum setback; or

b. 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.

6 **Design Criteria**. All PUDs must meet the following design criteria.

A. **General Design Standards.**

1. All residential planned unit developments must contain at least five dwelling units or sites.

2. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 153.17.6.5 of this ordinance. Sewage treatment systems must meet the setback standards of Section 153.17.6.4(A) **r**elated to the placement, height, and design of structures of this ordinance.

3. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.

4. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Section 153.17.6.4.

5. Shore recreation facilities:

a. Must be centralized and located in areas suitable for them based on a suitability analysis.

b. 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).

c. 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.

6. 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.

7. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.

8. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 153.17.6 of this ordinance and are

centralized.

B. **Open Space Requirements.**

1. Open space must constitute at least 50 percent of the total project area and must include:
   a. Areas with physical characteristics unsuitable for development in their natural state;
   b. Areas containing significant historic sites or unplatted cemeteries;
   c. Portions of the shore impact zone preserved in its natural or existing state as follows:
      i. For existing residential PUD's, at least 50 percent of the shore impact zone
      ii. For new residential PUDs, at least 70 percent of the shore impact zone.
      iii. For all commercial PUD's, at least 50 percent of the shore impact zone.
2. Open space may include:
   a. 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;
   b. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
   c. Non-public water wetlands.
3. Open space shall not include:
   a. Dwelling sites **or lots, unless owned in common by an owners association**;
   b. Dwelling units or structures, except water-oriented accessory structures or facilities;
   c. Road rights-of-way or land covered by road surfaces and parking areas;
   d. Land below the OHWL of public waters; and
   e. Commercial facilities or uses.

C. **Open Space Maintenance and Administration Requirements.**

1. 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:
   a. Commercial uses (for residential PUD's);
   b. Vegetation and topographic alterations other than routine maintenance;
   c. Construction of additional buildings or storage of vehicles and other materials; and
   d. Uncontrolled beaching of watercraft.
2. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:
   a. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
   b. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
   c. Assessments must be adjustable to accommodate changing conditions; and
   d. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

D. **Erosion Control and Stormwater Management.**

1. Erosion control plans must be developed and must be consistent with the provisions of

Section 153.17.8.3 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.

2. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff.
    a. For residential PUDs, impervious surface for the entire project site must not exceed 25%.
    b. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area.

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:

A. 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;

B. 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;

C. 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:
    1. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
    2. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and
    3. 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.

D. Existing dwelling unit or dwelling site densities that exceed standards in Section 153.17.10.5 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 treatment systems, or other means.

SECTION 18. FLOODPLAIN ORDINANCE

§ 153.18.1 STATUTORY AUTHORIZATION AND PURPOSE.

1 **Statutory Authorization.** This floodplain ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F; Minnesota Rules, parts 6120.5000 - 6120.6200; the rules and regulations of the National Flood Insurance Program (NFIP) in 44 CFR § 59 to 78; and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

2 **Purpose.**

A. This ordinance regulates development in the flood hazard areas of the City of Waverly. 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 ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

B. This ordinance is adopted in the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

C. This ordinance is adopted to maintain eligibility in the National Flood Insurance Program.

D. This ordinance 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.

3 **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this ordinance take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

4 **Warning and Disclaimer of Liability.** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This ordinance does not create liability on the part of the City of Waverly or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

5 **Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

§ 153.18.2 JURISIDICTION AND DISTRICTS.

1 **Lands to Which Ordinance Applies.** This ordinance applies to all lands within the jurisdiction of the City of Waverly within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts.

A. The Floodway, Flood Fringe or General Floodplain Districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, the more restrictive standards will apply.

B. Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the Base Flood Elevation (BFE) shall be the governing factor in locating the outer boundaries of the one-percent annual chance floodplain.

C. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical

evidence.

2 **Incorporation of Maps by Reference.** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this ordinance. The attached material includes the Flood Insurance Study for Wright County, Minnesota, and Incorporated Areas, and Flood Insurance Rate Map panels enumerated below, all dated June 20, 2024, all prepared by the Federal Emergency Management Agency.

27171C0460D

27171C0475D

27171C0480D

27171C0490D

These materials are on file at the Waverly City Offices.

3 **Districts.**

A. Floodway District. Those areas within Zones A as shown on the Flood Insurance Rate Maps referenced in Section 153.18.2.2 that are determined to be located in the Floodway using the delineation methods in Section 153.18.6.4.

B. Flood Fringe District. Those areas within Zones A as shown on the Flood Insurance Rate Maps referenced in Section 153.18.2 that are determined to be located in the Flood Fringe using the delineation methods in Section 153.18.6.4.

C. General Floodplain District. Those areas within Zone A as shown on the Flood Insurance Rate Maps referenced in Section 153.18.2.

4 **Annexations.** The Flood Insurance Rate Map panels referenced in Section 153.18.2 may include floodplain areas that lie outside of the corporate boundaries of the City of Waverly at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Waverly after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation. Annexations into panels not referenced in Section 153.18.2 require ordinance amendment in accordance with Section 153.18.13.

§ 153.18.3 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS.

1 **Permit Required.** A permit must be obtained from the Zoning Administrator to verify compliance with all applicable standards outlined in this ordinance prior to the following uses or activities:

A. The erection, addition, modification, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in Section 153.18.11.1(C).

B. The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. Farm fences, as defined in Section 153.1.5 of this ordinance, are not considered to be an obstruction, and as such, do not require a permit.

C. The change or expansion of a nonconforming use.

D. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

E. The placement of fill, excavation, utilities, on-site sewage treatment systems, or other service facilities.

F. The storage of materials or equipment, in conformance with Section 153.18.3.3(B).

G. Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if a public waters work permit has been obtained from the Department of Natural Resources unless a significant area above the ordinary high water level is also to be disturbed.

H. Any other type of "development," as defined in Section 153.1.5 of this ordinance.

2 **No Permit Required.** Certain uses or activities may be exempt from obtaining a permit, such as planting a garden, farming, or other obviously insignificant activities such as putting up a mailbox or flagpole. The continuation of existing uses, when the associated activities do not encroach further on the regulatory floodplain or trigger associated standards in this ordinance, do not require a permit.

3 **Minimum Development Standards.**

A. All development must:

1. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Be constructed with materials and equipment resistant to flood damage;
3. Be constructed by methods and practices that minimize flood damage;
4. Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;
5. Be reasonably safe from flooding and consistent with the need to minimize flood damage;
6. Be assured to provide adequate drainage to reduce exposure to flood hazards;
7. Not be detrimental to uses in adjoining areas; and
8. Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
9. Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the ese of vegetative cover or other methods as soon as possible.

B. Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the Regulatory Flood Protection Elevation (RFPE), floodproofed, or protected by other measures as approved by the Zoning Administrator. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural or industrial waste; and other wastes as further defined in Minnesota Statutes, Section 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided. For projects not requiring approvals by the Minnesota Pollution Control Agency, adequate safeguards must be approved by the Zoning Administrator prior to issuance of a permit.

C. Critical facilities shall be located so that the lowest floor is not less than two feet above the Base Flood Elevation {BFE), or the 0.2% annual chance flood elevation, whichever is higher.

Table 1. Summary of Permitting Requirements for Structures

Structure Type	Floodway	Flood Fringe	Standards*
Accessory Structures – on fill	Only specific uses and types allowed – with CUP	Allowed with Permit	153.18.5.2(C)4b
Accessory Structures – Alt. Elevation Methods	Only specific uses and types allowed – with CUP	Allowed with Permit	153.18.5.2(C)4c
Accessory Structures – Wet Floodproofing	Only specific uses and types allowed – with CUP	Allowed with Permit	153.18.5.2(C)4a

Accessory Structures – Dry (watertight) Floodproofing	Only specific uses and types allowed – with CUP	Allowed with Permit	153.18.5.2(C)4d
Residential – on fill	Not allowed	Allowed with Permit	153.18.5.2 (A)1
Residential – Alt. Elevation Methods	Not allowed	Allowed with CUP	153.18.5.4(A)
Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Not allowed	N/A
Non-Residential – on fill	Not allowed	Allowed with Permit	153.18.5.2(B)1
Residential – Alt. Elevation Methods	Not allowed	Allowed with Permit	153.18.5.2(B)2
Residential – Dry (watertight) Floodproofing and/or Basement Construction below RFPE	Not allowed	Allowed with Permit	153.18.5.2(B)3

**Note - many of these standards are cross-referenced*

§ 153.18.4 FLOODWAY DISTRICT.

1 **Permitted Uses in Floodway.** Development allowed in the floodway district is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one-percent annual chance flood. The following uses and activities may be allowed with a permit, subject to the standards in Section 153.18.4.2:

A. Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.

B. Roads, driveways, railroads, trails, bridges, and culverts.

C. Public utility facilities and water-oriented industries which must be in or adjacent to watercourses.

D. Grading, filling, land alterations, and shoreline stabilization projects.

E. No structures, as defined in Section 153.1.5, are allowed in the Floodway District, except structures accessory to the uses detailed in Sections 153.18.4.1A and 153.18.4.3(A), which require a CUP under Section 153.18.4.3(B).

F. Levees or dikes intended to protect agricultural crops, provided the top of the dike does not exceed the 10- percent annual chance flood event.

2 **Standards for Permitted Uses in Floodway.** In addition to the applicable standards detailed in Section 153.18.3:

A. The applicant must demonstrate that the development will not result in any of the following during the one- percent annual chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g., projects that restore the site to the previous cross- sectional

area). This is commonly documented through a "no-rise certification."

B. Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for and received approval for a Conditional Letter of Map Revision (CLOMR) in accordance with 44 CFR § 65.12. Map revisions must follow the procedures in Sections 153.18.10.1(E) and 153.18.13.

C. Any development resulting in decreases to the water surface elevation of the base flood identified in the Flood Insurance Study requires a Letter of Map Revision (LOMR) following the procedures in Sections 153.18.10.1(E) and 153.18.13.

D. Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.

E. Any facility used by employees or the general public must be designed with a flood warning system acceptable to the Zoning Administrator that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

F. Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters, and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap or other methods as soon as possible.

3 **Conditional Uses in Floodway.** The following uses and activities may be permitted as conditional uses, subject to the standards detailed in Section 153.18.4.4:

A. Commercial extractive uses, and storage and stockpiling yards.

B. Structures accessory to uses detailed in Sections 153.18.4.1(A) and 153.18.4.3(A).

4 **Standards for Conditional Uses in Floodway.** In addition to the applicable standards detailed in Sections 153.18.3, 153.18.4.2 and 153.18.10.2:

A. Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by the City of Waverly.

B. **Accessory Structures.** Structures accessory to the uses detailed in Sections 153.18.4.1(A) and 153.18.4.3(A) must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters, and are subject to the standards in Section 153.18.5.2(C) of this ordinance.

§ 153.18.5 FLOOD FRINGE DISTRICT.

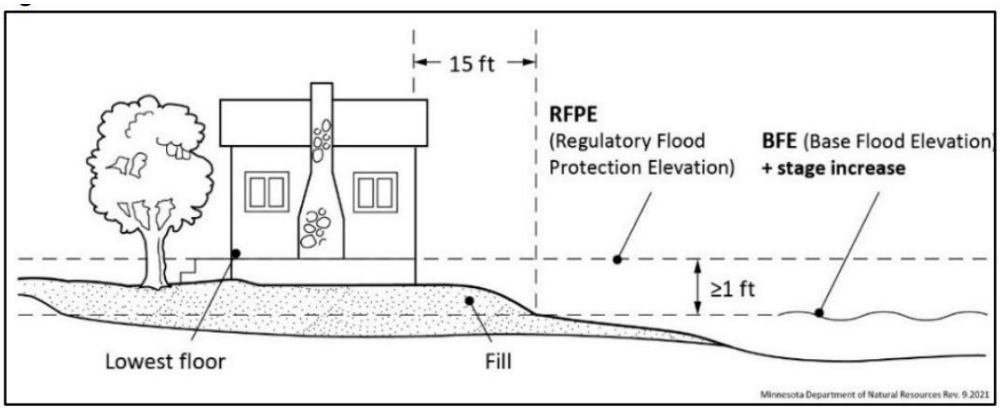
1 **Permitted Uses in Flood Fringe.** Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in Sections 153.18.5.2.

2 **Standards for Permitted Uses in Flood Fringe.** In addition to the applicable standards detailed in Section 153.18.3:

A. **Residential Structures.**

1. **Elevation on Fill.** Structures erected, constructed, reconstructed, altered, or moved on fill within the Flood Fringe District shall be placed so that the lowest floor, as defined in Section 153.1.5 of this ordinance, is elevated at or above the Regulatory Flood Protection Elevation (RFPE). The finished fill elevation shall be at or above the elevation associated with the base flood plus any stage increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the Zoning Administrator. Elevation methods alternative to these fill standards are subject to a Conditional Use Permit, as provided in Section 153.18.5.3(A) of this ordinance (see Figure 12). Construction of this type shall only be permitted in locations where the natural ground is no lower than three feet below the base flood elevation.

Figure 12. Overview of Fill Standards for Residential Structures



B. **Nonresidential Principal Structures.** Nonresidential principal structures must meet one of the following construction methods:

1. **Elevation on Fill.** Structures may be elevated on fill, meeting the standards in Section 153.18.5.2.A of this ordinance. Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.
2. **Alternative Elevation Methods.** Structures may be elevated using methods alternative to the fill standards in Section 153.18.5.2.A of this ordinance. Such methods include the use of blocks, pilings (see Figure 13), filled stem walls (see Figure 14), or internally-flooded enclosed areas (see Figure 15) such as crawl spaces, attached garages, or tuck under garages.

Figure 13. Blocks or Pilings

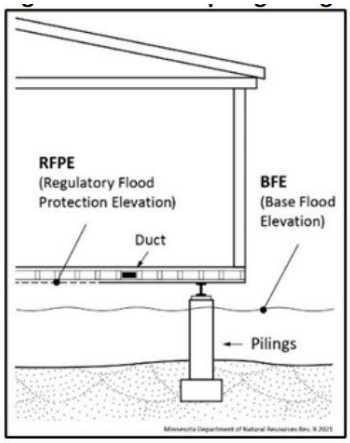


Figure 14. Filled Stem Walls

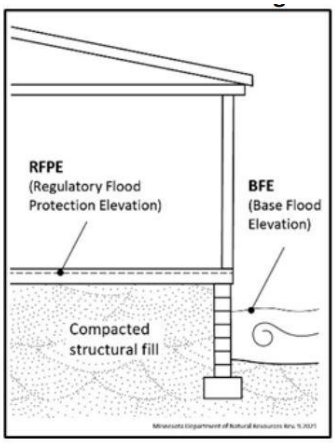
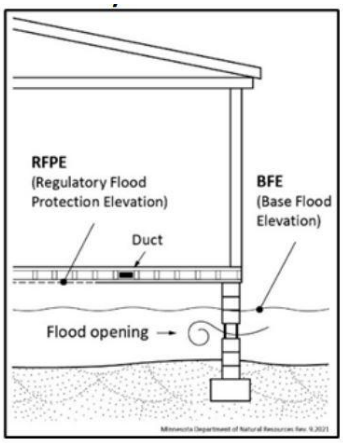


Figure 15. Internally Flooded Enclosed Area



Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in FEMA Technical Bulletin 1, as amended, as well as the following standards:

a. The lowest floor, as defined in Section 153.1.5 of this ordinance, shall be elevated at or above the Regulatory Flood Protection Elevation (RFPE).

b. The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.

c. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

d. Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. Such areas shall be subject to a deed-restricted non- conversion agreement as well as periodic inspections with the issuance of any permit.

3. **Dry Floodproofing.** Structures having watertight enclosed basements or spaces below the Regulatory Flood Protection Elevation (RFPE) must meet the following standards:

   a. Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the Regulatory Flood Protection Elevation (RFPE);

   b. Must meet the standards of FEMA Technical Bulletin 31 as amended; and

   c. A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this Section.

C. **Accessory Structures.** All accessory structures must meet the following standards:

1. Structures shall not be designed or used for human habitation.
2. Structures will have a low flood damage potential.
3. Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the Regulatory Flood Protection Elevation.
4. Structures with two or more rigid walls, must meet one of the following construction methods:

   a. Wet Floodproofing. Structures may be floodproofed in a way to accommodate internal flooding. Such structures shall constitute a minimal investment not to exceed 576 square feet in size, one-story in height, and shall only be used for parking and storage. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.

   b. Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section 153.18.5.2(A) of this ordinance. Fill is not required to be extended 15 feet beyond the outside limits of the structure.

   c. Alternative Elevation Methods. Structures may have their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) through methods alternative to the fill standards in Section 153.18.5.2(C)(4)(b), and must meet the standards in Section 153.18.5.2(B) of this ordinance.

   d. Dry Floodproofing. Structures may be dry-floodproofed, or watertight, meeting the standards in Section 153.18.5.2(B)(3) of this ordinance.

D. All new principal structures must provide vehicular access no lower than one foot below the Base Flood Elevation (BFE) unless a flood warning/emergency evacuation plan has been approved by the City of Waverly.

E. Any facilities used by employees or the general public must be designed with a flood warning system acceptable to the City of Waverly that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.

F. Manufactured homes and recreational vehicles must meet the standards of Section 153.18.9 of this ordinance.

3 **Conditional Uses in Flood Fringe.** The following uses and activities may be permitted as conditional uses, subject to the standards in Sections 153.18.5.4:

A. Alternative Elevation Methods - Residential Structures. Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in Section 153.16.5.2(A).

4 **Standards for Conditional Uses in Flood Fringe.** In addition to the applicable standards detailed in Sections 153.18.3, 153.18.5.2, and 153.18.10.2:

A. All residential structures with lowest floors elevated through alternative elevation methods must meet the standards in Section 153.18.5.2(B) of this ordinance.

§ 153.18.6 GENERAL FLOODPLAIN DISTRICT.

1 **Permitted Uses in General Floodplain District**

A. Until the floodway is delineated, allowable uses will be restricted to those listed in the Floodway District, Section 153.18.4.

B. All other uses are subject to a floodway/flood fringe determination as provided in Section 153.18.6.4, in addition to the standards provided in Sections 153.18.6.2 and 153.18.6.3. Permitted uses shall be determined as follows:

1. If the development is determined to be in the Floodway District, Section 153.18.4 applies.

2. If the development is determined to be in the Flood Fringe District, Section 153.18.5 applies.

2 **Determining Flood Elevations**

A. All development requires a determination of the Base Flood Elevation (BFE). Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base Flood Elevations (BFE) may be found using best available data from any Federal, State, or other source (including MNDNR's Lake & Flood Elevations Online (LFEO) Viewer).

B. The Regulatory Flood Protection Elevation (RFPE) can be determined by assuming a one-half {0.5) foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.

3 **Encroachment Analysis**

A. Encroachments due to development may not allow stage increases more than one-half {0.5) foot at any point, unless through a map revision following the procedures in Sections 153.18.10.1(E) and 153.18.13. This evaluation must include the cumulative effects of previous encroachments, and must be documented with hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result.

B. Alterations or changes that result in stage decreases are allowed and encouraged.

4 **Standards for the Analysis of Floodway Boundaries**

A. Requirements for Detailed Studies. Any development, as requested by the Zoning Administrator, shall be subject to a detailed study to determine the Regulatory Flood Protection Elevation (RFPE) and the limits of the Floodway District. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minnesota Rules, part 6120.5600, Subp. 4 and FEMA Guidelines and Standards for Flood Risk Analysis and Mapping, as revised. Additionally:

1. A regulatory floodway necessary to carry the discharge of the one-percent annual chance flood must be selected without increasing the water surface elevation more than one-half {0.5) foot at any point. This determination should include the cumulative effects of previous encroachments. A lesser water surface elevation increase than one-half {0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result; and

2. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.

B. Other Acceptable Methods. For areas where a detailed study is not available or required:

1. Development prohibited in floodways (e.g., most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.

a. For areas where the floodway has not been determined in and along lakes, wetlands, and other basins, the following methodology may be used as an alternative to Item A above, provided these areas are not affected by velocities and the lot is able to accommodate a building site above the Regulatory Flood Protection Elevation (RFPE):

b. All areas that are at or below the ordinary high water level, as defined in Minnesota Statutes, section 103G.005, Subd. 14, will be considered floodway, and all areas below the Base Flood Elevation (BFE) but above the ordinary high water level will be considered flood fringe, provided that within 25 feet of the ordinary high water level, or within the Shore Impact Zone as identified in the community's Shoreland ordinance, whichever distance is greater, land alterations shall be restricted to:

i. The minimum required to accommodate beach areas, access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards; projects involving volumes exceeding 10 cubic yards require floodway/flood fringe determination in accordance with the procedures in Section 153.18.6.4B(1)(a); and

ii. The minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as verified by a qualified resource agency or the zoning administrator.

§ 153.18.7 SUBDIVISION STANDARDS.

Subdivisions. All subdivided land must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

A. All lots within floodplain districts must be suitable for a building site outside of the Floodway District.

B. Subdivision of lands within the floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on the City of Waverly.

C. All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation (RFPE) unless a flood warning/emergency evacuation plan has been approved by the City of Waverly.

D. The Floodway and Flood Fringe District boundaries, the Regulatory Flood Protection Elevation (RFPE) and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.

§ 153.18.8 PUBLIC AND PRIVATE UTILITIES, SERVICE FACILITES, ROADS, BRIDGES, AND RAILROADS.

1 **Public Transportation Facilities.** Railroad tracks, roads, and bridges must be elevated to the Regulatory Flood Protection Elevation (RFPE) where such facilities are essential to the orderly functioning of the area, or where failure or interruption would result in danger to public health or safety. 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. All public transportation facilities should be designed to minimize increases in flood elevations.

2 **Public Utilities.** All utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the Regulatory Flood Protection Elevation (RFPE), be located and constructed to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the one-percent annual chance floodplain. Water supply systems are subject to the provisions in Minnesota Rules, part 4725.4350.

3 **Private On-Site Water Supply, Individual Sewage Treatment Systems, and other Service Facilities.** Private facilities shall be subject to applicable provisions detailed in Section 153.18.8.2. In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding, shall not be located in a designated floodway, and are subject to the provisions in Minnesota Rules, parts 7080.2270.

§ 153.18.9 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

1 **Manufactured Homes.** Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:

A. New and replacement manufactured homes must be placed and elevated in compliance with Section 153.18.5 of this ordinance and must be securely anchored to a 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.

B. New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 153.18.7 of this ordinance.

2 **Recreational Vehicles.** New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:

A. Meet the requirements for manufactured homes in Section 153.18.9.1, or

B. Be travel ready, meeting the following criteria:

1. The vehicle must be fully licensed.
2. The vehicle must be ready for highway use, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities.
3. No permanent structural type additions may be attached to the vehicle.
4. Accessory structures may be permitted in the Flood Fringe District, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 153.18.3 and 153.18.5.2(C).

§ 153.18.10 ADMINISTRATION.

1 **Duties.** A Zoning Administrator or other official must administer and enforce this ordinance.

A. Permit Application Requirements. Permit applications must be submitted to the Zoning Administrator. The permit application must include the following, as applicable:

1. A site plan showing all existing or proposed buildings, structures, service facilities, potential obstructions, and pertinent design features having an influence on the permit.
2. Location and detail of grading, fill, or storage of materials.
3. Copies of any required local, state or federal permits or approvals.
4. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

B. Recordkeeping. The Zoning Administrator must maintain applicable records in perpetuity documenting:

1. All certifications for dry floodproofing and alternative elevation methods, where applicable.
2. Analysis of no-rise in the Floodway District, as detailed in Section 153.18.4.2(A), and encroachment analysis ensuring no more than one-half foot of rise in the General Floodplain District, as detailed in Sections 153.18.6.2(B) and 153.18.6.3(A).
3. Final elevations, as applicable, detailing the elevation to which structures and improvements to structures are constructed or floodproofed. Elevations shall be determined by an engineer, architect, surveyor or other qualified individual, as approved by the Zoning Administrator.
4. Substantial damage and substantial improvement determinations, as detailed in Section 153.18.11(A), including the cost of improvements, repairs, and market value.
5. All variance actions, including justification for their issuance, and must report such variances as requested by the Federal Emergency Management Agency.

C. 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 finished fill and building floor elevations or other flood protection measures are in compliance with the requirements of this ordinance.

D. Notifications for 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 in accordance with Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.

E. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, the City of Waverly must notify FEMA of the changes in order to obtain a Letter of Map Revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six months after the date such supporting information becomes available. Within the General Floodplain District, a map revision is only required if development results in stage increases greater than 0.5 feet.

2 Conditional Uses and Variances

A. Process.

1. An application for a conditional use permit will be processed and reviewed in accordance with the provisions of this ordinance.
2. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with Minnesota Statutes, Section 462.357, Subd. 6(2) and this ordinance.

B. Additional Variance Criteria. The following additional variance criteria must be satisfied:

1. Variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
2. Variances from the provisions of this ordinance 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 practical difficulties 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 from the provisions in this ordinance may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law.
5. Variances may be used to modify permissible methods of flood protection, but no variance shall permit a lesser degree of flood protection than the Regulatory Flood Protection Elevation (RFPE).
6. The Zoning Administrator must notify the applicant for a variance in writing that:
    a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and
    b. Such construction below the base flood level increases risks to life and property. Notification must be maintained with a record of all variance actions.

C. Considerations for Approval. The City of Waverly must consider all relevant factors specified in other sections of this ordinance in granting variances and conditional use permits, including the following:

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 safety of access to the property in times of flood for ordinary and emergency vehicles.

D. Conditions of Approval. The City of Waverly may attach such conditions to the granting of variances and conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

1. Limitations on period of use, occupancy, and operation.
2. Imposition of operational controls, sureties, and deed restrictions.
3. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
4. Other conditions as deemed appropriate by the Zoning Administrator and the Planning Commission.

3 Notifications to the Department of Natural Resources

A. All notices of public hearings to consider variances or conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist at least ten (10) days before the hearings. Notices of hearings to consider subdivisions/plats must include copies of the subdivision/plat.

B. A copy of all decisions granting variances and conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist within ten (10) days of final action.

§ 153.18.11 NONCONFORMITIES.

1 Continuance of Nonconformities. A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

A. Within the floodway and general floodplain districts (when a site has been determined to be located in the floodway following the procedures in Section 153.18.63, or when the floodway

has not been delineated), any expansion or enlargement of uses or structures is prohibited.

B. Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the provisions of this ordinance, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the Regulatory Flood Protection Elevation (RFPE).

C. If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in Section 153.18.11.2, it may not be reconstructed except in conformity with the provisions of this ordinance.

D. 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 ordinance.

E. If any nonconforming structure has utilities, electrical, or mechanical equipment damaged due to flooding, it must be rebuilt in conformance with the elevation requirements in Section 153.18.3.3(A)4 to the greatest extent practicable. This requirement shall apply regardless of the determinations made in Section 153.18.11.2.

2 **Substantial Improvement and Substantial Damage Determinations.** Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the Zoning Administrator is required to determine if such work constitutes substantial improvement or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures:

A. Estimate the market value of the structure. In the case of repairs, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.

B. Estimate the cost of the project. The property owner shall accommodate for inspection, and furnish other documentation needed by the zoning administrator to evaluate costs.

1. Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past one year.

2. Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if structure is being restored beyond its pre-damaged condition.

C. Compare the cost of the improvement, repairs, or combination thereof to the estimated market value of the structure, and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in Section 153.1.5 of this ordinance.

1. For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since the community has adopted floodplain standards impacting this structure.

2. If any nonconforming structure experiences a repetitive loss, as defined in Section 153.1.5 of this ordinance, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this ordinance.

D. Based on this determination, the zoning administrator shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this ordinance.

§ 153.18.12 VIOLATIONS AND PENALTIES.

1 **Uses in Violation of the Ordinance.** Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this ordinance shall be considered a public nuisance.

2 **Civil Remedies.** The creation of a public nuisance may be enjoined and the maintenance of a

public nuisance under this ordinance may be abated by an action brought by the City of Waverly or the Department of Natural Resources.

3 **Enforcement.** Violations of the provisions of this ordinance constitutes a misdemeanor and is punishable as defined by law. The Zoning Administrator 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. The City of Waverly 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.

§ 153.18.13 AMENDMENTS.

1 **Ordinance Amendments.** Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an ordinance amendment to update the map references in Section 153.18.2.2 of this ordinance.

2 **Required Approval.** All amendments to this ordinance must be submitted to the Department of Natural Resources for review and approval prior to adoption, for compliance with state and federal rules and requirements. The floodplain ordinance shall not be considered valid until approved.

§ 153.18.14 EFFECTIVE DATE

This floodplain ordinance shall be in full force and effect from and after its passage and approval. Adopted by the Waverly City Council on the 12th day of March, 2024.

SECTION 19-98 RESERVED

SECTION 99. FEE SCHEDULE

§ 153.99.1 FEE SCHEDULE

1 The city has adopted a schedule of fees for city services, permits, and general fees.

2 The fee schedule will be reviewed annually and amended by Council action at the first meeting in January each year.

SECTION 100. EFFECTIVE DATE

This updated and restated ordinance shall take effect and be in force from and after its passage and publication as provided by law.

Passed by the Council this 14th day of October, 2025

Approved

_____

Mayor

Attest:

_____

City Administrator