

TITLE XV: LAND USAGE

Chapter

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CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

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' 150.01 NUMBERING OF BUILDINGS.

Every owner, agent or occupant of a dwelling house, or any building used for any business purpose, shall place thereon its proper street number, so that such number shall be clearly visible from the sidewalk in front of the same. Such numbers shall be so placed on such houses and buildings within 30 days after notification by the City Administrator/Clerk-Treasurer by mail of the assignment of a number thereto, and such numbers shall be assigned by the Council in such manner as it may determine. The City Administrator/Clerk-Treasurer shall at all times keep a complete record of all numbers assigned, the description of the property on which the buildings are located and the name of the owner at the time the number is assigned, if known, and his or her post office address if not a resident of the city. Dwelling houses and buildings used for business purposes hereinafter erected shall be assigned a number at the time the building permit is issued, and the same method of assignment and the same record thereof shall be kept as herein provided for dwellings and buildings used for business purposes now existing.

(Prior Code, Ch. III, Part 3)

' 150.02 MINNESOTA BUILDING CODE ADOPTED.

The Minnesota State Building Code, being Minn. Rules ' ' 1300.0010 et seq., as they may be amended from time to time, one copy of which is on file in the office of the City Administrator/Clerk-Treasurer, as it may be amended from time to time, as a uniform building code applicable throughout the state. Such code is hereby confirmed as the Building Code of the city and incorporated in this section as completely as if set out in full.

(Prior Code, Ch. V, Part 3-A) (Ord. passed 6-28-2001)

' 150.03 DUAL-FIRED HEATING SYSTEMS.

(A) All buildings constructed in the city with electric heat as its main source of heat shall also have installed an alternate source of heat.

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(B) All existing buildings which subsequent to this date are remodeled or otherwise upgraded to use electric heat as its main source of heat or to accommodate electric space heating, which use 7,000 watts or more, shall also have installed an alternate source of heat. Any building using less than 7,000 watts shall not be eligible for dual heating rates.

(C) Said alternate source of heat shall be equipped with proper switching devices so that it can automatically be turned on by an electronic signal during a period of high demand for electricity.

(D) Wood heat may be used as an alternate source of heat if it meets the following requirements:

(1) The installation is approved by the Building Inspector;

(2) It is a UL, ICBO, FM approved air-tight wood stove or air-tight furnace with a minimum heat output rating of 35,000 BTUs; and

(3) It shall not be equipped with a set-back thermostat.

(E) Each customer shall be responsible for all costs of installation of the alternate source of heat and for necessary switching devices.

(F) Each customer shall receive such reduction in electric rates as the Council shall, by resolution, provide.

(Prior Code, Ch. IV, Part 4-B) (Ord. passed 10-25-1983)

CHAPTER 151: AIRCRAFT FLYWAY

Section

151.01 Aviation easement

151.01 AVIATION EASEMENT.

(A) The city does ordain that the city acquire the aviation easement over and above the following described property for the purpose of establishing a perpetual aviation easement and right-of-way for the unobstructed and unrestricted flight of aircraft in, through and across said tract, together with the right to enter on said land to remove any encroachments to said easement, at any altitude or height above a 20-foot to one glide slope 100 feet beyond the end of the landing strip for the Municipal Airport as designated on Exhibit AA@ of the ordinance codified herein and made a part hereof, to wit: commencing at the intersection of the west right-of-way line on the town road established between Sections 32 and 33 of Township 155 North of Range 47 West with the north right-of-way line of State Trunk Highway as established between Section 32, Township 155 North of Range 47 West and Five in Township 154 North of Range 47 West; thence 520 feet west along the north right-of-way line-of Minnesota State Trunk Highway No. 1; thence north 40 degrees nine minutes east a distance of 520 feet; thence south 49 degrees 51 minutes east a distance of 240 feet to the west boundary line of the town road located between said Sections 32 and 33; thence south 250 feet to the point of beginning.

(B) The City Council finds and has determined that it is necessary and expedient that said lands be taken for a public use and that the same is authorized by law and that the City Attorney be directed to prosecute said condemnation proceedings forthwith.

(Prior Code, Ch. XI, Part 1)

CHAPTER 152: FLOODPLAIN MANAGEMENT

Section

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GENERAL PROVISIONS

152.001 STATUTORY AUTHORIZATION.

The legislature of the state has, in M.S. Ch. 103F and 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows.
(Ord. 57C, passed 6-26-2007)

152.002 FINDINGS OF FACT.

(A) *General.* The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(B) *Methods used to analyze flood hazards.* This chapter is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the state=s Department of Natural Resources.

(C) *National Flood Insurance Program compliance.* This chapter is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. parts 59 through 78, as amended, so as to maintain the community=s eligibility in the National Flood Insurance Program. (Ord. 57C, passed 6-26-2007)

' 152.003 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize those losses described in ' 152.002 of this chapter by provisions contained herein. (Ord. 57C, passed 6-26-2007)

' 152.004 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all lands within the jurisdiction of Warren shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the Floodway and Flood Fringe Districts. (Ord. 57C, passed 6-26-2007)

' 152.005 ESTABLISHMENT OF OFFICIAL ZONING MAP.

The official zoning map, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this chapter. The attached material shall include the Flood Insurance Study for the city prepared by the Federal Emergency Management Agency dated 11-19-1987, and the Flood Boundary and Floodway Map dated 11-19-1987 and the Flood Insurance Rate Map dated 11-19-1987 therein, the letter of map revision for the city issued by the Federal Emergency Management Agency dated 6-27-2007 along with all amended Flood Insurance Rate Map panels, amended hydrology summary tables, amended flood profiles and amended floodway data tables, and the Flood Insurance Study for the County of Marshall, Minnesota prepared by the Federal Emergency Management Agency dated 10-16-1987 and Flood Boundary and Floodway Map panel number 345 of 450 dated 10-16-1987 and the Flood Insurance Rate Map panel number 345 of 450 dated 10-16-1987 therein. The official zoning map shall be on file in the office of the City Administrator/Clerk-Treasurer. (Ord. 57C, passed 6-26-2007)

152.006 REGULATORY FLOOD PROTECTION ELEVATION.

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

(Ord. 57C, passed 6-26-2007)

152.007 INTERPRETATION.

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

(B) The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

(Ord. 57C, passed 6-26-2007)

152.008 ABROGATION AND GREATER RESTRICTIONS.

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

(Ord. 57C, passed 6-26-2007)

152.009 WARNING AND DISCLAIMER OF LIABILITY.

This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 57C, passed 6-26-2007)

152.010 SEVERABILITY.

If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby. (Ord. 57C, passed 6-26-2007)

152.011 DEFINITIONS.

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

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

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

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

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

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.

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

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the floodplain outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOODWAY FRINGE** used in the Flood Insurance Study for city.

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

FLOOD-PROOFING. A combination of structural provisions, changes or adjustments to properties and 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 are reasonably required to carry or store the regional flood discharge.

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**.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include the term Recreational vehicle@.

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

PRINCIPAL USE OR STRUCTURE. All uses or structures that are not accessory uses or structures.

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

RECREATIONAL VEHICLE. 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. For the purposes of this chapter, the term **RECREATIONAL VEHICLE** shall be synonymous with the term **TRAVEL TRAILER/ TRAVEL VEHICLE**.

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

REGULATORY FLOOD PROTECTION ELEVATION. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in ' 152.092 of this chapter and other similar items.

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

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the Astart of construction@ of the improvement. This term includes structures that have incurred Asubstantial damage@, regardless of the actual repair work performed. The term does not, however, include either:

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

(2) Any alteration of a historic structure; provided that, the alteration will not preclude the structure=s continued designation as a historic structure. For the purpose of this chapter, Ahistoric structure@ shall be as defined in 44 C.F.R. part 59.1.

VARIANCE. A modification of a specific permitted development standard required in an official control including this chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community=s respective planning and zoning enabling legislation.
(Ord. 57C, passed 6-26-2007)

' 152.012 ANNEXATIONS.

(A) The Flood Insurance Rate Map panels adopted by reference into ' 152.005 of this chapter may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this chapter.

(B) If any of these floodplain land areas are annexed into the city after the date of adoption of this chapter, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of annexation into the city.
(Ord. 57C, passed 6-26-2007)

' 152.013 ESTABLISHMENT OF ZONING DISTRICTS; COMPLIANCE.*(A) Districts.*

(1) *Floodway District.* The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map and Flood Boundary and Floodway Map panels adopted in ' 152.005 of this chapter.

(2) *Flood Fringe District.* The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown on the Flood Insurance Rate Map for the city, as amended by the Letter of Map Revision dated 6-27-2007 as adopted in ' 152.005 of this chapter, as being within Zones AE, but being located outside the floodway and those areas shown on the Flood Boundary and Floodway Map for the county adopted in ' 152.005 of this chapter as being within the flood fringe.

(B) Compliance. No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in ' ' 152.030 through 152.033 and 152.045 through 152.049 of this chapter that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically ' ' 152.090 through 152.092 of this chapter;

(2) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this chapter and specifically ' 152.014 of this chapter; and

(3) As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this chapter and specifically as stated in ' ' 152.105 through 152.108 of this chapter.

(Ord. 57C, passed 6-26-2007)

' 152.014 NON-CONFORMING USES.

(A) A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions. Historic structures, as defined in ' 152.011 of this chapter, shall be subject to the provisions of divisions (B) through (F) below.

(B) No such use shall be expanded, changed, enlarged or altered in a way that increases its non-conformity.

(C) Any structural alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood-proofing techniques (i.e., FP-1 through FP-4 flood-proofing classifications) allowable in the state=s Building Code, except as further restricted in divisions (D) through (G) below.

(D) The cost of all structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50% of the market value of the structure, then the structure must meet the standards of ' ' 152.030 through 152.033 or 152.045 through 152.049 of this chapter for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(E) If any non-conforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this chapter. The Assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses that have been discontinued for a period of 12 months.

(F) If any non-conforming use or structure is substantially damaged, as defined in ' 152.011 of this chapter, it shall not be reconstructed, except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in ' ' 152.030 through 152.033 or 152.045 through 152.049 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

(G) If a substantial improvement occurs, as defined in ' 152.011 of this chapter, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration or other improvement to the inside dimensions of an existing non-conforming building, then the building addition and the existing non-conforming building must meet the requirements of ' ' 152.030 through 152.033 or 152.045 through 152.049 of this chapter for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(Ord. 57C, passed 6-26-2007)

' 152.015 AMENDMENTS.

(A) (1) The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain.

(2) Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.

(B) (1) All amendments to this chapter, including amendments to the official zoning map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption.

(2) The Commissioner of Natural Resources must be given ten days' written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the ordinance amendment or technical study under consideration.

(Ord. 57C, passed 6-26-2007)

FLOODWAY DISTRICT (FW)

' 152.030 PERMITTED USES.

(A) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting;

(B) Industrial-commercial loading areas, parking areas and airport landing strips;

(C) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas and single or multiple purpose recreational trails; and

(D) Residential lawns, gardens, parking areas and play areas.

(Ord. 57C, passed 6-26-2007)

' 152.031 STANDARDS FOR FLOODWAY PERMITTED USES.

(A) The use shall have a low flood damage potential.

(B) The use shall be permissible in the underlying zoning district if one exists.

(C) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(Ord. 57C, passed 6-26-2007)

' 152.032 CONDITIONAL USES.

(A) Structures accessory to the uses listed in ' 152.030 of this chapter and the uses listed in divisions (B) through (H) below;

(B) Extraction and storage of sand, gravel and other materials;

(C) Marinas, boat rentals, docks, piers, wharves and water control structures;

(D) Railroads, streets, bridges, utility transmission lines and pipelines;

(E) Storage yards for equipment, machinery or materials;

(F) Placement of fill or construction of fences;

(G) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of ' 152.092 of this chapter; and

(H) Structural works for flood control such as levees, dikes and flood walls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event. (Ord. 57C, passed 6-26-2007)

' 152.033 STANDARDS FOR FLOODWAY CONDITIONAL USES.

(A) *All uses.* No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(B) *Standards and procedures.* All floodway conditional uses shall be subject to the procedures and standards contained in ' 152.108 of this chapter.

(C) *Existence.* The conditional use shall be permissible in the underlying zoning district if one exists.

(D) *Fill.*

(1) Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

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(2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(3) As an alternative, and consistent with division (D)(2) above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood, but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the County Recorder.

(E) *Accessory structures.*

(1) Accessory structures shall not be designed for human habitation.

(2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

(a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(3) Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FP-1 or FP-2 flood-proofing classifications in the state=s Building Code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classification in the state=s Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards.

(a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls.

(b) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood-proofed.

(c) To allow for the equalization of hydrostatic pressure, there must be a minimum of two automatic@ openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(F) *Storage of materials and equipment.*

(1) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(G) *Subject to state law.* Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of M.S. Ch. 103G, as it may be amended from time to time. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

(H) *Increase prohibited.* A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.
(Ord. 57C, passed 6-26-2007)

FLOOD FRINGE DISTRICT (FF)

' 152.045 PERMITTED USES.

Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District; provided, such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District permitted uses listed in ' ' 152.046 and 152.049 of this chapter.
(Ord. 57C, passed 6-26-2007)

' 152.046 STANDARDS FOR FLOOD FRINGE PERMITTED USES.

(A) (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation.

(2) The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(B) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood-proofed in accordance with ' 152.033(E)(3) of this chapter.

(C) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with division (B) above.

(D) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(E) The provisions of ' 152.049 of this chapter shall apply.
(Ord. 57C, passed 6-26-2007)

' 152.047 CONDITIONAL USES.

Any structure that is not elevated on fill or flood-proofed in accordance with ' 152.046(A) and (B) of this chapter and or any use of land that does not comply with the standards in ' 152.046(C) and (D) of this chapter shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in ' ' 152.048, 152.049 and 152.108 of this chapter.

(Ord. 57C, passed 6-26-2007)

' 152.048 STANDARDS FOR FLOOD FRINGE CONDITIONAL USES.

(A) (1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure=s lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls and the like or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure=s basement or lowest floor if:

- (a) The enclosed area is above-grade on at least one side of the structure;
- (b) It is designed to internally flood and is constructed with flood resistant materials; and
- (c) It is used solely for parking of vehicles, building access or storage.

(2) The above-noted alternative elevation methods are subject to the following additional standards.

(a) *Design and certification.* The structure=s design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state=s Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(b) *Specific standards for above-grade, enclosed areas.* Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

1. A minimum area of openings in the walls where internal flooding is to be used as a flood-proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices; provided that, they permit the automatic entry and exit of flood waters without any form of human intervention; and

2. The enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the state=s Building Code and shall be used solely for building access, parking of vehicles or storage.

(B) Basements, as defined by ' 152.011 of this chapter, shall be subject to the following.

- (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

- (2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood-proofed in accordance with division (C) below.

(C) All areas of non-residential structures including basements to be placed below the regulatory flood protection elevation shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the state=s Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the state=s Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.

(D) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

(E) (1) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

(F) The provisions of ' 152.049 of this chapter shall also apply.
(Ord. 57C, passed 6-26-2007)

' 152.049 STANDARDS FOR ALL FLOOD FRINGE USES.

(A) *General.* All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(B) *Commercial uses.* Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.

(C) *Manufacturing and industrial uses.* Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in division (B) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

(D) *Fill.* Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation; FEMA=s requirements

incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(E) *Hydraulic capacity.* Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.

(F) *Recreational vehicles.* Standards for recreational vehicles are contained in ' 152.092 of this chapter.

(G) *Manufactured homes.* All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces. (Ord. 57C, passed 6-26-2007)

SUBDIVISIONS

' 152.060 REVIEW CRITERIA.

(A) No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities.

(B) (1) All lots within the floodplain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

(2) All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation.

(C) For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents. (Ord. 57C, passed 6-26-2007)

' 152.061 REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION.

(A) The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments.

(B) These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
(Ord. 57C, passed 6-26-2007)

PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES

' 152.075 PUBLIC UTILITIES.

All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the state=s Building Code or elevated to above the regulatory flood protection elevation.
(Ord. 57C, passed 6-26-2007)

' 152.076 PUBLIC TRANSPORTATION FACILITIES.

(A) Railroad tracks, roads, and bridges to be located within the floodplain shall comply with ' ' 152.040 through 152.033 and 152.045 through 152.049 of this chapter.

(B) Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area.

(C) Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
(Ord. 57C, passed 6-26-2007)

' 152.077 ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS.

(A) Where public utilities are not provided:

(1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding.

(B) Any sewage treatment system designed in accordance with the state=s current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section. (Ord. 57C, passed 6-26-2007)

MANUFACTURED HOMES, TRAVEL TRAILERS AND TRAVEL VEHICLES

' 152.090 NEW MANUFACTURED HOME PARKS.

New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by ' ' 152.060 and 152.061 of this chapter. (Ord. 57C, passed 6-26-2007)

' 152.091 REPLACEMENT MANUFACTURED HOMES; EXISTING PARKS.

(A) (1) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with ' ' 152.045 through 152.049 of this chapter.

(2) If vehicular road access for preexisting manufactured home parks is not provided in accordance with ' 152.049(A) of this chapter, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.

(B) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces. (Ord. 57C, passed 6-26-2007)

' 152.092 RECREATIONAL VEHICLES.

Recreational vehicles that do not meet the exemption criteria specified in division (A) below shall be subject to the provisions of this chapter and as specifically spelled out in divisions (C) and (D) below.

(A) *Exemption.* Recreational vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (B) below and further they meet the following criteria:

- (1) Have current licenses required for highway use;

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(2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it; and

(3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(B) Areas exempted for placement of recreational vehicles.

(1) Individual lots or parcels of record;

(2) Existing commercial recreational vehicle parks or campgrounds; and

(3) Existing condominium type associations.

(C) Losing exemption. Recreational vehicles exempted in division (A) above lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in ' ' 152.030 through 152.033 and 152.045 through 152.049 of this chapter. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(D) New parks. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following.

(1) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts; provided, said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with ' 152.049(A) of this chapter. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(2) All new or replacement recreational vehicles not meeting the criteria of division (D)(1) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of ' 152.108 of this chapter. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation and shall demonstrate the provisions of division (A)(1) and (A)(2) above will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with ' 152.077 of this chapter.

(Ord. 57C, passed 6-26-2007)

ADMINISTRATION**' 152.105 ZONING ADMINISTRATOR.**

A Zoning Administrator or other official designated by the governing body shall administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions of this chapter, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in ' 152.999 of this chapter.

(Ord. 57C, passed 6-26-2007)

' 152.106 PERMITS, CERTIFICATION REQUIREMENTS AND RECORD KEEPING.

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

(B) *Application for permit.* Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions and elevations of the lot: existing or proposed structures, fill or storage of materials; and the location of the foregoing in relation to the stream channel.

(C) *State and federal permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(D) *Certificate of zoning compliance for a new, altered or non-conforming use.* It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter.

(E) *Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance.* Permits, conditional use permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided by ' 152.999 of this chapter.

(F) *Certification.* The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

(G) *Record of first floor elevation.* The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

(H) *Notifications for watercourse alterations.* The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to M.S. Ch. 103G, as it may be amended from time to time, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(I) *Notification to FEMA when physical changes increase or decrease the 100-year flood elevation.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.
(Ord. 57C, passed 6-26-2007)

' 152.107 APPEALS AND VARIANCES; DUTIES OF THE BOARD OF ADJUSTMENT.

(A) *Rules.* The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.

(B) *Administrative review.* The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter.

(C) *Variances.* The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this chapter, any other zoning regulations in the community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied.

(1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall only be issued by a community upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(D) *Hearings.* Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days= notice of the hearing.

(E) *Decisions.* The Board of Adjustment shall arrive at a decision on such appeal or variance within 45 days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in ' 152.108(F) of this chapter, which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under ' 152.999 of this chapter. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten days

of such action.

(F) *Appeals.* Appeals from any decision of the Board of Adjustment may be made, and as specified in this community's official controls and also by Minnesota Statutes.

(G) *Flood insurance notice and record keeping.*

(1) The Zoning Administrator shall notify the applicant for a variance 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 100-year or regional flood level increases risks to life and property.

(2) Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(Ord. 57C, passed 6-26-2007)

' 152.108 CONDITIONAL USES; STANDARDS AND EVALUATION PROCEDURES.

The city's Planning Commission shall hear and decide applications for conditional uses permissible under this chapter. Applications shall be submitted to the Zoning Administrator who shall forward the application to the City Council for consideration.

(A) *Hearings.* Upon filing with the City Council an application for a conditional use permit, the City Council shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing.

(B) *Decisions.* The City Council shall arrive at a decision on a conditional use within 45 days. In granting a conditional use permit, the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in division (F) below, which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this chapter punishable under ' 152.999 of this chapter. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(C) *Procedures to be followed by the City Council in passing on conditional use permit applications within all floodplain districts.*

(1) Require the applicant to furnish such of the following information and additional

information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:

(a) Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures and the relationship of the above to the location of the stream channel; and

(b) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(2) Transmit one copy of the information described in division (C)(1) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

(3) Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(D) *Factors upon which the decision of the City Council shall be based.* In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this chapter, and:

(1) The 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 or they may block bridges, culverts or other hydraulic structures;

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(5) The importance of the services provided by the proposed facility to the community;

(6) The requirements of the facility for a waterfront location;

(7) The availability of alternative locations not subject to flooding for the proposed use;

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

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(10) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and

(12) Such other factors which are relevant to the purposes of this chapter.

(E) *Time for acting on application.* The City Council shall act on an application in the manner described above within 45 days from receiving the application, except that where additional information is required pursuant to division (C) above. The City Council shall render a written decision within 45 days from the receipt of such additional information.

(F) *Conditions attached to conditional use permits.* Upon consideration of the factors listed above and the purpose of this chapter, the City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

(1) Modification of waste treatment and water supply facilities;

(2) Limitations on period of use, occupancy and operation;

(3) Imposition of operational controls, sureties and deed restrictions;

(4) Requirements for construction of channel modifications, compensatory storage, dikes, levees and other protective measures; and

(5) Flood-proofing measures, in accordance with the state=s Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(Ord. 57C, passed 6-26-2007)

§ 152.999 PENALTY.

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

(B) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:

(1) In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(2) When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.

(3) The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either:

(a) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

(b) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(4) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this chapter.

(Ord. 57C, passed 6-26-2007)

CHAPTER 153: ZONING

Section

- 153.01 Definitions; construction
- 153.02 Zoning districts and general provisions
- 153.03 Existing non-conformities
- 153.04 Planned unit developments
- 153.05 Off-street loading and parking
- 153.06 Removal of non-conforming (open land) uses
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- 153.15 Wood-burning devices
- 153.16 Manufactured homes
- 153.17 Variances

- 153.99 Penalty

153.01 DEFINITIONS; CONSTRUCTION.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number shall include the plural and the plural the singular; the word shall is mandatory and the word may is permissive, the words used or occupied include the words intended, designed or arranged to be used or occupied; the word lot includes the words plot or parcel.

ACCESSORY STRUCTURES. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ATTORNEY. The attorney of the City of Warren or his or her authorized representative.

BOARD OF ADJUSTMENT. The Board of Adjustment as authorized by the City Council.

CLUSTER SUBDIVISION. A change from the conventional pattern of subdivision development which groups housing units into relatively tight units while providing a unified network of open space.

CONDITIONAL USE. A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in listed zoning districts upon appeal, if conditional use permits are granted by the Board of Adjustment. **CONDITIONAL USES**, when granted, shall be considered as permitted uses and not as variances.

DWELLING, MULTIPLE-FAMILY. A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

DWELLING, SINGLE-FAMILY. A detached residence designed for or occupied by one family only.

DWELLING, TWO-FAMILY. A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

FAMILY. One or more persons occupying a single housekeeping unit and using common cooking facilities.

FLOODPLAIN. The land adjacent to a body of water which has been or may be hereafter covered by flood water including, but not limited to, the regional flood.

FLOODWAY. The channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the flood water or flood flows of any river or stream including but not limited to flood flows associated with the regional flood.

HOME OCCUPATIONS.

(1) A use of non-residential nature conducted entirely within the dwelling or accessory buildings and carried on only by inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes. No article may be sold or offered for sale except as may be produced on the premises by members of the immediate family residing therein. Only one unlighted sign not exceeding one square feet in area may be displayed.

(2) **HOME OCCUPATIONS** shall be limited to catering service, dressmaking, carpenter and cabinet making shop, home bakery, furniture repairing upholstery shop, real estate office, individual doctor=s consultation office and other restricted business, service or profession which, in the opinion of the Board of Adjustment, are of the same general character as the uses enumerated and designed so as not to change the character of the immediate neighborhood.

(3) The following shall not be deemed to be home occupations: animal hospital; automobile

repair garage; barber shop; beauty parlor; clinic; kennel; among others.

JUNK OR SALVAGE YARD. Any place where two or more motor vehicles not containing current license plates are stored in the open; and including the commercial salvaging and scavenging of any other goods, articles or merchandise not contained entirely within enclosed buildings.

LOT. For zoning purposes, as covered by this chapter, a **LOT** is a parcel of land of at least sufficient size to meet minimum zoning requirements, for use, coverage and area to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street; provided that, in no case of subdivision shall any lot or parcel be created which does not meet the requirements of this chapter.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street or a body of water if the lot has water frontage. For the purpose of determining yard requirements on corner lots and through lots (through lots are lots running from street to street), all portions of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards in this chapter.

LOT WIDTH. the distance between the side lot lines measured on the building front yard setback line.

LOT OF RECORD. A lot which is part of a subdivision recorded in the office of the City Administrator/Clerk-Treasurer, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MOBILE HOME. A single family dwelling unit suitable for year-round occupancy placed on a foundation so as to be substantially affixed to the site and connected to a water supply, waste disposal system and electrical supply similar to immobile housing. **MOBILE HOMES** shall not be permitted outside of a mobile home park, except in the F-R District. (Mobile home parks in the F-R District will require a conditional use permit.) Individual mobile homes residing in a mobile park at the time of the passage of this chapter or mobile homes seeking to establish in a mobile home park in the future shall not be required to obtain a zoning or conditional use permit.

MOBILE HOME PARK. A parcel of land which has been planned and improved for the placement of two or more mobile homes and licensed by the state. A conditional use permit shall be required for the establishment of a **MOBILE HOME PARK**.

PARKING SPACE, OFF-STREET. An off-street parking space shall comprise not less than 180 square feet of parking stall plus necessary maneuvering space. Space for maneuvering incidental to parking or un-parking shall not encroach upon any public way. Every **OFF-STREET PARKING SPACE** shall be accessible from a public way.

PLANNING COMMISSION. The Planning Commission of the City of Warren.

SIGN. Any device to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that, the following shall not be included in the application of the regulations herein.

(1) Signs not exceeding four square feet in area and bearing only property numbers, post box numbers, names of occupants or premises or other identification of premises not having commercial connotations;

(2) Flags and insignias of any government except when displayed in connection with commercial promotion;

(3) Legal notices; identification, information or directional signs erected or required by governmental bodies;

(4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;

(5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;

(6) A temporary sign indicating real estate for rent or for sale related to the premises only on which it is located; and

(7) Political posters in accordance with applicable state laws provided that they are removed within ten days following the election for which they were intended.

SIGNS, NUMBER AND SURFACE AREA. For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

SIGN, ON-SITE. An outdoor advertising device relating in its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises.

SIGN, OFF-SITE. An outdoor advertising device other than an on-site sign.

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

VARIANCE. An appeal for the relief from certain requirements of the zoning ordinance as deemed necessary by the Board of Adjustment when the strict interpretation of the ordinance would create undue hardship because of irregular lot size, topographic or other characteristics of the land. No **VARIANCE** shall have the effect of allowing in any district uses prohibited in that district.

YARD. A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; provided, however, that, fences, signs, utility poles, lawn lights, antennas and related minor equipment may be permitted in any yard; provided that, they do not create a traffic safety hazard.

YARD, FRONT. A yard extending between side lot lines across the front of a lot at the side nearest the street or a body of water. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation on corner lots shall be permitted which materially impedes vision across such yard.

YARD, REAR. A yard extending across the rear of the lot between inner side yard lines.

YARD, SIDE. A yard extending from the rear line of the required front yard to the rear lot line.
(Ord. passed 11-9-1971)

' 153.02 ZONING DISTRICTS AND GENERAL PROVISIONS.

(A) The city is hereby divided into zoning districts as shown on the official zoning district map dated December 1972, and filed in the office of the City Administrator/Clerk-Treasurer. The map and all explanatory matter thereon are hereby made a part of this chapter.

(B) No building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered and no land shall change use unless in conformity with all of the regulations herein specified in the zoning schedule in ' 153.10 of this chapter for the district in which it is located.

(C) In each zone district, each structure hereafter erected or altered shall be provided with the yards and setbacks specified, shall be on a lot of the area and width specified and shall not exceed the percent of maximum total building coverage of its lot, as specified in the zoning schedule, ' 153.10 of this chapter. No open space, lot, off-street parking or loading space required for a building or structure shall be included as part of a lot, open space, off-street parking or loading space for another building structure unless the joint space meets all requirements of all buildings or structures for which it serves.

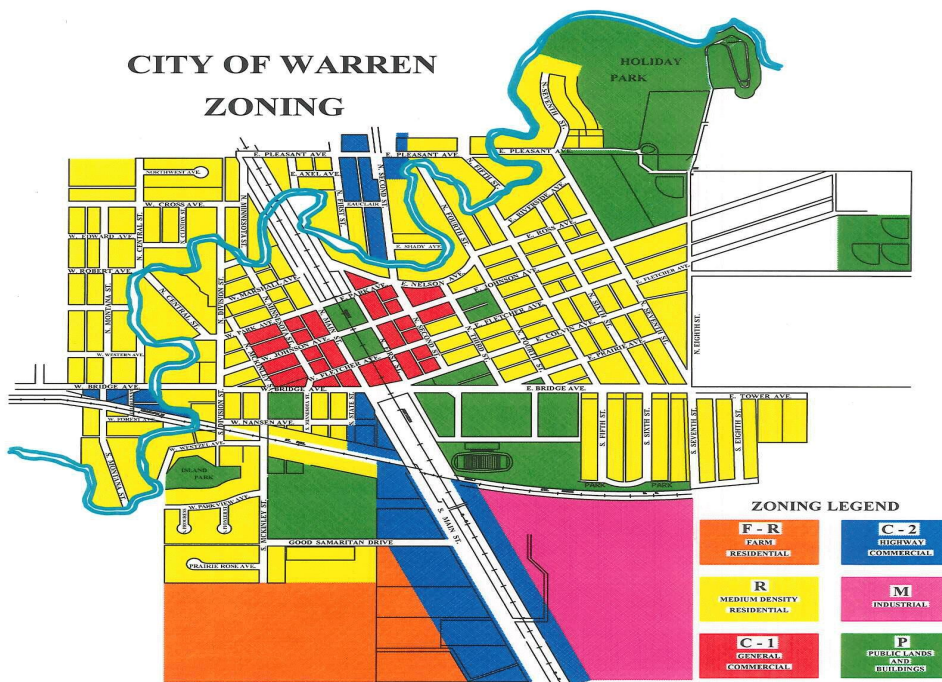
(D) All single-family and two-family dwellings located in the area of the city zoned farm residential (F-R) or medium density residential shall:

- (1) Provide not less than 950 square feet of gross floor area per dwelling unit;
- (2) Shall not be less than 20 feet wide at the narrowest point of the main structure;

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(3) Shall be affixed to a permanent foundation as defined in the state=s Building Code;

(4) Shall be affixed to a permanent foundation as defined in the state=s Building Code, whether masonry, concrete or treated wood, and shall be constructed as continuous walls which walls shall not have any openings, except as required by the state=s Building Code or for windows; and



(5) Shall comply with all requirements of the state=s Building Code.

(Ord. passed 11-9-1971; Ord. passed 6-12-1997)

Cross-reference:

Rezoning, see TSO Table III

153.03 EXISTING NON-CONFORMITIES.

(A) *Non-conforming uses.* Any use of a structure and-or building existing at the time of enactment or subsequent amendment of this chapter, but not in conformity with its provisions, may be continued; provided that:

(1) The use is not changed to another non-conforming use or re-established if discontinued for a continuous 90-day period; and

(2) No existing structure devoted to a non-conforming use shall be enlarged or extended, constructed, moved or structurally altered except in changing the use of the structure to a use consistent with the provisions of this chapter.

(B) *Non-conforming structures.* Any structure existing at the date of adoption or amendment of this chapter which does not comply with the provisions of this chapter by reason of restrictions on area, lot coverage, yards or other characteristic of the structure or lot may be continued provided that such structure may:

(1) Not be enlarged or altered in a way which increases its non-conformity;

(2) Not be rebuilt, except in conformity with the provisions of this chapter, after damage to an extent of more than 50% of its replacement value at time of damage;

(3) Not be moved in any way unless it shall thereafter conform to the provisions of this chapter; and

(4) Have normal repairs and maintenance necessary to keep the structure in sound condition.
(Ord. passed 11-9-1971)

153.04 PLANNED UNIT DEVELOPMENTS.

(A) *Group housing projects.* In the case of a housing project consisting of a group of five or more dwelling units to be constructed on a plot of ground of at least three acres not subdivided into the customary streets and lots and which will not be so subdivided or where the existing or contemplated street and lot layout make it impractical to apply the requirements of this chapter to the individual buildings in such housing projects, the application of such requirements to such housing project shall be made by the Board of Adjustment in a manner that will be in harmony with the character of the neighborhood, will insure a density of land use no higher and a standard of open space at least as high as required by this chapter in the district in which the proposed project is to be located.

(B) *Industrial park.* The owner of a tract of land containing 20 acres or more not subdivided into the customary streets and lots or where the existing or contemplated street and lot layout of an industrial park development makes it impracticable to apply the requirements of this chapter to the individual buildings in such industrial park projects, may submit to the Zoning Officer for review a preliminary plan and planned industrial district or industrial park. Before the Board of Adjustment makes a recommendation to the City Council, it shall be the responsibility of the applicant to show that the proposed plan meets or exceeds the following conditions:

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(1) The plan provides for a grouping of buildings of harmonious design having properly arranged traffic ways, parking and loading facilities. Adequate landscaping and not having adverse effect on the neighboring properties;

(2) The proposed project will have direct access to at least one public road;

(3) All uses proposed are listed as basic provisions or conditional uses as described in the classification list; and

(4) Any other requirements that the Board of Adjustment may impose to safeguard the public interest have been met.

(C) *Mobile home park.* In the case of a mobile home park consisting of five or more units to be constructed on a plot of ground of at least three acres not subdivided into the customary streets and lots, an application for a planned unit development permit for such a project shall be made to the Zoning Officer. Before recommending the approval of the permit to the City Council, the Board of Adjustment shall require the applicant to show the development will:

(1) Have minimum lot width of 50 feet with a minimum of 5,000 square feet area per lot.

(2) Have a service road available to the development with a minimum width of 50 feet.

(3) Any mobile home park accommodating or designed for 25 or more mobile homes shall develop one or more recreation areas which shall be accessible to all park residents, free of all traffic hazards and not be smaller than 100 square feet for each lot or less than 2,500 square feet.

(4) Landscape improvement shall consist of turf or ground cover surfaces over at least 50 per cent of the lot area and have at least one two-inch caliper (measured six inches above ground level) deciduous or one evergreen tree. (Evergreen tree to be 3.75 feet minimum initial height).

(5) Site drainage. The ground surface of all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

(6) Have no adverse effect on adjacent property.

(7) Be consistent with the intent and purpose of this chapter.

(D) *Area of jurisdiction.* The provisions of this chapter in addition to units located within the city limits shall control and govern all planned unit development proposed or constructed within two miles of the corporate city limits of the city. In no case shall the Board of Adjustment authorize a use prohibited in this district in which the planned unit development is to be located.

(Ord. passed 11-9-1971)

153.05 OFF-STREET LOADING AND PARKING.

(A) Space for off-the-street loading of vehicles shall be provided for every building used or designed for commercial purposes in an amount considered adequate by the Zoning Officer for the proposed use.

(B) (1) Off-street automobile storage or standing space shall be provided on every lot on which any new structures are hereafter established; such space shall be provided with vehicular access to a street or alley and shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

(a) Dwelling: one parking space for each unit;

(b) Tourist accommodations: one parking space for each room or unit;

(c) Theater, stadium, auditorium, church or other places of public assembly: one parking space for each ten seats, based on maximum seating capacity;

(d) Stores and other retail business establishments: one parking space for each 100 square feet of total retail floor area;

(e) Office Building: one parking space for each 200 square feet of office floor area; and

(f) Industrial, manufacturing, or wholesale establishments; one parking space for each five workers, based on peak employment and adequate space for loading and unloading all vehicles used incidental to the operation of the industrial or manufacturing establishment.

(2) None of these regulations, however, shall apply to the present C-1 areas indicated on the zoning map and described as follows: South of Park Avenue from McKinley Street including Nelson Avenue to Third Street, West of Third Street between Nelson Avenue and Fletcher Avenue, North of Fletcher Avenue from Third Street West to McKinley Street and the East side of McKinley Street between Fletcher and Park Avenues.

(3) Where such space cannot be reasonably provided on the same lot with the principal use, the Board of Adjustment may permit such space to be located on another off-street property; provided, such space is within 500 feet of the permitted use measured along lines of public access.

(C) Off-Street parking areas, whether public or private, for more than five vehicles shall be effectively screened by a fence, wall or plant material if visible from a residential or public zoning district.

(Ord. passed 11-9-1971)

' 153.06 REMOVAL OF NON-CONFORMING (OPEN LAND)USES.

All non-conforming signs of all types not exempted by the definition thereof, and all non-conforming open land uses (not under a roof) such as open storage yards, junk yards accumulations of debris, stockyards and the like shall be removed and made to conform to the provisions of this chapter within a period of two years after the adoption of this chapter and the mailing of a notice instructing such removal by the Zoning Officer.

(Ord. passed 11-9-1971)

' 153.07 OUTDOOR ADVERTISING.

(A) Only official identification, directional or traffic-control signs shall be allowed within the public right-of-way.

(B) On-site signs at industrial, commercial or service establishments shall be limited to three display units per 25 linear feet of total road frontage. Total area of all units combined shall not exceed 50 square feet for each 25 linear feet of total road frontage, advertising only goods or services for sale or produced on the property.

(C) Off-site advertising signs shall be permitted uses in C-1, C-2 and AA zone districts as conditional uses. Off-site advertising signs shall also be permitted at tourist service areas and visitor information centers designed for the purpose of informing the motoring public of services available within the nearby area.

(D) Off-site advertising structures shall not be erected which exceed 350 square feet in advertising area. The maximum size limitation stated herein shall apply to each facing of an off-site advertising sign. Two outdoor advertising signs not exceeding 350 square feet each may be erected in a facing (end to end).

(E) The change in advertising message, maintenance and repair, or the use of extensions, cut-outs or embellishments upon an existing advertising structure shall not be considered an enlargement, extension structure or structural alteration; provided that, thereby the advertising structure is not caused to exceed any size limitation imposed by this chapter.

(F) Off-site advertising signs shall not obscure safe sight distances or conflict with official signs or safety devices;

(G) Off-site advertising signs shall not be erected which contain, include or are illuminated by any flashing light or lights, except those giving public service information, such as time and temperature. Lighted signs shall be shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any street or highway and shall not be of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle or obscure any official traffic sign, device or signal.

(Ord. passed 11-9-1971)

153.08 FLOODPLAIN MANAGEMENT STANDARDS.

Following official establishment of the floodplain and floodway areas the items listed below shall be taken into consideration in the review of any permit application for zoning.

(A) (1) Within the limits of the floodway permissible encroachments shall not cause an increase in the stage of the regional flood of more than one-half foot at any location along the watercourse.

(2) If the increase in flood stages will materially increase the flood damage potential, then a lesser, increase may be required.

(3) Increases greater than one-half foot may be authorized where studies show that further increases in flood stages will not materially increase the flood damage potential.

(4) Permitted uses within the floodway include those uses having a low flood damage potential and those that will not significantly obstruct flood flows or increase velocities or stages of the regional flood.

(5) Uses may include agricultural, recreation, parking, storage, loading, certain accessory structures, public utility facilities and channel connections to public waters.

(B) Flood fringe areas adjacent to and outside of floodways may have accessory land uses having low flood damage potential provided with a lesser degree of flood protection.

(C) Non-conforming uses may be continued. Any future addition or modification must conform with the standards.

(D) Protection may be provided by:

(1) Flood-proofing;

(2) Levees;

(3) Fill;

(4) Floodwalls; and

(5) Incorporation of requirements from other ordinances such as building codes, sanitary regulations and subdivision platting regulations.

(Ord. passed 11-9-1971)

153.09 PERMISSIBLE AND CONDITIONAL USES.

On the following table, an open circle, O, means that the use is permitted in that district only if a conditional use permit is granted by the Board of Adjustment. An X means that the use is permitted in the

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zone district subject to the general provisions of the zoning ordinance For uses not included on this list, application shall be made to the Board of Adjustment for interpretation. (The FW and FP zones are left blank to be completed at a later date.)

<i>Classification List</i>	<i>F-R</i>	<i>R</i>	<i>C-1</i>	<i>C-2</i>	<i>M</i>	<i>P</i>	<i>FW</i>	<i>FP</i>
Acoustical materials, manufacturing, storage					X			
Acoustical materials, sales			X	X				
Advertising display manufacturing					X			
Agricultural implements service and sales	O			X	X			
Airplane repair	O	O			X			
Airplane hanger	O	O		O				
Ambulance garage and office			O	X	O			
Amusement park				O				
Animal hospital, veterinarian				O	O			
Apartment		O	O	O				
Apartment hotel		O	X					
Armory				O	X	X		
Art gallery		O	X	X				
Asphalt and asphalt products processing, storage					O			
Association (clubs and lodges, private)	O	O	X	X				
Athletic club			X	O				
Athletic field	X					X		
Auditorium, assembly hall	X		O			X		
Automobile and truck sales, parts, repair			O	X	X			
Automobile and truck salvage and scrap yard					O			
Bait sales	O	O	X	X				
Baked goods, manufacturing, sales (small scale)	O		X	X				
Baked goods, manufacturing, sales (large scale)			O	O	X			
Bank, trust company, bonding company	O		X	X				
Bar, tavern, saloon			X	X				
Barber			X	X				
Beauty shop	O	O	X	X				
Beverages, wholesale and storage				O	X			
Bicycle and motorcycle sales and repair			O	X	X			
Billiard parlor			X	X				
Boat manufacturing, storage			O	O	X			

Zoning

<i>Classification List</i>	<i>F-R</i>	<i>R</i>	<i>C-1</i>	<i>C-2</i>	<i>M</i>	<i>P</i>	<i>FW</i>	<i>FP</i>
Body shop					O			
Bottled gas, storage and distribution					O			
Bowling alley			X	X				
Broadcasting station	O			O				
Broadcasting studio	O		X	X				
Building contractor equipment and material storage	O				X			
Building materials, storage, sales	O		X	X	X			
Bus line depot			X	X				
Café, restaurant, supper club	O	O	X	X				
Camp, private	O							
Carpentry and cabinet shop, power woodworking	O		O	O	X			
Carpet and rug sales, storage, cleaning			X	O	M			
Cement, and concrete products, manufacturing, sales, storage					O			
Cemetery	O					X		
Cesspool, septic tank, builders, service, sales					X			
Child care center, playschool	O	O						
Church, synagogue	X	O	X	X				
Clinic, hospital		O	O	O		X		
Clothing store, general, specialty				X				
Club, lodge (private, non-commercial)	O	O	X	X				
Coal and coke storage yards					O			
Coin machines, rental, service			X	X	X			
Cold storage, locker plant			O	O	X			
College, public						X		
Commercial school (beauty, dancing, music, business)			X	O				
Community center, town hall	X	O	O	O		X		
Contractor (general) equipment and storage yard	O				X			
Credit union, loan company			X	X				
Curio and souvenir shop			X	X				
Dairy farm (exclusive of residence)	X							
Dairy products, manufacturing, sales, distribution	O		O	O	X			
Dance hall			O	O				
Department store			X	O				
Disposal plant, sewage	O				O	O		

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<i>Classification List</i>	<i>F-R</i>	<i>R</i>	<i>C-1</i>	<i>C-2</i>	<i>M</i>	<i>P</i>	<i>FW</i>	<i>FP</i>
Dog pound					O			
Dormitory building (institutional)		O				X		
Drive-in restaurant			O	X				
Drive-in theater				O				
Driving range, miniature gold, go-karting	O			O				
Dry cleaning and laundry, pick up only			X	X	X			
Dry cleaning and laundry, processing				O	X			
Dump, ash, garbage, offal and the like						O		
Dwelling, single-family	X	X						
Dwelling, two-family	X	X						
Dwelling, multiple-family		O	O	O				
Egg processing, distribution	X				X			
Electrical appliances, equipment, sales			X	X	X			
Electric light and power company yards	O				X			
Explosives, storage, distribution								
Elevator	O		O	O	X			
Fairground						X		
Farmland (all types, except livestock and poultry)	X	X	X	X	X	X		
Farmland (all types including livestock and game farm)	X	O		O	O	X		
Farm implement dealer, distribution, repair, sales				X	X			
Filling or gasoline service station	O		X	X	X			
Fire station	X	O	X	X	X	X		
Fish hatchery						O		
Fish or meat, wholesale, curing, storage	O				X			
Floor materials			X	X	O			
Florist, greenhouse, nursery	O			X	O			
Florist, sales			X	X	O			
Food products, sales			X	X	X			
Food products, warehouses	O			O	X			
Freight depot, office, wholesaling				O	X			
Fuel storage, distribution	O				O			
Funeral parlor, mortuary			X	X				
Furniture store			X	X				
Furs, manufacturing, assembly				O				
Furs, sales			X	X	O			

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<i>Classification List</i>	<i>F-R</i>	<i>R</i>	<i>C-1</i>	<i>C-2</i>	<i>M</i>	<i>P</i>	<i>FW</i>	<i>FP</i>
Lockers, food storage	O		O	O	X			
Lodging house		O		O				
Lumber yard, storage, sales				O	X			
Machine shop					X			
Meat and fish sales			X	X	X			
Meat packers					O			
Metal fabrication, processing					X			
Mining equipment, storage					X			
Mining operations (gravel, quarries, crushing)	O				X			
Mobile home and mobile home parks, year-around	X	O						
Monuments, sales, display			X	X				
Motel	O	O	O	X				
Motion picture theater, non-drive-in			X	X				
Museum, historical display, information center	O	O	X	X	O	X		
Paper and wood products manufacturing, storage					O			
Parish house		X						
Park, playground, public (no overnight camping)	X	X	X	X		X		
Parking lot	O	O	X	X	X	X		
Paving materials, storage					O			
Pet shop (sales only)			X	X				
Pharmacy			X	X				
Phonograph and record store			X					
Plumbing fixtures and supplies, sales, shops			X	X	X			
Police station			X	X		X		
Post office			X	X		X		
Poultry, product processing					O			
Printing service, lithograph, photo engraving			X	X	X			
Professional office, doctors, lawyers and the like	X	O	X	X				
Public housing		X				X		
Public or private school	O	O	X	X		X		
Public building	O		X	X		X		
Public campground	O					X		
Public utilities and storage area	X	O	O	O	X	X		
Radio broadcasting tower	O				X	X		
Radio broadcasting studio	O		X	X	X			

<i>Classification List</i>	<i>F-R</i>	<i>R</i>	<i>C-1</i>	<i>C-2</i>	<i>M</i>	<i>P</i>	<i>FW</i>	<i>FP</i>
Railroad, service and repair					O			
Reservoirs, water tower	O	O				X		
Restaurants, cafés, supper club	O	O	X	X				
Retail store, general, specialty			X	X				
Roadside park or wayside (no overnight camping)	X	X	X	X	X	X		
Roadside sales stand	O			X				
Roller skating rink			O	O		X		
Rooming house		O	O	O				
Row house		O						
Sawmill, portable	X		O		X			
Salvage yards, storage, sales					O			
Sauna, steam bath, commercial	O		X	X				
Schools, commercial			X	X				
Schools, public or parochial	X	X				X		
Shopping center (planned unit development)	O		X	X	O			
Signs, off-site			O	O	O			
Signs, on-site			X	X	X			
Skating rink, ice		O				X		
Sporting goods, sales			X	X				
Sporting goods, manufacturing				O	X			
Storage warehouse, unclassified					X			
Storage yard, bulk material, equipment					X			
Swimming pool, public, private	X	O		X		X		
Synagogue	X	O	X	X				
Tailor		O	X	X				
Taxidermist	X	O	X	X	X			
Theaters, in-door			X	X				
Theaters, outdoor drive-in	O			O				
Tire repairing, equipment and supplies			O	O	X			
Tourist court, rooms	O	O	X	X				
Trailer (mobile homes) sales	O		X	X	X			
Trailer (mobile home) park	O	O				X		
Utility structure, substation	O	O	O	O	X	X		
Warehouse, all types	O				X			

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<i>Classification List</i>	<i>F-R</i>	<i>R</i>	<i>C-1</i>	<i>C-2</i>	<i>M</i>	<i>P</i>	<i>FW</i>	<i>FP</i>
Water tank, reservoir	X	O	O	O	X	X		
Welding shop, service, storage	O			O	X			
Wood, storage, sales	O			O	X			
YMCA, YWCA		O	X	X		X		

(Ord. passed 11-9-1971; Ord. 65, passed 10-24-1978)

153.10 SCHEDULE OF USES; MINIMUM REQUIREMENTS.

<i>General Category</i>	<i>Zone District</i>	<i>Examples of Basic Provisions (See Classification List)</i>	<i>Per Unit Floor Area (sq. ft.)</i>	<i>Lot Width</i>
Commercial	C-1	Central business district shops General commercial uses; services on-site signs not to exceed 3 units or 25 sq. ft. for each 25 ft. of frontage	-	-
	C-2	Tourist services, roadside uses for convenience of travelers, grocery store limited shopping facilities, on-site signs, Drive-ins	-	-
Farm Residential	F-R	Single- and two-family dwellings, agricultural, forestry and seasonal uses, mineral exploration, home occupations, parks and recreational uses, schools	900 - first unit 750 - second unit	300=
Floodplain				
Floodway***				
Industrial and related	M	Limited industry, warehouses, small repair shops, general manufacturing, on-site and off-site signs, outdoor advertising		75=
Public	P	Parks, recreation, public schools, hospitals and clinics, public works, utilities, cemeteries	-	-
Residential	R	Single- and two-family dwellings, churches, schools, accessory use or structure, home occupation, plus multiple-family dwellings, rest homes	900 - first unit 750 - second unit 200 for each additional unit	100= 75= 50=

NOTES TO TABLE:

- * Accessory buildings not exceeding 30' x 30' may be constructed within 4 feet of the side and rear lot lines in any district provided that no portion of the structure shall extend or overhang within 2 feet of a lot line.
- ** Not including TV and radio antennas, church steeples, smoke stacks, broadcasting towers, siren and bell towers.
- *** Floodway and floodplain to be completed at a later date.

<i>General Category</i>	<i>Zone District</i>	<i>Minimum Limitations</i>					<i>Maximum Limitations</i>	
		<i>Sq. Ft. Lot Area</i>	<i>Front Setback</i>	<i>Side Yard*</i>	<i>Corner Side Yard</i>	<i>Rear Yard*</i>	<i>Total Building Coverage</i>	<i>Height**</i>
Commercial	C-1	-	-	-	-	-	90%	3 stories or 45'
	C-2	-	25'	8'	15'	15'	50%	2 stories or 35'
Farm Residential	F-R	2.5 acres	35'	20'	35'	50*	35%	

General Category	Zone District	Minimum Limitations					Maximum Limitations	
		Sq. Ft. Lot Area	Front Setback	Side Yard*	Corner Side Yard	Rear Yard*	Total Building Coverage	Height**
(Lots within an approved subdivision plat may meet the minimum requirements of the R zone).								
Floodplain								
Floodway***								
Industrial and related	M	10,000	35=		15=	15=	50%	
Public	P		25=	25=	25=	25=	35%	
Residential	R	Private water supply: 20,000 sq. ft. 1st unit, 10,000 each additional unit	30=	5=	20=	25=	35%	3 stories or 45=
		Public water supply: 14,000 sq. ft. 1st unit, 7,000 each additional unit	30=	5=	20=	25=	35%	
		Public water supply and sewer system: 8,000 sq. ft. 1st unit, 4,000 each additional unit	30=	5=	20=	25=	35%	

(Ord. passed 11-9-1971; Ord. 68, passed 11-13-2007)

' 153.11 CONDITIONAL USES.

(A) Exceptions to the basic provisions of the zoning district schedule shall be permitted only for uses listed in ' 153.08 of this chapter and the complete classification list and only after the issuance of a conditional use permit. An application for a conditional use permit shall be filed with the Zoning Officer on a form furnished for the purpose. The application shall be accompanied by plans and other data as prescribed on the form.

(B) Each application for a conditional use permit shall be reviewed by the Board of Adjustment and approved by a majority vote before a use permit may be issued. The Board of Adjustment may grant or deny any application for a conditional use permit following the policy hereafter set forth. An applicant denied a permit may make application for a hearing before the City Council. The City Council may reverse the decision of the Board of Adjustment if a majority of the City Council deem the issuance of a permit is necessary for the protection of the public interest.

(C) No conditional use permit shall be granted unless the Board of Adjustment shall find:

(1) The conditional use will not be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity, nor substantially diminish and impair property values within the surrounding neighborhood;

(2) The proposed development will not increase local or state expenditures in relation to costs of servicing or maintaining neighboring properties;

(3) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses predominant in the area; and

(4) The location and character of the proposed development are considered to be consistent with a desirable pattern of development for the locality in general.

(5) The owner of a mobile home shall each year review his or her conditional use permit but prior to such issuance he or she must exhibit a paid receipt of current year real estate taxes on which the mobile home is located to the Board of Adjustment.

(6) Prior to the issuance of a -conditional use permit for a mobile home in an established residential area the Zoning Officer shall obtain approval from at least 75% of the property owners within a radial area of 300 feet from the proposed location of the mobile home.

(Ord. passed 11-9-1971)

153.12 ADMINISTRATION GENERALLY.

(A) *Administration.* This chapter shall be administered by the Zoning Officer. No land or structure shall be changed in use and no structure shall be erected, altered, or moved until the Zoning Officer has issued a zoning permit certifying that the plans and intended use of land, buildings and structures are in conformity with this chapter. No land or structures hereafter erected, moved or altered in its use shall be used until the Zoning Officer shall have issued a certificate of zoning compliance stating that such land or structure is found to be in conformity with the provisions of this chapter.

(B) *Board of Adjustment.* There shall be a Board of Adjustment consisting of appointed members of the Planning Commission. The terms of the members of the Board of Adjustment shall be concurrent with their terms as members of the Planning Commission.

(C) *Appeals.* Appeals to the Board of Adjustment may be taken by any person aggrieved. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, giving public notice thereof, as well as due notice to the parties of interest, and decide the same within a reasonable time. At any hearing any party may appear in person, or by agent or by attorney:

(D) *Powers.* The Board of Adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is an error in any order, requirements, decisions or determination made by the Zoning Officer;

(2) To hear and decide on special exceptions, variances and all other matters referred to it or upon which it is required to pass under this chapter; and

(3) In passing upon variances, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter to vary or modify the application of any of the regulations or provisions of this chapter so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

(E) *Additional powers.* In exercising the above mentioned powers such Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken.

(F) *Reversal.* The majority vote of the members of the Board shall be sufficient to reverse any order, requirement, decision or determination of the Zoning Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in this chapter.

(G) *Rules.* The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson or, in his or her absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(H) *Minutes.* The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the City Administrator/Clerk-Treasurer.

(I) *Action.* The Board of Adjustment shall always act with due consideration to promoting the public health, safety, convenience and welfare, encouraging the most appropriate use of land and conserving property value, shall permit no building or use detrimental to a neighborhood, and may prescribe appropriate conditions and safeguards in each case. Any special variances or special exceptions granted by the Board of Adjustment shall be subject to appeal to the City Council, but do not require Council action for approval or disapproval.

(Ord. passed 11-9-1971)

' 153.13 AMENDMENTS.

(A) This chapter may be amended whenever the public necessity and convenience and the general welfare require such amendment by the following procedure.

(B) An amendment may be initiated by the City Council or the Planning Commission, or by the verified petition of not less than 50% of the property owners affected by the proposed amendment and 50% of those property owners within 200 feet of the proposed change.

(C) Before any amendment is adopted, the Planning Commission shall hold at least one public hearing thereon after a notice of the hearing has been published in the official newspaper at least ten days before the hearing and registered notifications mailed to property owners affected by the proposed amendment and 50% of those property owners within 200 feet of the proposed change.

(D) Upon the filing of such report or upon the expiration of such ten days as aforesaid, the City Council shall hold such public hearings upon the amendment as it deems advisable. After the conclusion

of the hearings, if any, the Council may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if two-thirds of all the members of the Council concur in its passage.

(Ord. passed 11-9-1971)

153.14 SCHEDULE OF FEES.

(A) (1) The City Council hereby establishes a schedule of fees and a collection procedure for zoning permits, certificates of zoning compliances and conditional use permits as required by this chapter.

(2) The schedule of fees shall, be posted in the office of the City Administrator/Clerk-Treasurer, and may be altered or amended only by the City Council.

(B) No zoning, compliance or conditional use permit shall be issued unless or until such application fees shall have been paid in full to the City Administrator/Clerk-Treasurer, nor shall any action be taken on proceedings before the Board of Adjustment unless or until the following application fees have been paid in full.

(Ord. passed 11-9-1971)

153.15 WOOD-BURNING DEVICES.

(A) Any wood-burning device located outside of the principal building shall be subject to the same setback requirements as the principal building.

(B) Only one wood-burning device shall be allowed per residential structure. In a commercially zoned or industrially zoned district, one wood-burning device shall be allowed per 10,000 square feet of main floor area.

(C) Only non-treated wood and wood products or products approved by the state for burning in wood-burning devices shall be burned in a wood-burning device. All combustible material for use in wood-burning devices shall be in a dry and burnable condition and safely stored so as not to create a fire hazard or habitat for vermin.

(D) All wood-burning devices shall have a minimum chimney height of 18 feet. All chimneys shall be constructed in compliance with the state=s Building Code as adopted and as may hereinafter be amended.

(E) The area surrounding the wood-burning device and the area in which the wood is stored shall continually be kept in a neat, clean and orderly manner.

(F) No wood-burning device located outside of the principal building shall be installed until a hearing has been held by the City Council on said wood-burning device. Two weeks= written notice of said hearing shall be given to all property owners within 350 feet of the lot lines of the proposed location

of the wood-burning device.

(Ord. 67, passed 4-14-1992) Penalty, see ' 153.99

' 153.16 MANUFACTURED HOMES.

(A) Dwellings, including manufactured homes, shall be constructed in or moved into areas of the city zoned farm residential and residential only if they meet the following minimum standards.

(1) The allowed manufactured home shall be as defined in M.S. ' ' 327.31 to 327.35, as they may be amended from time to time, and built in conformance with said sections.

(2) The dwelling shall be placed on a permanent foundation.

(3) Roof lines must have at least a 3:12 pitch; flat roofs or shed roofs are not permitted.

(4) The minimum width of the dwelling shall be 24 feet.

(5) Any metal siding must have horizontal edges and overlap in sections no wider than 12 inches. Sheet metal siding is not permitted.

(6) The dwelling shall be connected to all city utilities.

(7) The dwelling shall have a minimum floor area of 960 square feet.

(8) All other requirements of state law and all other city ordinances are complied with.

(B) This chapter shall not apply to the two existing mobile home parks in the city.

(Ord. passed 10-25-1983) Penalty, see ' 153.99

' 153.17 VARIANCES.

(A) The City Council shall be the Board of Appeals and Adjustments for the city, and as provided by M.S. ' 462.354, Subd. 2, as it may be amended from time to time, shall have the powers granted under M.S. ' 462.357, Subd. 6, as it may be amended from time to time.

(B) (1) Pursuant to M.S. ' 462.357, Subd. 6, as it may be amended from time to time, the City Council, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this chapter. A variance is a modification or variation of the provisions of this chapter as applied to a specific piece of property.

(2) (a) Variances shall only be permitted:

1. When they are in harmony with the general purposes and intent of the chapter; and

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

(b) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

(3) **PRACTICAL DIFFICULTIES**, as used in connection with the granting of a variance, means that:

(a) The property owner proposes to use the property in a reasonable manner not permitted by this chapter;

(b) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

(c) The variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(4) Variances shall be granted for earth sheltered construction as defined in M.S. ' 216C.06, Subd. 14, as it may be amended from time to time, when in harmony with this chapter. The Board of Appeals and Adjustments may not permit as a variance any use that is not allowed under this chapter for property in the zone where the affected person=s land is located. The Board may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. The Board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(Ord. passed 4-24-2012)

' 153.99 PENALTY.

(A) Any person violating any provision of this chapter shall, upon conviction, be guilty of a misdemeanor. Each day such violation continues shall constitute a separate offense.

(B) Violations of ' 153.02(D) of this chapter shall be a petty misdemeanor and each 24 hours of said violation shall be deemed a separation and distinct petty misdemeanor.

(Ord. passed 11-9-1971; Ord. passed 6-12-1997)

