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CHAPTER 150: GENERAL PROVISIONS

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§ 150.01 MINNESOTA ACCESSIBILITY CODE.

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

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

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

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

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

§ 150.02 CONTRACTOR'S LICENSE REQUIRED.

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

Penalty, see § 10.99

§ 150.03 MANUFACTURED HOMES.

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

Penalty, see § 10.99

§ 150.04 AMATEUR RADIO SUPPORT TOWERS.

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

§ 150.05 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) *Findings.* The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council

accepts the recommendation of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* dated June 6, 1989, a copy of which is adopted by reference in Appendix

B of Chapter 119 of this code. This section shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in Appendix A of Chapter 119 of this code.

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

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

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

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

(c) Increased transiency and decreased stability of ownership;

(d) Deteriorated neighborhood appearance from litter and graffiti;

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

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

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

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

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

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

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

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

(8) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of those businesses is

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perceived by others as an indication that the area is deteriorating and the result can be devastating: other businesses move out of the vicinity and residents flee from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

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

(B) Sexually oriented businesses shall be prohibited in all of the city's zoning districts, except in the Agricultural District, as defined and regulated in the zoning ordinance, where the businesses shall be permitted; provided, the conditions specified in the zoning ordinance and in this chapter are met.

(C) In the Agricultural District, in which sexually oriented businesses are permitted uses, the following conditions shall be met prior to a sexually oriented business being allowed.

(1) Sexually oriented businesses shall be at least 1,500 feet from any other sexually oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises to the sexually oriented business to the nearest point of the actual business premises of any other sexually oriented business.

(2) (a) Sexually oriented business shall be located no less than 1,500 feet from:

1. Any zoned residential area, whether R-1, R-M or Shoreline Residential, as defined in the zoning ordinance;

2. Mobile home parks;

3. Commercial district;

4. Any lake or river;

5. Governmental buildings;

6. City/public parks, recreational areas;

7. Schools, public or private;

8. Licensed family day care homes, licensed group family day care homes, licensed child care or day care centers, licensed developmental achievement centers and senior housing complexes; and

9. On-sale liquor establishments and sexually oriented business shall be located no less than 2,800 feet from places of worship.

(b) Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually oriented business to the

nearest boundary of the residential use district of the boundary of a mobile home park, or to the nearest property line of the premises used as a school, place of worship, governmental building, city/public park, recreational area, commercial district, any lake or river, licensed family day care home, licensed group family day care home, licensed child care or day care center, licensed developmental achievement center, senior housing complex or on-sale liquor establishment.

(3) The operation, establishment or maintenance of more than one sexually oriented business in the same building, structure or portion thereof, or in the increase of the floor area of any sexually oriented business in any building, structure or portion thereof is prohibited.
(Ord. 2006-03, passed 7-20-2006)

§ 150.06 COMPLIANCE WITH CODE.

No person shall erect, alter or replace any structure within the city unless the structure complies with the applicable requirements of this code and the person has obtained a zoning permit from the City Clerk-Treasurer certifying compliance with all of the applicable requirements of this code. No person shall use any structure or premises for any purpose other than as permitted by this code, except that lawful non-conforming uses as of the date of the adoption of this code may continue only as provided in M.S. § 462.357, Subd. 1e, as it may be amended from time to time.

§ 150.07 ZONING PERMITS.

(A) No structure shall be built, installed, erected, structurally altered, demolished, moved off or moved onto any property within the city until a zoning permit therefor has been issued by the City Clerk-Treasurer and the non-refundable zoning permit fee has been paid and pay a inspection fee, subject to annual review).

(1) Zoning fee is based on square footage as established in § 11.01 Fee Schedule.

(2) Zoning fees are non-refundable.

(3) Both residential and commercial properties shall require a permit for any concrete and/or bituminous work. In addition commercial properties shall require a zoning permit for any inside and/or outside remodeling or improvements.

(4) When a change of use or ownership of any property occurs, city office personnel must be notified as a conditional use permit or re-zoning may be necessary.

(5) Zoning permits when issued are good for one year and will not automatically be renewed. If the project has not been started within one year from date of original approval an extension may be granted for the period of one year (only) providing the plan has not been changed and all

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additional administrative fees are paid. Any changes to the plan will require a new permit with all current fees required.

(B) No zoning permit will be issued unless the structure shall comply with lot size §151.030 & § 151.032 setbacks §151.031 and impervious §151.048 requirements which are extended to all areas within the city or exempted as provided in §151.068.

(C) No well or sewer permit shall be issued unless the sewer system is certified and complies with § 151.041 and §151.042 along with the required setbacks as provided in §151.031 and are hereby extended to all areas within the city.

(D) No structure requiring a well permit shall be used or occupied until the City Sewer Inspector shall have inspected the well or sewer system required by this section after installation thereof and prior to backfilling or covering of the system and until the City Inspector shall have issued a certificate of occupancy.

(E) Applications for a building permit and a well or sewer permit shall be made to the City Clerk-Treasurer on forms furnished by the city which must contain a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location of all building(s) and a complete plan of the proposed sewage treatment system including the location, size, design and the name and address of the installer and any other information deemed necessary by the City Clerk-Treasurer and shall be posted in a conspicuous location on the building site.

(F) No zoning permit for a dwelling shall be issued unless a compliance inspection has been done by Otter Tail County Land and Resource and all setback requirements are met as provided in Minn. Rules 7080 and are hereby extended to all areas within the city.

(G) Upon application of a responsible party to the city where, because of exceptional circumstances, the strict enforcement of any standards would cause unnecessary hardship or strict conformity with the standards would be unreasonable, impractical or not feasible, a variance may be granted upon those conditions which are consistent with the purposes and intent of this section and prescribed by the Council; provided that the condition(s) causing the hardship is/are unique to the tract of property which is the subject of the request; the variance is necessary for the applicant to secure a right or rights enjoyed by other property owners in the city; granting the variance is not contrary to the public interest or damaging to other person's rights or property values; the variance is not granted solely because there are no objections or only a minority object or for any reason other than a proven hardship.

(H) In the event of a violation or a threatened violation of this section, the City Council or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate the same.

(I) Any person, firm or corporation who shall violate any of the provisions of this chapter or who shall fail to comply with any of the provisions hereof or who shall make any false statements in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and

upon conviction shall be punished by a fine not to exceed \$300 or by imprisonment of not to exceed 90 days, or both. Each day that a violation continues shall constitute a separate offense.
(Ord. 2-89, passed 2-16-1989; Ord. passed 5-20-2010; Am. Ord 2022-05, passed 6-30-2022)

§ 150.08 OPT-OUT OF TEMPORARY FAMILY HEALTH CARE DWELLINGS.

Opt-Out of M.S. § 462.3693: Pursuant to authority granted by M.S. § 462.3593, Subd. 9, the City of Ottertail opts-out of the requirements of M.S. § 462.3593, which defines and regulates temporary family health care dwellings.
(Ord. 2016-02, passed 8-18-2016)

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CHAPTER 151: ZONING

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GENERAL PROVISIONS

§ 151.001 AUTHORIZATION, INTENT AND PURPOSE.

(A) This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351 et seq., as they may be amended from time to time.

(B) The intent of this chapter is to ensure public health, safety and general welfare in accordance with the adopted development goals, plans and policies as stated hereto. This plan for the city is to ensure that the land uses of the city are property situated in relation to one another, providing for adequate space for each type of development; to control the density of development in each area of the city so that the property can be adequately serviced by such governmental facilities as streets, schools, recreation and utilities systems; to direct new growth in to appropriate areas; to protect existing property by requiring that the development afford adequate light, air and privacy for persons living and working within the city; to improve the quality of the physical environment of the city; to protect and maintain property values, and to preserve and develop the economic base of the city.
(Ord. passed 5-17-2012)

§ 151.002 TITLE.

This chapter, together with the zoning map required at § 151.005, shall be known as the “City Zoning Ordinance”, except as referred to herein, where is shall be known as “this chapter”.
(Ord. passed 5-17-2012)

§ 151.003 INTERPRETATION OF TERMS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage unless this meaning is clearly contrary to the intent of this chapter and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words “must” and “shall” are mandatory and “may” is permissive. All distances, unless otherwise specified, shall be measured horizontally. For the purpose of this chapter, the terms in § 151.004 have the meaning given them.
(Ord. passed 5-17-2012)

§ 151.004 DEFINITIONS.

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

ACCESS LOT. A parcel of land designated for access to public waters for riparian parcels.

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ACCESSORY STRUCTURE OR FACILITY. Any building or improvement over 260 sq. ft. located on the same lot as the principal use subordinate to the principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

ACCESSORY USE. A use on the same lot with and incidental and subordinate to the principal use or structure facility.

AGRICULTURE. The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided however, that the operation of any accessory uses shall be secondary to that of the normal agricultural activities.

ANIMAL FEEDLOT. A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is so that a vegetative cover cannot be maintained within the enclosure. For purposes of this chapter, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be **ANIMAL FEEDLOTS**. Pastures shall not be considered **ANIMAL FEEDLOTS** under this chapter.

ATTACHED STRUCTURE. Two buildings are attached when they share a common wall or portion of a wall with a door, so that a person may travel from any portion of one building to any portion of the second building without going outside.

BED AND BREAKFAST FACILITY. An owner-occupied single-family residence at which lodging and meals are provided to registered guests. The **BED AND BREAKFAST FACILITY** shall comply with all the applicable state and local regulations for providing food and lodging.

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

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least 25 feet above the ordinary high water level (OHWL);
- (3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the OHWL level averages 30% or greater; and
- (4) The slope must drain toward the waterbody. If the 50-foot segment on either side of the point at which a feature is 25 feet above the OHWL has a slope of 30% or more, it is a **BLUFF**.

BLUFF IMPACT ZONE (BIZ). A bluff and land located within 30 feet from the top of a bluff.

BOARDWALK. A permanent above grade constructed walkway, not to exceed four feet in width, used to provide access to a lake or river where a wetland is present.

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BOATHOUSE. A structure designed and used solely for the storage of boats or boating equipment.

BUFFER ZONE. The portion of a parcel of land which adjoins neighboring parcels and is not used for structures, manufactured homes, recreational camping units or vehicle parking or storage; and which is maintained in a slightly manner with natural vegetation.

BUILDABLE AREA. The minimum continuous area remaining on a lot or parcel of land after all setback requirements, bluffs, areas with slopes greater than 25%, all easements and rights-of-way, significant historic sites, wetlands and land below the OHWL of public waters are subtracted.

BUILDING. Any fixed construction with walls or a roof.

BUILDING LINE. The line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

CENTRALIZED SEWAGE SYSTEM. A system of treating sewage from multiple sources which may require approval by the State Pollution Control Agency.

CLUSTER DEVELOPMENT. A pattern of subdivision development which places dwelling units into compact groupings while providing a network of commonly owned or dedicated open space. A **CLUSTER DEVELOPMENT** includes, but is not limited to, manufactured home parks, resorts, recreational campgrounds, motels and/or hotels, condominiums and apartments.

COMMERCIAL USE. The principal use of land or building for the sale, lease, rental or trade of products, goods and services and other activities carried out for financial gain including storage and transmission structures.

COMMISSIONER. Commissioner of the Department of Natural Resources or his or her designated representative.

CONDITIONAL USE. A land use or development as defined by this chapter that would not be appropriate without restrictions of conditions as determined by the Planning Committee and the Council upon a finding that:

- (1) The use or development is an appropriate conditional land use in the land use zone;
- (2) The use or development, with conditions, conforms to the comprehensive land use plan;
- (3) The use, with conditions, is compatible with the existing neighborhood; and
- (4) The use, with conditions, would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance or prosperity of the city.

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CONTIGUOUS. Parcels of land that have a common border.

CONTINUOUS. Going on or extending without interruption or break.

CONTROLLED ACCESS. Any private site, field or tract of land abutting a classified body of water to be used primarily for access purposes, including, but not limited to, non-riparian lot access.

DECK. A horizontal, unenclosed platform with or without attached railings or other features, attached or functionally related to principal use or site.

DWELLING, DUPLEX, TRIPLEX AND QUAD. A dwelling structure on a single lot, having two, three and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

DWELLING, MULTIPLE. A building or portion thereof used for occupancy by three or more families living independently of each other.

DWELLING, ONE-FAMILY. A building used exclusively for occupancy by one family.

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

DWELLING, TWO-FAMILY. A building used exclusively for occupancy by two families living independently of each other.

DWELLING UNIT. Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including, but not limited to, rental or timeshare accommodations such as cottage, house, motel, hotel and resort rooms, cabins, tents, RVs and manufactured homes.

ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW). A brief document in worksheet format, that helps local governments and state agencies decide whether a proposed action is a major action with the potential for significant environmental effects and, in the case of a private action, whether it is of more than local significance. If the action meets these criteria, an environmental impact statement (EIS) should be prepared.

ENVIRONMENTAL IMPACT STATEMENT (EIS). An informational document which contains a thorough evaluation of the environmental effects of a proposed project. The **EIS** provides information for agencies and private persons which helps them not only to evaluate the impacts of proposed actions which have the potential for significant environmental effects, but to consider alternatives and to institute methods for reducing adverse environmental effects.

EXISTING RESORT. A resort established prior to October 15, 1971, which has remained in continuous operation.

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EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals other nonmetallic minerals, and peat not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time.

FEE SCHEDULE. A document setting forth fees for subdivisions, permits, applications and appeals. These fees are established by the City Council by ordinance and are on file in the office of the City Clerk-Treasurer. See § 11.01.

FILTERING BASIN. A wetland, low area or basin that may contain related vegetation which functions to remove sediment, organic matter and other pollutants from runoff or waste water by filtration, deposition, infiltration, absorption, adsorption, decomposition and volatilization, thereby reducing pollution and protecting the environment.

FLOOD FRINGE. The portion of a flood plain outside of the flood way.

FLOOD PLAIN. The areas adjoining a water course or water basin that have been or may be covered by a regional flood, as defined in M.S. Ch. 103F, as it may be amended from time to time.

FLOOD WAY. The channel of the water course, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge flood water and provide water storage during a regional flood.

FOREST. A plant community in which the dominant vegetation is trees and other woody vegetation.

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

GRADING/FILLING. Any change of the existing topography of land, except for normal agricultural purposes.

HEIGHT OF BUILDING. The vertical distance between the highest adjoining ground level at the structure or ten feet above the lowest ground level, whichever is lower and the highest point of the roof, with the exception of water-oriented accessory structures (WOAS) which must meet the requirements of § 151.031.

HOME OCCUPATION. A lawful occupation customarily carried on by a resident of a dwelling as an accessory use within the same building. This occupation must be clearly secondary to the principal use and not change the principal use.

ICE RIDGE. A modification to the topographic characteristics of the shore resulting from a water basins expanding and contracting ice sheet and consisting of a linear mound of soil generally parallel to the waters edge.

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IMPERVIOUS SURFACE. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include, but are not limited to, decks, rooftops, sidewalks, patios, permeable pavers, storage areas and concrete, asphalt or gravel driveways.

IMPROVED LOT. A lot that contains a single-family dwelling, ready for immediate use, which is serviced by a sewage treatment system and water supply, all of which comply with all state and local regulations.

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

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

INTERIM USE. A temporary use of property until a particular date, until the occurrence of a particular event or until zoning regulations no longer permit it. **INTERIM USES** are permitted in all zones of the city according to the provisions hereof.

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

LOT WIDTH. The shortest distance between lot lines as measured on a line most parallel to the lakeshore or at midpoint of the building line and at the legal building setback and not being less than the required lake frontage.

MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode, is eight feet or more in width or 40 body feet or more in length, or when erected onsite, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with plumbing, heating and air conditioning and electrical systems contained therein, and which meets all the requirements established under M.S. § 327.31, the Manufactured Home Building Code, as it may be amended from time to time, .

MANUFACTURED HOME PARK. Any area whether charging a fee or free of charge on privately or publicly owned land used on a daily, nightly, weekly or longer basis for the accommodation of two or more manufactured homes or recreation units.

NON-CONFORMITY. Any legal use, structure or parcel of land already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

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NON-RIPARIAN LOT. A parcel of land without water frontage on public waters.

OPEN SPACE. Any space or area preserved in its natural state and specifically not used for parking, structures or roads.

ORDINARY HIGH WATER LEVEL (OHWL). The boundary of public waters and wetlands and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses, the **OHWL** is the elevation of the top of the bank of the channel. For reservoirs and flowages, the **OHWL** is the operating elevation of the normal summer pool.

PARKING SPACE. An off-street area for motor vehicles having access to a public street or alley or private driveway. In determining the gross area required for a specified number of off-street parking places, ADA (American with Disabilities Act) standards shall apply.

PATIO. An uncovered, unscreened platform (without railings) of finished wood, cement/concrete composite decking material, or similar material, which is no more than one step (12-inch maximum) above or below grade at it's highest point. It may adjoin a dwelling or may be unattached and freestanding. (Am. Ord. 2020-05, passed 12-17-2020)

PERFORMANCE BOND. A bond which may be required by the City Council to insure the completion of any activity falling under the jurisdiction of this chapter, including, but not limited to, insuring compliance with and performance of each and every condition imposed in the granting of a variance or conditional use permit.

PLANNED UNIT DEVELOPMENT, COMMERCIAL. Typically include uses that provide transient, short-term lodging spaces, rooms or parcels, and their operations are essentially service oriented. For example: hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented are **COMMERCIAL PLANNED UNIT DEVELOPMENTS**.

PROFESSIONAL DRAWING. A signed drawing prepared by a state registered land surveyor, civil engineer or architect.

PUBLIC UTILITY. Persons, corporations or other legal entities, their lessees, trustees and receivers, now or hereafter operating, maintaining or controlling in this state equipment or facilities for furnishing at retail, natural, manufactured or mixed gas or electric service to or for the public or engaged in the production and retail sale thereof.

PUBLIC WATERS. Any waters as defined in M.S. § 103G.005, Subds. 15 and 18, as they may be amended from time to time.

RECREATIONAL CAMPING AREA. Any area, whether privately or publicly owned, used on a daily, weekly, nightly or longer basis for the accommodation of two or more recreational camping vehicles free of charge or for compensation. (Am. Ord. 2022-06, passed 6-30-2022)

RECREATIONAL CAMPING UNIT (RCU). A vehicle that is built on a single chassis, is designed to be

used as temporary dwelling for recreational, camping, travel, vacation or seasonal use. Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for recreational, camping, travel, vacation or seasonal use. Any folding structure, mounted on wheels designed for recreational, camping, travel, vacation or seasonal use. (Am. Ord. 2022-06, passed 6-30-2022)

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur with an average frequency in the magnitude of the 100-year recurrence interval.

RESORT. A shoreland commercial establishment that includes buildings, lodges, structures, dwelling units, camping or recreational vehicle sites or enclosures, or any part thereof kept, used, maintained or advertised as or held out to the public to be a place where sleeping accommodations are furnished to the public, primarily to persons seeking recreation for periods of one day or longer, and having for rent three or more cabins, rooms, campsites or enclosures. A shoreland commercial establishment must be primarily service oriented for transient lodging of guests. All cabins, rooms, dwelling units, camping or recreational vehicle sites or enclosures must be included in the resort rental business. **RESORTS** must not allow residential use of a dwelling unit or site, except dwellings used as residences for the service providers. To qualify as a **RESORT** under this section, a **RESORT** must be fully licensed and permitted under appropriate state and local regulations. The entire parcel of land must be controlled and managed by the licensee.

RESTAURANT. An establishment in which food and/or drink is offered or prepared and served for public consumption and is served to customers at tables by employees. **RESTAURANTS** may include incidental take-out service.

RIPARIAN LOT. A parcel of land with water frontage on public waters.

SCALE DRAWING. A signed drawing which includes and identifies a graphic scale (feet), all existing and/or proposed structures, septic tanks, drainfields, lotlines, road rights-of-way, easements, OHWLs, wells, wetlands, topographic features (i.e., bluffs) and onsite impervious surface calculations.

SCREEN PORCH. A structure attached to the primary dwelling unit, where at least 80% of the walls consist of screens and/or glass (combination windows); see **WATER-ORIENTED ACCESSORY STRUCTURE** definition.

SENSITIVE AREA. Areas which due to steep slopes, bluffs, flooding, erosion, limiting soil conditions (shallow soils over ground water or bedrock, highly erosive or expansive soils), occurrence of vegetation or wildlife in need of special protection, the presence of wetlands or other physical constraints, are sensitive to development.

SETBACK. The minimum horizontal distance from any lot line and between a structure, sewage treatment system or other facility and an OHWL, top of a bluff, lot line and road rights-of-way that an improvement may be placed, measured perpendicularly from the lot line to the closest point of the improvement.

SETBACK LINE. The line which is the specified setback distance from and parallel to any lot line, or other specified line.

SEWAGE TREATMENT AREA. The area meeting or exceeding the onsite requirements of the Sanitation Code of the county, for the purpose of soil treatment (drainfield) areas and future additional sites.

SEWAGE. Definitions relative to sewage and sanitation are set forth in § 151.042.

SHORE IMPACT ZONE (SIZ). Land located between the OHWL of a public water and a line parallel to it at a setback of 50% of the structure setback but not less than 50 feet. For agricultural land the **SIZ** is 50 feet from the OHWL. Only one structure may be placed in a **SIZ**.

SHORELAND. Land located within the following distances from public water: 1,000 feet from the OHWL of a lake, pond or flowage; and 300 feet from a river or the land-ward extent of a flood plain designated by ordinance on a river, whichever is greater. The limits of **SHORELANDS** may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

SHOUSE. A structure that outwardly resembles a shed (typically having a roll-formed steel-sheet exterior) that is primarily used as a dwelling/house. Though not required to fulfill the definition, a **SHOUSE** generally has a garage(s) incorporated into the structure.

SIGNIFICANT HISTORIC SITE. Any archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state archaeologist or the director of the State Historical Society. All unplatted cemeteries are automatically considered to be **SIGNIFICANT HISTORIC SITES**.

SINGLE-FAMILY RESIDENCE. A dwelling unit used by members of one immediate family, including normal appurtenances such as a garage. Licensed adult and child foster homes and day care programs are permitted single-family residential use of property as provided in M.S. §§ 245A.11 and 245A.14, as they may be amended from time to time.

SITE PERMIT. A permit required for annual placement of a recreational camping unit(s).

STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, **STEEP SLOPES** are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

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STRUCTURE. Any building or appurtenance, including, but not limited to, vision-obstructing fences, decks, swimming pools, satellite dishes in excess of one meter in diameter, and towers (except for public utilities).

SUBDIVISION. A parcel of land which is divided.

TOE OF THE BLUFF. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the **TOE OF THE BLUFF** shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOP OF THE BLUFF. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler above. If no break in the slope is apparent, the **TOP OF THE BLUFF** shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOWER. Framework or structure exceeding 35 feet in height, and any wind generating tower, telephone communication tower and any structure required by any other regulations to have warning lights.

VEGETATIVE STRIP. A 20-foot strip of land, located adjacent to and parallel with the OHWL, which is left in its natural state (must maintain existing ground cover), with the exception of a continuous 30-foot (maximum width) recreational access. A **VEGETATIVE STRIP** must be maintained in all subdivisions created on or after May 1, 2008.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY (WOAS). A small building or other improvement not to exceed 260 sq. feet or ten feet in height, except stairways, fences, docks and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the required structure setback. Examples of these structures and facilities include boathouses, screen houses, screen porches, saunas, fish houses and detached decks.

WETLAND.

(1) Any lands as defined in M.S. § 103G.005, Subd. 19, as it may be amended from time to time. These lands are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

(2) **WETLANDS** must have the following three attributes:

(a) Have a predominance of hydric soils;

(b) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

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(c) Under normal circumstances support a prevalence of the above vegetation.

ZONING PERMIT. A permit for the creation and/or alteration of any structure controlled by this chapter.
(Ord. passed 5-17-2012; Am. Ord. 2016-03, passed 8-18-2016; Am. Ord. 2019-02, passed 4-18-2019)

§ 151.005 ZONING MAP.

(A) This chapter has no effect until the boundaries of the use districts are delineated on an official zoning map, created pursuant to M.S. § 462.357, Subd. 1, as it may be amended from time to time, which, once it is adopted by ordinance after notice and hearing as provided in M.S. § 462.357, Subd. 3, as it may be amended from time to time, is hereby adopted by reference and declared to be part of this chapter. This map shall be on permanent file and available for public inspection in the Office of the City Clerk. It shall be the responsibility of the Clerk-Treasurer or other person appointed by the City Council to administer this chapter to maintain and keep the map up to date.

(B) All property within the city shall have the zoning designation shown on the official zoning map. If there is any discrepancy or inconsistency between the official zoning map and any other map, ordinance or source which purports to indicate the zoning of property, the official zoning map shall take precedence. The provisions of this section shall not be interpreted to require the city to zone all properties within the city limits or to prevent zoning of only a portion of the city.

(C) Zoning district boundary lines shown on the official zoning map are intended to follow lot lines, the centerlines of streets or alleys, the centerlines of street or alleys projected, railroad right-of-way lines, the center of water courses or the corporate limits of the city, unless specifically indicated.
(Ord. passed 5-17-2012; Am. Ord. 2016-01, passed 8-18-2016; Am. Ord. 2019-02, passed 4-18-2019)

§ 151.006 ANNEXED LAND.

Any land hereafter annexed to the city shall be considered to be in the district that it adjoins after the annexation.
(Ord. passed 5-17-2012)

§ 151.007 COMPLIANCE.

(A) No structure or land shall hereafter be used or occupied and no structure shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with the regulations specified in the this chapter for the district in which is located.

(B) No structure or premises shall be used for any purpose other than a use permitted by this chapter.

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(C) No topographical alterations shall be performed without following the requirements of this chapter.

(D) The provisions of this chapter shall be minimum requirements. Where the conditions imposed by any provision of this chapter differ from those required by any statute or other ordinance of the city, the regulations which are more restrictive which impose the higher standard will prevail.
(Ord. passed 5-17-2012)

§ 151.008 SEVERABILITY.

Every section or division of this chapter is declared separable from every other section or division. If any section or division is held to be invalid by competent authority, no other section or division shall be invalidated by this action or decision.
(Ord. passed 5-17-2012)

§ 151.009 OWNER LIABLE.

In addition to any other person or persons involved in a violation or threatened violation of this chapter, the owner of record shall be responsible both criminally and civilly for any construction, alteration, excavation or any other activity occurring upon his or her property which is contrary to the provisions of this chapter.
(Ord. passed 5-17-2012)

§ 151.010 SAVINGS CLAUSE.

All permits issued under this chapter are permissive only and shall not release the permittee from any liability or obligation imposed by state law, federal law or this chapter relating thereto.
(Ord. passed 5-17-2012)

CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

§ 151.025 CLASSIFICATION SYSTEM.

(A) The requirements set forth in this section for each classification as defined as part of this chapter shall govern the development of that district. For the purpose of this chapter, the following zoning districts are hereby established:

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(1) *Shoreland Area*. All riparian residential, all non-riparian residential, agricultural, or commercial located in a boundary of 1,000 feet of the OHWL of a lake, pond or flowage and 300 feet from a river or landward extent of the flood plain on that river, whichever is greater.

(2) *R-1 Single-Family/Duplex*. Non-riparian residential located outside the shoreland boundary

(3) *R-2 Multi-Unit*. Non-riparian residential located outside the shoreland boundary

(4) *C-1 Commercial*. Non-riparian commercial located outside the shoreland boundary

(5) *P-1 Public/Commercial Use*.

(6) *P-2 Public/Parks*.

(7) *AR-Agricultural*. Non-riparian acreage or residential in agricultural located outside the shoreland boundary.

(8) *Private Recreational*.

(9) *Light Industrial*.

(B) The location and boundaries of the district and special areas may be amended by ordinance adopted in the same manner as any other ordinance amending this chapter. (Ord. passed 5-17-2012; Am. Ord. 2016-01, passed 8-18-2016; Am. Ord. 2018-03, passed 6-7-2018; Am. Ord. 2019-02, passed 4-18-2019)

§ 151.026 CLASSIFICATION AND USES - SHORELAND.

The public waters below of the city have been classified and may be reclassified as needed by the Department of Natural Resources and are consistent with criteria found in MN Regulations part 6120.3300, as it may be amended from time to time, and the protected waters inventory map for Otter Tail County, Minnesota are hereby established.

<u>General Development Lake</u>	<u>ID Number</u>	<u>Transition</u>	<u>ID Number</u>
Buchanan	56020900	Otter Tail River	None
Otter Tail	56024200		
Portage	56014001		

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<u><i>Recreational Development Lake</i></u>		<u><i>Natural Environmental Lake</i></u>	
Donalds	56020000	Pelican Bay	56020200
Long	56020100		

(Ord. 2018-03, passed 6-7-2018)

§ 151.027 LAND USE DESCRIPTIONS.

(A) *Criteria for designation.* The land use districts below, and the delineation of a land use district boundaries on the Official Zoning Map, must be consistent with the goals, policies and objectives of the comprehensive plan (when available) and the following criteria, considerations and objectives;

- (1) General considerations and criteria for all land uses.
 - (a) Preservation of natural areas;
 - (b) Present ownership and development of shoreland areas;
 - (c) Shoreland soil types and their engineering capabilities;
 - (d) Topographic characteristics;
 - (e) Vegetative cover;
 - (f) In-Water physical characteristics, values and constraints;
 - (g) Recreational use of the surface water;
 - (h) Road and service center accessibility;
 - (i) Socioeconomic development needs and plans as they involve water and related land resources;
 - (j) The land requirements of industry which, by its nature, requires location in shoreland areas; and
 - (k) The necessity to preserve and restore certain areas having significant historical or ecological value.

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(2) *Factors and criteria for Planned Unit Development.*

- (a) Existing recreational use of the surface waters and likely increases in use associated with Planned Unit Development;
- (b) Physical and aesthetic impacts of increased density;
- (c) Suitability of lands for the Planned Unit Development approach;
- (d) Level of current development in the area; and
- (e) Amounts and types of ownership of undeveloped lots.

(B) *Land use district descriptions.* The land use districts provided below, and the allowable land uses therein shall be properly delineated on the Official Zoning Map. These land use districts are in conformance with the criteria specified in Minn. Regulations, Part 6120.3200, Subp. 3. (Ord. 2018-03, passed 6-7-2018)

§ 151.028 TABLE I - CLASSIFICATIONS AND USES FOR LAKES.

TABLE OF LAND USE DISTRICTS FOR LAKES				
<i>Lakes:</i> GD = General Development RD = Recreational Development NE = Natural Environmental	<i>Rivers:</i> U & T = Urban and Tributary/ Transition			
<i>P = Permitted Use C = Conditional Use N = Prohibited Use</i>				
	<i>Lakes</i>			<i>Rivers</i>
Uses	GD	RD	NE	Trans
Access Lot	N	N	N	N
Accessory Building	C	C	C	C
Agriculture	P	P	P	P
Boat Access	C	C	C	C
Cemetery	C	C	C	C
Church, Chapel, Temple, etc.	C	C	C	C
Cluster Development	€	€	€	€
Commercial	C	C	C	C
Controlled Access	N	N	N	N

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Uses	Lakes			Rivers
	GD	RD	NE	Trans
Duplex, Tri-Plex, and Quad Residential	P	P	P	P
Extractive	C	C	C	C
Forest Management	C	C	C	C
Guest House/Bunk House	N	N	N	N
Home Based Business	P	P	P	P
Industrial	N	N	N	N
Planned Unit Development	C	C	C	C
Public Park, Playgrounds and Historic Sites	C	C	C	C
Recreational Camping Area	N	N	N	N
Sexually Oriented Business	N	N	N	N
Single Family Residential	P	P	P	P
Storage Shed	C	C	C	C
Wind Turbine	C	C	C	C
Wireless Communications Tower	C	C	C	C
<p><i>Conditional use permit standards: It is the intent of the city in establishing general and specific criteria for conditional uses that these uses be subject to careful evaluation to ensure that their location, size and design are consistent with standards, purposes and procedures of this chapter and the comprehensive plan, if one exists. The City Council may impose conditions on these uses in order to effect the purpose of this chapter.</i></p>				

(Ord. passed 5-17-2012; Am. Ord. 2013-09, passed 11-21-2013; Am. Ord. 2018-03, passed 6-7-2018; Am. Ord. 2019-03, passed 9-19-2019; Am. Ord. 2022-06, passed 6-30-2022)

§ 151.029 CLASSIFICATION AND USES - NON-SHORELAND.

(A) (1) *R-1 Residential District.* Permitted uses in the Residential District R-1 shall include single-family and multiple-family dwellings (duplexes), churches including chapels, temples and etc., parks and playgrounds, schools, licensed day care, home based businesses, hospitals, clinics, wireless communication towers in accordance with Chapter 155, and other uses incidental to a residential area. An occupation may be carried on in the R-1 district, provided the occupation is not of an industrial or light industrial nature and provided that the occupation is carried on in the main dwelling in a space not exceeding 25% of its floor area, and no sales display is visible from the street. Signage shall be permitted in accordance with Chapter 154.

(2) *R-2 Residential District.* Permitted uses in the Residential District R-2 shall include single-family and multiple-family dwellings (duplexes), tri-plexes, quads, multi-unit housing.

(3) *C-1 Commercial District*. Permitted uses in the Commercial District C-1 shall consist of all uses of a commercial nature, such as retail, repair or storage of materials, goods or products, wholesale, service, office, financial, recreational, professional and lodging, wireless communication towers in accordance with Chapter 155.

(4) *L-1 Light Industrial District*. Light Industrial means the assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside the building or lot where the assembly, fabrication or processing takes place, where the processes are housed entirely within a building, or where the outdoor storage of goods and materials used does not exceed 25% of the floor area of all buildings on the lot. All commercial uses are allowed in the Light Industrial District.

(5) *P-1 Public/Commercial Use*. Permitted uses in the Public/Commercial Use District consists of all uses of a commercial nature including communication towers which meet standards set forth in Chapter 155 of this Code, after a review of the City Council and all procedures have been followed.

(6) *P-2 Public/Parks*. Permitted uses in the P-2 Public/Parks shall consist of activities that have a recreational value, and parks/playgrounds, wireless communication towers in accordance with Chapter 155.

(7) *AR-Agricultural*. Permitted uses in the AR District is single family housing, multi-unit housing (duplex, tri-plex, quad and multi-unit housing), general cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting, commercial storage, wireless communication towers in accordance with Chapter 155. A conditional use permit shall be required for any commercial use within the Agricultural Zoned District.

(8) *Private Recreational*. Permitted uses in the Private Recreational are recreational in value, includes R-1 and R-2 with exceptions for churches including chapels, temples and etc., parks and playgrounds, schools, licensed day care, home based businesses, hospitals, clinics, wireless communication towers in accordance with Chapter 155, and other uses incidental to a residential area. An occupation may be carried on in the R-1 district, provided the occupation is not of an industrial or light industrial nature and provided that the occupation is carried on in the main dwelling in a space not exceeding 25% of its floor area, and no sales display is visible from the street.

(B) *Conditional use permit standards*. It is the intent of the city in establishing general and specific criteria for conditional uses that these uses be subject to careful evaluation to ensure that their location, size and design are consistent with standards, purposes and procedures of this chapter and the comprehensive plan, if one exists. The City Council may impose conditions on these uses in order to effect the purpose of this chapter. Some uses are not permitted.

(Ord. 2018-03, passed 6-7-2018; Am. Ord. 2019-02, passed 4-18-2019)

Cross-reference:

See also Table I: Classifications and Use for Lakes, § 151.028 and Classification and uses -

Non-shoreland, § 151.029

§ 151.030 TABLE II - MINIMUM LOT AREA.

LOT REQUIREMENT, WATER FRONTAGE & LOT WIDTH REQUIREMENTS; LAKES & RIVERS				
	<i>Lakes</i>			<i>Rivers</i>
	<i>GD</i>	<i>RD</i>	<i>NE</i>	<i>Trans</i>
SHORE LAND RIPARIAN LOTS				
Lot Area (Ft²)*				
Single-family residential	20,000	40,000	80,000	60,000
Duplex	40,000	80,000	120,000	120,000
Tri-plex	60,000	120,000	160,000	60,000
Quad	80,000	160,000	200,000	200,000
Buildable Area (Ft²)				
Single-family residential buildable area	8,400	8,400	8,400	8,400
Sewage treatment area (Ft²) **				
Single-family residential	2,500	2,500	2,500	2,500
Water Frontage and Lot Width (Ft²)				
Single-family residential	100	150	200	250
Duplex	180	225	300	375
Tri-plex	260	300	400	500
Quad	340	375	500	625
SHORELAND - NON-RIPARIAN LOTS				
Lot Area (Ft²)*				
Single-family residential	40,000	40,000	80,000	80,000
Duplex	80,000	80,000	160,000	160,000
Tri-plex	120,000	120,000	240,000	240,000
Quad	160,000	160,000	320,000	320,000

	<i>Lakes</i>			<i>Rivers</i>
	<i>GD</i>	<i>KD</i>	<i>NE</i>	<i>Trans</i>

	<i>Lakes</i>			<i>Rivers</i>
	<i>GD</i>	<i>KD</i>	<i>NE</i>	<i>Trans</i>
Buildable Area (Ft²)				
Single-family residential	8,400	8,400	8,400	8,400
Single-family residential sewage treatment area (Ft ²)**	2,500	2,500	2,500	2,500
Single-family residential	150	150	200	250
Duplex	265	265	400	375
Tri-plex	375	375	600	500
Quad	490	490	800	625
<p>* <i>Excluding all public road right-of-ways, wetland, bluff, or land below the OWHL of Public Waters.</i></p> <p>** <i>Required for all proposed Subdivisions, the proposed location may be varied with approval from Ottertail City Council.</i></p>				
Buildable Area (Ft²)				
Single-family residential	8,400	8,400	8,400	8,400
Single-family residential sewage treatment area (Ft ²)**	2,500	2,500	2,500	2,500
Single-family residential	150	150	200	250
Duplex	265	265	400	375
Tri-plex	375	375	600	500
Quad	490	490	800	625
<p>* <i>Excluding all public road right-of-ways, wetland, bluff, or land below the OWHL of Public Waters.</i></p> <p>** <i>Required for all proposed Subdivisions, the proposed location may be varied with approval from Ottertail City Council.</i></p>				

	<i>Lakes</i>			<i>Rivers</i>
	<i>GD</i>	<i>RD</i>	<i>NE</i>	<i>Trans</i>
Minimum Lot Width				
Single-family residential	150	150	200	250
Duplex	265	265	400	375
Tri-plex	375	375	600	500
Quad	490	490	800	625
* <i>Excluding all public road right-of-ways, wetland, bluff, or land below the OWHL of Public Waters.</i>				
** <i>Required for all proposed Subdivisions, the proposed location may be varied with approval from Ottertail City Council.</i>				

(Ord. passed 5-17-2012; Ord. 2018-03, passed 6-7-2018)

§ 151.031 MINIMUM SETBACK REQUIREMENTS.

(A) *Table III: Minimum Setbacks.*

SETBACKS (Ft)				
	<i>Lakes</i>			<i>Rivers</i>
	GD	RD	NE	Trans
SHORELAND RIPARIAN LOTS setback from:				
Elevation Above OHWL				
Vertical separation*	3	3	3	3
OHWL				
Dwellings/non-dwellings	75	100	200	100
WOAS	20	20	20	20
Lotline **				
Cluster development	50	50	50	50
Road right-of-way public/private; all structures	20	20	20	20
Septic tanks: all structures	10	10	10	10
Residence	10	10	10	10
State Highway right-of-way public/private; all structures	50	50	50	50

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	<i>Lakes</i>			<i>Rivers</i>
	GD	RD	NE	Trans
Soil Treatment Area				
Dwelling	20	20	20	20
Non-dwelling	10	10	10	10
Top of bluff	30	30	30	30
WOAS (riparian only)	40	65	90	115
SHORELAND RIPARIAN LOTS Maximum Structure Height				
Dwelling	35	35	35	35
Non-dwelling***	20	20	20	20
WOAS	10	10	10	10
<p>* For lakes, by placing the lowest floor, including basement, at a level of at least 3 feet above the highest known water level, or 3 feet above the OHWL, whichever is higher. For rivers, by placing the lowest floor, including basement at least 3 feet above the regional flood level, the OHWL, or by conducting a technical evaluation to determine the effects of proposed construction upon flood stages and flood flows and to establish the flood protection elevation. WOAS may have the lowest floor placed lower than the elevation determined in the this section if the structure is constructed of flood resistant material to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.</p> <p>** Lotline setbacks shall not apply to vision obstructing fences which are not greater than six feet in height.</p> <p>*** Except non-dwelling buildings more than 400 feet from the OHWL of a lake and/or 300 feet from the OHWL of a river .</p>				

(B) *Non-riparian lots.* Non-riparian lots of no less than 5,000 square feet may be created if they are legally joined to a riparian lot within 200 feet of the non-riparian lot, and contain permanent restrictions against residential construction. These non-residential non-riparian lots must be created by subdivision plat in a manner as to allow for orderly attachment to riparian lots and with appropriate restrictive covenants. The final plat will not be accepted unless it identifies the riparian lot to which each new non-riparian lot shall be permanently attached.

(C) *BIZ-Bluff Impact Zone.* Structures and accessory facilities, except stairways and landings, must not be placed within the BIZ.

(D) *Steep slopes.* Local government officials must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer leaf-on vegetation.

(E) *Proximity to unplatted cemeteries and significant historic sites.* No structure may be placed nearer than 50 feet from the boundary of an unplatted cemetery protected under M.S. § 307.08, as it may be amended from time to time, unless necessary approval is obtained from the State Archaeologist's office. No structure may be placed on a historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(F) One WOAS per lot will be allowed, provided:

- (1) The structure must be above ground unless a conditional use permit or grade/fill permit is granted;
- (2) The structure is ten feet or less in height as measured from the lowest adjoining ground level;
- (3) The structure is 260 square feet or less in area;
- (4) The maximum width of the structure is 20 feet as measured parallel to the shoreline;
- (5) The structure is set back from the OHWL at least 20 feet;
- (6) The structure complies with the lotline setback requirements as set by Table III;
- (7) The structure must not be used for human habitation or have water or sewer connections;
- (8) The structure is treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks, color or other acceptable means, assuming summer leaf-on conditions;
- (9) The roof of the structure may be used as a deck with safety rails, but must not be enclosed or used as a storage area; and
- (10) Only one structure may be placed within the Shore Impact Zone (SIZ).

(G) *Stairways, lifts and landings.*

- (1) Stairways and lifts are the preferred alternative to topographic alterations for achieving access up and down bluffs and steep slopes, or across a SIZ to shore areas,
- (2) Stairways and lifts must meet the following design requirements:
 - (a) Must not exceed four feet in width on residential lots, and eight feet in width for commercial properties, public open spaced recreational properties and planned unit developments (PUDs);
 - (b) Landings for stairways and lifts on residential lots must not exceed 36 square feet in area. Landings no larger than 64 square feet may be used for commercial properties, public open space recreational properties and PUDs;

(c) Canopies or roofs are not allowed;

(d) May either be constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control or soil erosion, and authorized by a required conditional use permit or grade/fill permit;

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(e) Must be located in the most visually inconspicuous parts of lots, as viewed from the surface of the public water assuming summer leaf-on conditions, whenever practical;

(f) Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of divisions (G)(2)(a) through (G)(2)(e) above are complied with, in addition to the requirements of Minn. Rules Ch. 1341.

(H) Decks.

(1) Except as provided in division (G) above, decks must meet the structure setback standards.

(2) Decks that do not meet setback requirements from public waters may be allowed without a variance to be added to structures existing on February 5, 1992, if all the following criteria and standards are met:

(a) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OUWL setback of the structure;

(b) The deck encroachment toward the OtTWL does not exceed 15% of the existing shoreline setback of the structure from the OHWL or is not closer than 30 feet to the OHWL, whichever is more restrictive; and

(c) The deck is not roofed or screened.

(I) Patio

Patio placed within the structure OHW setback shall require a permit.

(a) Patios within the OHW structure setback shall comply with the following standards:

1. Not to be located within the first half of setback requirements of the OHW.
2. Be free standing.
3. Have no railings.
4. Have no permit structures build, erected or secured
5. Be maximum of 325 square feet in size.
6. Not to be more than one foot below or above natural ground level.
7. The maximum impervious surface limits for the lot shall not be exceeded.

(b) Patios are allowed behind the structure setback with a permit provided that all setbacks are met, and the property does not exceed the maximum allowable impervious surface standards.

(Am. Ord. 2020-05, passed 12-17-2020)

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APPENDIX A: BUILDING SETBACKS AND SEPTIC TANK AND WELL LOCATIONS

Set Back From:			Location from Well		Location from Structure		Location from lot line	Location from Septic System
Lot Type	Side Lines	Lake Shore	Drain Field	Septic Tank	Drain Field	Septic Tank		
Over 1,000 ft. from Lake 20,000 sq. ft.	10 ft.		100 ft.	50 ft.	20 ft.	10 ft.	10 ft.	
Pelican Bay 80,000 sq. ft. 200 ft. wide	10 ft.	200 ft.	100 ft.	50 ft.	20 ft.	10 ft.	10 ft.	150 ft.
Donalds Lake 40,000 sq. ft. 150 ft. wide	10 ft.	100 ft.	100 ft.	50 ft.	20 ft.	10 ft.	10 ft.	75 ft.
Long Lake 40,000 sq. ft. 150 ft. wide	10 ft.	100 ft.	100 ft.	50 ft.	20 ft.	10 ft.	10 ft.	75 ft.
Buchanan Lake 20,000 sq. ft. 100 ft. wide	10 ft.	75 ft.	100 ft.	50 ft.	20 ft.	10 ft.	10 ft.	50 ft.
Otter Tail Lake 20,000 sq. ft. 100 ft. wide	10 ft.	75 ft.	100 ft.	50 ft.	20 ft.	10 ft.	10 ft.	50 ft.
Portage Lake 20,000 sq. ft. 100 ft. wide	10 ft.	75 ft.	100 ft.	50 ft.	20 ft.	10 ft.	10 ft.	50 ft.
The GRANDFATHER CLAUSE may enter into some building sites plotted before September 13, 1979. Lot size and set backs could be involved, but would require inspection by the Council. Grading of lots on lake shore locations will require a conditional use permit.								

(Ord. 2013-10, passed 11-21-2013)

(Ord. passed 5-17-2012; Am. Ord. 2018-03, passed 6-7-2018)

§ 151.032 GENERAL REQUIREMENTS OF ALL ZONING DISTRICTS.

The following requirements shall apply equally to all districts except where otherwise stated or where special provisions provide otherwise:

(A) *All zoning districts.*

(1) Impervious surface coverage of lots must not exceed 25% of the lot area within the shoreland overlay district which is defined as 1,000 feet from a lake or 300 feet from a river. Total

area of impervious surfaces outside of shoreland overlay district shall not exceed 35% of the lot area unless the total lot area is located in Private Recreational zoned area in which case shall not exceed 40%. Commercial and Light Industrial zoned property outside of 1,000 feet of shoreland may increase their impervious surface coverage up to 75%, provided the property owner submit a storm water management plan that address and incorporates storm water techniques and green space enhancements such as, but not limited to, landscaping and tree planning. The plan shall be reviewed and approved by the City Clerk and shall be installed per the approved plan.

(2) Suitable installation of a Type 1 sewage treatment system consistent with Minn. Rules Ch. 7080 are required for all zoning districts.

(3) Manufactured homes shall be located and installed according to the same standards, including but not limited to a permanent foundation system, set-backs and minimum square footage which would apply to a site built single family dwelling on the same lot.

(4) Setbacks are the same for all non-shoreland lots as shoreland areas.

(5) Maximum height restrictions are set forth in § 151.031 of this code.

(6) When a parcel is bordered by more than one shoreland classification (i.e. lake, river, etc.), the classification that has the most restrictive requirements will be the rule.

(7) The placement of storage/cargo containers as defined in § 151.033 shall be prohibited for the construction of a dwelling or any temporary storage and/or living accommodation.

(8) Accessory structures exceeding 260 sq. ft. and ten feet in height require a conditional use permit unless built with or simultaneously with a residential dwelling.

(B) *Single Family Residential.*

(1) The principal structure shall have a floor area of not less than 768 square feet and the minimum width of the main body of the dwelling unit shall not be less than 20 feet.

(2) The minimum area for a single family residential lot shall be 20,000 square feet and the minimum lot width shall be 100 feet.

(C) *Multiple-Family Dwellings.*

(1) Require a conditional use permit.

(2) Are required to be served by a suitable sewer system management program or service.

(3) The principal structure shall have a floor area of not less than 768 square feet and the minimum dimension of the main body of the dwelling unit shall not be less than 20 feet.

(4) The minimum area for a multi-family dwelling lot shall be 40,000 square feet and the minimum lot width shall be 200 feet.

(D) *Private Recreational.*

(1) One Family Structure requires a minimum of 15,000 square feet per parcel. All setbacks and impervious must be meet

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(2) Two Family Structure sharing a common wall require a minimum of 10,000 square feet per parcel containing one half of a Two Family Unit per parcel. All setbacks and impervious must be meet on non-adjoining walls.

(E) *Commercial and Industrial Buildings*. Such requirements as may be approved by the City Council after submission of approved site plan and plan of structure with approved storm water retention considerations and suitable sewage treatment system.

(Ord. 2018-03, passed 6-7-2018; Am. Ord. 2019-02, passed 4-18-2019; Am. Ord. 2019-03, passed 9-19-2019; Am. Ord. 2022-03, passed 6-30-2022)

§ 151.033 SPECIAL REQUIREMENTS.

(A) *Storage of materials*.

(1) Open storage of junk, wrecked vehicles to be dismantled, or other salvage materials shall be enclosed by a permanent fence or combination of fence and other structure to entirely block the view of the storage area from the public and adjacent property owners.

(2) Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and at least 25 feet from all interior lot lines. Waste materials shall be removed and disposed of in a manner adequate to meet Otter Tail County Health Department regulations.

(B) Storage/cargo containers including but not limited to, cargo containers, railroad cars, truck vans, converted mobile homes, trailers, bus bodies, transport containers, any box-like containers transported by truck to a desired location for drop off with a storage capacity, storage POD's, shall be prohibited except as follows:

(1) For purpose of loading and unloading household contents for a period not exceeding 60 days in any one calendar year; or

(2) During a construction project, provided all local, state and other accessory permits are obtained and the construction permit remains in compliance with all local, state and Federal laws for the duration of the project not to exceed 180 days. Once the project is complete, said containers must be removed within 30 days of completion.

(3) Existing lots or parcels which contain a portable storage device prior to the adoption of this ordinance are hereby allowed and may continue for that purpose as non-conforming until removed.

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(C) *Abandonment.* If any use or structure authorized by this chapter is abandoned, or by lack of use or neglect is permitted to become offensive or unsightly, either on public or private property, it shall be restored to its original conditions by the owner or removed pursuant to the order of the City Council if found to be detrimental to the public health, safety or welfare, and the costs of such restoration or removal shall be borne by the owner of the property, and may be assessed against the property if removed by the city. Non-use for a period of 12 months shall be presumptive evidence of abandonment, subject to rebuttal by competent evidence.

(Ord. 2018-03, passed 6-7-2018; Am. Ord. 2019-02, passed 4-18-2019)

PERFORMANCE STANDARDS**§ 151.040 RESERVED.****§ 151.041 WATER SUPPLY STANDARDS.**

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the State Department of Health (MDH) and the State Pollution Control Agency (MPCA). Water supply standards are adopted as set forth in Chapter 53 of this code of ordinances.

(Ord. passed 5-17-2012)

§ 151.042 SANITATION STANDARDS.

Any premises used for human occupancy must be provided with an adequate method of sewage treatment. All private sewage treatment systems must meet or exceed the MPCA's standards for SSTS (subsurface sewage treatment systems) contained in Minn. Rules 7080 which has been adopted by reference in this code. Solid waste sewage treatment system standards are adopted as set forth by the Otter Tail County Sanitation Code.

(Ord. passed 5-17-2012)

§ 151.043 SHORELAND ALTERATIONS.

(A) Vegetative alterations and excavations or grading and filling necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from the vegetative alteration standards in this section and separate permit requirements for grading and filling. However, the grading and filling conditions of this section must be met for issuance of permits for structures and sewage treatment systems. Alterations of vegetation and topography must prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat. Wetland acreage lost as a result of a topographical alteration must be replaced in accordance with the provisions of the Wetlands Conservation Act and within the boundaries of the property or the minor watershed upon which the wetland acreage was located.

(B) Removal or alterations of vegetation, except for agricultural uses or forest management as provided for in §§ 151.044 and 151.045, is allowed according to the following standards.

(1) Intensive vegetation clearing within the SIZ and BIZ land on steep slopes is not allowed. Intensive vegetation clearing outside of these areas is allowed if the activity is consistent with the forest management standards in § 151.045.

(2) Limited clearing of trees and shrubs and cutting, pruning and trimming of trees to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas and permitted water-oriented accessory structures of facilities, as well as providing a view to the water from the principal dwelling unit or dwelling site, in SIZ and BIZ and on steep slopes is allowed, provided:

(a) The screening of structures, vehicles or other facilities as viewed from the water, assuming summer leaf-on conditions, is not substantially reduced;

(b) Along rivers, existing shading of water surfaces is preserved; and

(c) The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.

(3) Use of fertilizer, herbicides and pesticides in the Shoreland District boundary must be done in a way as to minimize runoff into the SIZ, BIZ or public waters by the use of earth, vegetation or both. Use of fertilizer containing phosphorus is prohibited in the Shoreland District, except for agricultural purposes more than 300 feet from OHWL.

(C) No grading or filling or alteration of existing topography, including retaining walls, shall be performed in the SIZ, BIZ or a wetland, in any amount; or elsewhere in the shoreland area in excess of 20 cubic yards per year, unless a CUP or grade/fill permit has been obtained pursuant to this section prior to any earth being moved (the property owner is legally responsible for all surface water drainage that may occur).

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(1) (a) Before authorizing any grading or filling activity in any type 2, 3, 4, 5, 6, 7 or 8 wetland, the effect of the proposed activity on the following qualities of the wetland must be considered:

1. Sediment and pollutant trapping and retention;
2. Storage of surface run-off to prevent or reduce flood damage;
3. Fish and wildlife habitat;
4. Recreational use;
5. Shoreline or bank stabilization; and
6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals and to others.

(b) This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other county, state or federal agencies such as a watershed district, DNR, NCRS, BWSR or United States Army Corps of Engineers.

(2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

(3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established within ten days.

(4) Diversions, silting basins, terraces and other methods to trap sediment must be used, where necessary, to prevent erosion.

(5) Fill must be stabilized according to accepted engineering standards.

(6) Fill or excavated material must not be placed in the BIZ.

(7) Fill must not restrict a flood way or destroy the storage capacity of a flood plain.

(8) Any alterations at or below the OHWL of public waters must first be authorized by the Commissioner of DNR, under M.S. § 103G.245, as it may be amended from time to time.

(9) Any alterations of topography must only be allowed if they do not adversely affect adjacent or nearby properties.

(10) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the OHWL and the height of the riprap above the OHWL does not exceed three feet.

(11) Public and private roads, driveways and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must be designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local Soil and Water Conservation District or other applicable technical materials.

(12) The applicant for a CUP or a grade/fill permit involving grading and filling or any alteration of the existing topography shall be legally responsible for all surface water runoff problems that may occur in the future.

(D) Excavations on shorelands where the intended purpose is connection to a public water shall require a permit from the City Clerk-Treasurer or Zoning Administrator before construction is begun. This permit may be obtained only after the Commissioner of the DNR has granted permission for work in beds of public water.

(E) Unless otherwise indicated by the CUP or a grade/fill permit, all grading, filling or alteration of the existing topography, including stabilization, shall be performed between April 15 and October 1. The April 15 to October 1 construction period shall not be applicable to CUPs and grade/fill permits for grading, filling or alteration of the existing topography involving finished grade slopes of less than 12% consistent with the steep slope requirements and when appropriate methods for preventing erosion are adhered to.

(Ord. passed 5-17-2012)

§ 151.044 AGRICULTURAL STANDARDS.

(A) The SIZ for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the OHWL.

(B) General cultivation farming, grazing nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and SIZ and BIZ are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local Soil and Water Conservation District, BWSR, DNR, NCRS or Army Corps of Engineers.

(C) Animal feedlots must not be located in the shoreland of rivers or in BIZ and must meet a minimum setback of 300 feet from the OHWL of all public water basins.

(D) Application of fertilizer, herbicides, pesticides, animal wastes or other chemicals within shoreland must be done in a way as to minimize impact on the SIZ, BIZ or public water by the use of earth or vegetation.

(Ord. passed 5-17-2012)

§ 151.045 FOREST MANAGEMENT STANDARDS.

The harvesting of timber and associated reforestation or conversion of forested use to a non-forested use must be conducted consistent with the following standards.

(A) Timber harvesting and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment Forestry and the provisions of Water Quality in Forest Management *Best Management Practices in Minnesota*.

(B) Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards.

(1) SIZ and BIZ must not be intensively cleared of vegetation.

(2) An erosion and sediment control plan is developed and approved by the local Soil and Water Conservation District before issuance of a conditional use permit for the conversion.

(C) Use of fertilizer, herbicides, pesticides or animal wastes within shorelands must be done in a way as to minimize runoff into the shore impact zone or public water by the use of earth or vegetation.
(Ord. passed 5-17-2012)

§ 151.046 EXTRACTIVE USE STANDARDS.

(A) Processing machinery, such as crushers, conveyors and related structures, must be located consistent with the setback standards for structures from OHWL of public waters and from bluffs.

(B) An extractive use site development and restoration plan must be developed, approved by the local government and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

(Ord. passed 5-17-2012)

§ 151.047 STANDARDS FOR COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMI-PUBLIC USES.

(A) Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal OHWL setback or be substantially screened from view from the water by vegetation or topography, assuming summer leaf-on conditions.

(B) Those with water-oriented needs must meet the following standards.

(1) In addition to meeting impervious coverage limits, setbacks and other zoning standards presented elsewhere in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

(2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards.

(a) No advertising sign or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.

(b) Signs may be placed, when necessary, within the SIZ if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, and must not be higher than ten feet in height. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

(c) Other outside lighting may be located within the SIZ or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters.

(Ord. passed 5-17-2012)

§ 151.048 STORM WATER MANAGEMENT.

The city considers proper storm water management in all reviews, approvals and permit issuance. The following general and specific standards have been incorporated into the city's zoning and management plan.

(A) The following are general standards.

(1) When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water runoff before discharge to public waters.

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

(3) When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and human-made materials and facilities.

(B) The following are specific standards.

(1) Impervious surface coverage of lots must not exceed 25% of the lot area within 1,000 feet of shoreland. Total area of impervious surfaces outside of 1,000 feet of shoreland shall not exceed 35% of the lot area unless the total lot area is located in Private Recreational zoned area in which case shall not exceed 40%. Commercial and Light Industrial zoned property outside of 1,000 feet of shoreland may increase their impervious surface coverage up to 75%, provided the property owner submit a storm water management plan that address and incorporates storm water techniques and green space enhancements such as, but not limited to, landscaping and tree planning. The plan shall be reviewed and approved by the City Clerk and shall be installed per the approved plan.

(2) When constructed facilities are used for storm water management, they must be designed and installed consistent with the field office technical guide of the local Soil and Water Conservation Districts.

(3) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(4) Surface area of a lot physically separated (i.e., public, private road right-of-way or easement, or body of water) from itself or another, cannot be included for purposes of the impervious surface calculation.

(5) Half of the area covered by professionally installed and properly maintained permeable pavers, or other similar materials will be counted as impervious surface. Professionally installed means installed by an interlocking concrete pavement institute certified installer, and properly maintained means following manufacturer's suggested maintenance schedule.

(Ord. passed 5-17-2012; Am. Ord. 2013-01, passed 1-17-2013; Am. Ord. 2015-03, passed 6-18-2015; Am. Ord 2022-04, passed 6-30-2022)

§ 151.049 MINING OF METALLIC MINERALS AND PEAT.

As defined by M.S. §§ 93.44 to 93.51, as it may be amended from time to time, mining of metallic minerals and peat may be a permitted use provided the provisions of M.S. §§ 93.44 to 93.51, as they may be amended from time to time, are satisfied.

(Ord. passed 5-17-2012)

§ 151.050 STANDARDS REGULATING NOISE, VIBRATIONS, SMOKE, ODORS AND TOXIC OF NOXIOUS MATTER.

(A) *Noise.* Noises emanating from any use shall be in compliance with and regulated by the standards of the MCPA. Any use established or remodeled after the effective date of this chapter shall so be operated as to prevent vibration discernable at any point beyond the lot line of the site on which the use is located. The city shall limit the hours of discernable noise and vibration between the hours of 12:00 a.m. midnight and 8:00 a.m. seven days a week unless a special event permit has been acquired at the office of the City Clerk-Treasurer.

(B) *Ground vibration and noise.* Ground vibration and noise caused by motor vehicles, trains, aircraft operations or temporary construction and demolition shall be exempt from these regulations.

(C) *Smoke and particular matter.* No use shall produce or emit smoke, dust or particulate matter exceeding applicable regulations established by the MCPA.

(D) *Odor*. No use shall produce unreasonable or disturbing odors beyond the property line exceeding applicable regulations established by MPCA

(E) *Toxic and noxious matter*. No use or operation shall emit a concentration of toxic or noxious matter across the property line which exceed applicable regulations of the MPCA.
(Ord. passed 5-17-2012)

**ORDINANCE 2022-07
CITY OF OTTERTAIL
ORDINANCE REPEAL TITLE XV CHAPTER 151.066
CLUSTER DEVELOPMENTS**

The Ottertail City Council hereby ordains the repeal of Chapter 151.066 CLUSTER DEVELOPMENTS of the Ottertail City Code.

(Ord. passed 5-17-2012; Repeal Ord. 2022-07, passed 6-30-2022)

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§ 151.067 NON-CONFORMING USES.

(A) A non-conforming use is any continuous use of land established before the effective date of this chapter which does not conform to the use restriction of a particular district. This should not be confused with substandard dimensions of a conforming use.

(B) (1) The city is implementing a system of inspections and management, will continue an active identification and abatement program for all non-conforming and failing subsurface sewage treatment systems (SSTS). SSTSs not in compliance shall be eliminated within the timeframe specified in any abatement notice issued by the City Clerk-Treasurer or Zoning Administrator.

(2) If the notification of non-conformance is not complied with, the City Clerk-Treasurer or Zoning Administrator may institute appropriate action or proceedings to prevent, restrain, correct or abate the non-conforming use, and it shall be the duty of the City Attorney to institute this action.

(C) A prohibited non-conforming use may not be expanded or improved.

(D) Repair and/or replacement of an existing non-conforming building or structure is permitted only in accordance with M.S. § 394.36, as it may be amended from time to time.

(E) If any non-conformity or occupancy is discontinued for a period of more than one year, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. (Ord. passed 5-17-2012)

§ 151.068 EXEMPTIONS.

(A) The following uses, being essential for the operation of any zoning use district, are exempt from all the provisions of this chapter and are permitted in any district: poles, towers, telephone booths, wires, cables, conduits, vaults, pipelines, laterals of any other similar distributing equipment of a public utility; road projects by a road authority within an existing road right-of-way; county ditch projects approved by the Drainage Authority; and provided further that hedges or shrubbery may be erected, placed, maintained or grown except as they may constitute a safety hazard.

(B) (1) A structure may be erected on a lot of less than the established minimum area and width, provided the lot existed by virtue of a recorded plat or deed before October 15, 1971, or a lot existing by virtue of a recorded plat or deed before October 15, 1971 has been increased in area by a conveyance subsequent to October 15, 1971, provided a zoning permit for the structure is obtained, all sanitary requirements are complied with and the proposed use is permitted within the district. However, effective February 5, 1992, if in a group of two or more contiguous lots under the same ownership, any individual

lot does not meet the established minimum area or width, the lot may not be considered a separate parcel of land for the purposes of conveyance or development. The lot must be combined with one or more contiguous lots so they equal one or more parcels of land and each parcel must meet, or more closely approach, the established minimum lot size requirements of this chapter.

(2) This restriction shall not apply to the following circumstances:

(a) Where each contiguous substandard lot is an improved lot, as defined herein;

(b) Where each contiguous substandard lot is in substantial compliance with the established lot width requirement, as evidenced by a lake frontage and building line width of at least 75% of the chapter minimum, and all other area requirements are met; and

(c) Where a lot, or a portion of a lot, is to be conveyed to the owner of a contiguous lot for the purpose of increasing lot size, and no residual lot is left unattended. The deed must contain restrictive covenants requiring legal joinder to a contiguous parcel and a permanent prohibition against separate residential development.

(C) A zoning permit is not required for the following structures provided all other requirements of this chapter are met:

(1) Satellite dishes (in excess of one meter in diameter);

(2) Currently licensed fish houses of less than 120 square feet and less than ten feet in height;
and

(3) Currently licensed recreational camping units located at a currently licensed resort.
(Ord. passed 5-17-2012)

OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 151.080 PURPOSE.

The purpose of the off-street parking regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land and structures. No building shall be hereafter erected, substantially altered or its use changed unless off-street parking spaces have been provided in accordance with the provisions of this chapter.

(Ord. passed 5-17-2012) Penalty, see 151.99

§ 151.081 REQUIRED OFF-STREET PARKING.

The number of off-street parking spaces provided shall be at least the minimum provided for the following uses:

<i>Use</i>	<i>Number of Spaces</i>
Motels, hotels	1 space per sleeping room or unit
Multiple-family dwellings	2 spaces per unit
One- and two-family dwellings	2 spaces per unit
Places of assembly	1 space for every 4 seats
Restaurants, bars and the like	1 space for every 3 seats
Retail stores	1 space per every 500 sq. ft. of retail floor space
Service commercial shops, such as repair shops, furniture repair shops, appliance repair shops and the like	1 space per every 500 sq. ft. of gross floor space
Wholesale, warehouses	1 space for every employee during any work period
Uses not mentioned	For any use not specifically mentioned in the schedule of off-street parking requirements, the number of spaces required shall be that required for that use in the schedule which is determined by the City Council to most similar

(Ord. passed 5-17-2012) Penalty, see 151.99

§ 151.082 PARKING AND STORAGE OF CERTAIN VEHICLES.

No motor vehicle or trailer without current license plates shall be parked or stored on any property in a residential area other than in a completely enclosed building or as otherwise provided in this code. (Ord. passed 5-17-2012) Penalty 151.99

§ 151.083 REQUIREMENTS AND PROHIBITIONS.

(A) Required parking and loading areas and driveways providing access to them shall not be used for storage, display, sales, rental or repair of motor vehicles or other goods or for the storage of inoperable vehicles or snow.

(B) All required parking spaces shall be accessed by adequate maneuvering space. (Ord. passed 5-17-2012)

§ 151.084 REDUCTIONS.

If warranted by the unique characteristics and/or documented parking demand for similar developments, the city may allow a reduction in the number of parking spaces actually constructed as long as the applicant provides proof of a future parking plan. The plan must show the location for all minimum required parking spaces in conformance with all applicable setback requirements. The city may require installation of the additional parking spaces whenever the need arises.

(Ord. passed 5-17-2012)

ADMINISTRATION

§ 151.110 ADMINISTRATION GENERALLY.

(A) The City Clerk-Treasurer/Zoning Administrator or other persons appointed by the City Council may inspect any property that is subject of any application under this chapter, with either the permission of the owner, resident or other person in control of the property, or after first obtaining an administrative search warrant as provided under § 10.20.

(B) Notwithstanding anything in this chapter to the contrary, the provisions of M.S. § 15.99, as it may be amended from time to time, shall govern the process for making decisions under this chapter. (Ord. passed 5-17-2012)

§ 151.111 ZONING PERMITS.

(A) *Zoning permits.*

(1) A zoning permit shall be obtained prior to erecting or installing a new structure or demolishing, altering any structure or part thereof. Alterations include projects which make structural changes, alter outside dimensions of a structure or the cost of which exceeds 50% of the market value of the structure. A permit shall also be obtained prior to moving a structure. The applicant, for a permit, shall file an application which shall include a scale drawing (see definition in § 151.004) of the proposal in the office of the City Clerk-Treasurer/Zoning Administrator and pay a non-refundable fee as determined in the fee schedule as well as any fees associated with inspection as set by the County Water Management District, as determined annually. The City Clerk-Treasurer/Zoning Administrator may require an onsite inspection prior to issuing a permit. The applicant shall notify the City Clerk-Treasurer/Zoning Administrator once the building footings have been constructed for an inspection. Prior to these inspections, the applicant shall stake out all lot lines and road rights-of-way.

(2) Before a permit is issued, the terms of this chapter shall be met. This shall include bringing any non-conforming sewage system located upon property for which the zoning permit is sought, up to specifications prior to the issuance of the zoning permit.

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(3) A single-family residential lot shall contain only one dwelling unit. A tent of no more than 100 square feet, or tents whose cumulative size is no more than 100 square feet, are exempt from this requirement.

(4) A recreational camping unit, for dwelling purposes, may be placed on a lot, without a site permit on a temporary basis, not to exceed 22 days per year, provided it is compliant with all setback requirements, there are no water connections, and that it is the only dwelling unit onsite.

(5) Residential and commercial properties shall require a permit for any concrete and/or bituminous work. In addition, commercial properties shall require a zoning permit for any inside and/or outside remodeling improvements.

(6) When a change of use or ownership of any property occurs, the City Clerk-Treasurer/Zoning Administrator must be notified as a CUP or reporting may be necessary.

(7) Zoning permits when issued are good for one year and will not be automatically renewed. If the project has not been started within one year from the date of original approval, an extension may be granted for the period of one year (only) providing the plan has not been changed and all additional administrative fees are paid. Any changes to the plan will require a new permit with all current fees paid.

(8) Applications for zoning permits and a well permit shall be made to the Zoning Administrator on forms furnished by the city which must contain a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location of all building(s) and a complete plan of the proposed SSTS including the location, size, design and the name of the installer and any other information deemed necessary by the Zoning Administrator.

(B) *Zoning Administrator.* The City Council hereby delegates to the Zoning Administrator the duties and responsibilities as follows:

- (1) Issue zoning permits and inspect building location following notification by applicant;
- (2) Administer the terms of this chapter subject to any required approval of the City Council;
- (3) Keep necessary records;

(4) The City Clerk-Treasurer may issue grade/fill permits for grading and filling projects of not more than 300 cubic yards or for conservation projects approved by a Soil and Water Conservation District. Grade and fill projects over 300 cubic yards require council action through a Conditional Use Permit (CUP). The City Clerk-Treasurer/Zoning Administrator may require an onsite inspection prior to issuing a permit. Within three days of completion, the applicant for a grade/fill permit must notify the Zoning Administrator that the project is ready for inspection; and

(5) Issue site permits for structures with less than the OHWL setback under the following conditions:

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(a) The proposed structure will be on a lot that existed by virtue of a recorded plat or deed before October 15, 1971;

(b) The proposed structure is not located in a SIZ or a BIZ;

(c) In areas where an existing non-conforming structure exists on each adjoining lot of a proposed building site, public water setback may be varied to conform to the existing setback of like use. In no instance, can the proposed structure extend closer to the public water than the closest point of the existing non-conforming structures of like use. It is the applicant's responsibility to provide accurate depiction of the existing non-conforming structures' location on the adjoining lots; and

(d) May extend a conditional use permit expiration date upon receipt of the applicant's written request. The City Clerk-Treasurer/Zoning Administrator may require an onsite inspection prior to approving an extension.

(Ord. passed 5-17-2012; Am. Ord. 2019-02, passed 4-18-2019)

§ 151.112 CONDITIONAL USE PERMITS.

(A) Any proposed conditional use shall be presented to the City Council for the determination of its applicability to this section of the code where proposed. The City Council may impose conditions when granting conditional use permits that specify increased setbacks from public waters; vegetation allowed to be removed or required to be established; sewage treatment system location, design or use; location, design and use requirements for watercraft launching or docking and for vehicular parking; structure or other facility design, use and location; phasing of construction and other conditions considered necessary.

(B) The applicant for a CUP shall file an application along with an original scale drawing(s), or professional drawing(s) for cluster development, and ten copies (if the applicant provides a color coded original scale drawing, it is the applicant's responsibility to color code all copies) in the office of the City Clerk-Treasurer/Zoning Administrator not less than 21 days prior to the next scheduled meeting of the City Council and pay a fee as determined in the fee schedule when the application is filed. In addition to the scale drawing requirements (see definition in § 151.004), these drawings must also specifically indicate any proposed land use change including, but not limited to, structure location(s), sewage treatment system(s) and topographic alteration(s). In addition, the applicant must provide his or her (or next closest) E-911 address when available. In the absence of this number, detailed directions to the property must be provided with the application.

(C) When administrative staff and City Council members may not be able to view the property for which a CUP is requested, due to snow cover, it may not be possible to meet the legal requirement to take final action within 60 days of receipt of a completed application. Therefore, an applicant shall be required, as part of completing the application process in the months of October through March, to indicate by written acknowledgment whether the applicant is willing to waive the 60-day time limit and allow time for the City Council to view the property, if necessary. The acknowledgment shall inform the applicant that the absence of a waiver of the 60-day requirement may leave the City Council no

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alternative but to deny the application. Circumstances may require the City Council to cancel its regular meeting in one or more of the months of January through April. If meetings are canceled, no application for a CUP or preliminary plat will be accepted as final until 21 days prior to the next scheduled meeting of the City Council.

(D) Within three days of making an application for a conditional use permit, the applicant shall stake the lot lines, road rights-of-way and area under consideration in a way as to demonstrate the area to be topographically altered or the location of a proposed structure and post his or her name and address in a clearly visible location on the property.

(E) The City Clerk-Treasurer/Zoning Administrator shall refer the application to the City Council. (See § 151.114.)

(F) The City Council shall consider the application at its next regular meeting at which time is available, following compliance with the provisions of notice above specified.

(G) If an environmental assessment worksheet (EAW), environmental impact statement (EIS) or any other study such as a soil test, drainage or erosion control plan is required for any proposed conditional use application, the applicant shall assume all costs associated with the preparation, review and presentation of the document.

(H) The applicant or his or her representative shall appear before the City Council and answer any questions concerning the proposed conditional use application.

(I) The City Council reserves the right to require performance bonds and establish the amount of a bond for any one or all conditional use application approvals. All bonds shall be payable to city and shall be filed with the City Clerk-Treasurer prior to City Council approval of the conditional use permit.

(J) The City Council shall consider a CUP if the proposed change is found to be consistent with the general purposes of this chapter and the intent of this and all other applicable state and local regulations and laws. The City Council may consider the following:

- (1) Compatibility with the surrounding area, both on land and water;
- (2) Environmental impact, including soils, topography, vegetation (land and water), fish and wildlife;
- (3) Any hazards that may be created, both on land and water;
- (4) Density and location of development;
- (5) Suitability of the area, in its existing state, for the proposed use;
- (6) Near shore water depth;

- (7) Sensitive areas may be protected through the use of natural environment standards;
- (8) Adequate parking and traffic control;
- (9) Amount of noise generated;
- (10) Hours of proposed use;
- (11) Lighting;
- (12) Signage (number, size, lighting and location);
- (13) Time frame and/or phasing;
- (14) Adequate lot area and water frontage for the proposed use;
- (15) Minimal change in the existing topography necessary to allow for the proposed use; and
- (16) Any other possible adverse effects of the proposed conditional use application and what additional requirements may be necessary to prevent adverse effects.

(K) The conditional use permit application shall be referred to the City Council and placed on the agenda of the City Council at its first regular meeting.

(L) The City Council shall take action on the application within 60 days after receiving the application. An applicant shall be required, as part of completing the application process in the months of October through March, to indicate by written acknowledgment whether the applicant is willing to waive the 60-day time limit and allow time for the City Council to view the property, if necessary. If it grants the conditional use permit, the Council may impose any special conditions it considers necessary to protect the public welfare. A copy of all conditional use permits granted within 1,000 feet of shoreline shall be forwarded to the Commissioner of DNR within ten days of the action.

(M) The City Council shall establish the valid period for each conditional interim use permit granted. Requests for interim uses, as provided in this chapter, shall be filed with the City Clerk/Zoning Administrator on an official form. The City Council will determine the appropriateness of any interim use for a specific property and shall be made by official resolution and adopted by at least a simple majority, after their review of all evident presented.

(1) The proposed use is a permitted, accessory or conditional use listed in any district of the City zoning ordinances;

(2) The date or event that will terminate the use can be identified with certainty and continued;

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(3) The interim use does not result in adverse effects on the public health, safety and welfare nor does it create additional pollution potential for ground and surface waters;

(4) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.

(5) Applicant is required to file any and all information as if filing for a conditional use permit.

(6) Failure of the city to specifically note conditions or restrictions does not waive the city's ability to enforce existing codes or hold a subsequent hearing and delete or impose additional conditions upon the property at any time. The IUP shall be reviewed after 12 months has expired to determine whether the use approved under the interim use permits shall be continued. If continued, the permit is subject to all other restrictions, subsequent revisions and provisions listed herein.

(7) Any interim use may be terminated by a change in this chapter or violations of any of the conditions imposed after the original or subsequent hearings held by the city.

(8) Any interim use permit issued by the city automatically expires upon the termination date noted in the permit or upon change of the ownership of the property, whichever comes first.

(N) After approval of the conditional use application by the City Council the applicant shall secure from the City Clerk-Treasurer/Zoning Administrator a written conditional use permit before initiating the project.

(O) Within three days of completion, the applicant, for a conditional use permit, shall notify the City Clerk-Treasurer/Zoning Administrator that the project is completed and ready for an inspection.

(P) The City Clerk-Treasurer/Zoning Administrator shall inspect after notification and inform the applicant in writing whether the project complies with the approved conditional use permit. The purpose of the conditional use permit shall not be put to use until written approval has been granted by the City Clerk-Treasurer/Zoning Administrator.

(Ord. passed 5-17-2012; Am. Ord. 2016-03, passed 8-18-2016)

§ 151.113 VARIANCE FROM STANDARDS.

The City Council shall have the exclusive power to grant of variances from the terms of this chapter including restrictions placed on non-conformities in accordance with the following provisions.

(A) Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the variances are consistent with any comprehensive plan enacted by the city.

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

(C) **PRACTICAL DIFFICULTIES**, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance except as set forth in division (E), below; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

(D) Economic considerations alone do not constitute practical difficulties.

(E) No variance may be granted that would allow any use or expansion of use that is prohibited in a Shoreland Zoning District.

(F) The City Council may impose those conditions as it deems reasonable as a part of granting the variance to protect adjacent properties and the public interest.

(G) The City Council shall consider the following when hearing variance requests:

- (1) How substantial the variance requested is in relation to the requirements of the chapter;
 - (2) The effect the variance would have on government services;
 - (3) Whether the variance will effect a substantial change in the character of the neighborhood or will be a substantial detriment to neighboring properties;
 - (4) Whether the practical difficulty can be alleviated by a feasible method other than a variance;
 - (5) How the practical difficulty occurred, including whether the landowner created the need for the variance; and
- (6) Whether, in light of all the above factors, allowing the variance will serve the interests of justice and the public.

(H) In order to grant a variance the city must find the following:

- (1) The variance requested is in harmony with the general purposes and intent of the chapter and consistent with city's comprehensive plan;
- (2) The applicant established that the proposed use of the property is a reasonable use not permitted by the zoning ordinance and is not a use that is prohibited in the Shoreland Zoning District;
- (3) The applicant established that the need for the variance is due to circumstances unique to the property which was not created by the applicant; and
- (4) The variance will not alter the essential character of the locality.

(I) The City Clerk-Treasurer/Zoning Administrator shall refer the application to the City Council. (See § 151.114.)

(J) The City Council shall consider the application at its next regular meeting at which time is available, following compliance with the provisions of notice above specified. (Ord. passed 5-17-2012)

§ 151.114 NOTIFICATION PROCEDURES.

(A) *Conditional use permit applications.* Written notice shall be sent to property owners of record within 500 feet of the affected property or to the ten properties nearest the affected property, whichever will provide the greater number of owners. Written notice shall also be sent to the DNR. The written notice provided for the above shall be given not less than 14 days prior to the date City Council will consider the application, although failure of any property owner to receive notification shall not invalidate the proceedings.

(B) *Variance applications.* Written notice shall be sent to property owners of record within 500 feet of the affected property. Written notice shall also be sent to the DNR. The written notice provided for the above shall be given not less than 14 days prior to the date the City Council will consider the application, although failure of any property owner to receive notification shall not invalidate the proceedings.

(C) *Amendments.* Written notice of hearing for consideration of amendment(s) to the existing controls shall be given not less than 14 days prior to the hearing at which the amendment(s) will be considered.

(D) *Plats.* Written notice shall be sent to the property owners of record within 500 feet of a proposed subdivision. The written notice provided for the above shall be given not less than 14 days

prior to the date the City Council will consider the subdivision, although failure of any property owner to receive notification shall not invalidate the proceedings.

(E) *Copy.* A copy of approved amendments and plats and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner DNR and postmarked within ten days of final action.

(Ord. passed 5-17-2012; Am. Ord. 2020-03, passed 12-17-2020)

§ 151.115 AMENDMENTS.

An amendment to this chapter may be initiated by the City Council or by petition of affected property owners. The requirements for public notice and hearing contained in § 151.114 shall be followed. This chapter may be amended by a majority vote of all the members of the City Council. The adoption of an amendment which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the City Council.

(Ord. passed 5-17-2012)

§ 151.116 APPEALS.

(A) The City Council shall hear and decide appeals from and review any order, requirements, decisions or determinations made by the City Clerk-Treasurer/Zoning Administrator charged with enforcing any provision of this chapter.

(B) Any appeal from any decision, order, requirement or determination within the jurisdiction of the City Council shall be taken by the filing of a notice of appeal with the City Clerk-Treasurer/Zoning Administrator within ten days from the date on which the appellant was notified in writing by the officer making such decision of the decision. No appeal shall be filed by the City Clerk-Treasurer/Zoning Administrator unless accompanied by the appeal fee established in the fee schedule.

(C) The City Council shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the applicant and the officer from whom the appeal is taken and decide the same within a reasonable time. The City Council may reverse, affirm wholly or partly, or may modify the order, requirements, decisions or determinations as in its opinion ought to be made in the premises and to that end shall have all powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reason for the Council's decision shall be stated in writing. The decision of the Council shall be final unless appealed to the County District Court by a person having an interest affected by the decision.

(Ord. passed 5-17-2012)

§ 151.117 RECORD OF DECISIONS.

The City Council may provide that a record be made of its proceedings concerning its actions on any application for a permit, zoning ordinance amendment or appeal. This record may include the minutes of the meeting, the findings of the Council and the action taken.
(Ord. passed 5-17-2012)

FEES AND ENFORCEMENT

§ 151.130 CERTIFICATION OF TAXES.

Prior to approving an application for any zoning permit, the applicant shall provide certification to the city that there are no delinquent property taxes, special assessments, unpaid utility charges certified for payment as taxes, interest or city utility fees upon the parcel of land to which the land use permit relates.
(Ord. passed 5-17-2012)

§ 151.131 FEES.

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

(A) The Council may in a separate ordinance, or in the ordinance establishing fees and charges, prescribe fees sufficient to defray the costs incurred in reviewing, investigating and administering applications for an amendment to the provisions of this chapter and to all official maps, and applications for a permit, a variance or for some other approval required under this chapter.

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

(C) When costs associated with processing or reviewing an application exceed the original application fees, the applicant shall reimburse the city for any additional costs. The expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the city may need to hire in reviewing permits. All fees shall be paid before issuance of any permit and any construction of the project begins.

(D) If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to the District Court as provided in

M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the Court.

(Ord. passed 5-17-2012)

§ 151.999 PENALTY.

(A) The City Council may direct the City Clerk-Treasurer/Zoning Administrator or other person appointed by the City Council to administer this chapter to send a notice of violation. When so directed, a notice shall be mailed by the City Clerk-Treasurer/Zoning Administrator or other person appointed by the City Council to administer this chapter to any person who, in the opinion of the City Clerk-Treasurer/Zoning Administrator or other person designated by the City Council to administer this chapter, is in violation of the provisions of this code. The notice shall state the nature of the violation and the penalty for the violation. A person who is issued a notice of violation may appeal the issuance to the City Council under the provisions of § 151.116.

(B) If the person to whom the notice of violation is directed fails to comply with the applicable provisions of the zoning code, that person is guilty of a misdemeanor and shall be punished as provided in § 10.99.

(C) Each day the violation continues is a separate offense.

(D) In addition to any penalties provided for in this section or in § 10.99, if any person, firm or corporation fails to comply with any portion of this section, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

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

(F) A violation of this chapter or a condition imposed under this chapter is a public nuisance. The public nuisance may be abated by the City after abated in accordance with § 92.42.

(G) No section or part of this chapter designating the duties of an official, employee or appointee of the city may be construed to make that official, employee or appointee liable for the penalty provided by the city ordinance for violation of this chapter.

(Ord. passed 5-17-2012)

CHAPTER 152: SUBDIVISION CONTROL

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GENERAL PROVISIONS

§ 152.01 TITLE.

This chapter from the date of its passage shall be entitled “Subdivision Controls Ordinance, City of Ottertail, Minnesota”.

(Ord. 3-89, passed 2-16-1989)

§ 152.02 PURPOSE.

In order to integrate new subdivisions with the development objectives of the city and to contribute to an attractive, stable and wholesome environment, adequate public services and an integrated safe street and highway system, the subdividing of land in the city shall be pursuant to the provisions hereinafter set forth.

(Ord. 3-89, passed 2-16-1989)

§ 152.03 LEGAL AUTHORITY.

This chapter is enacted pursuant to Minnesota Statutes.

(Ord. 3-89, passed 2-16-1989)

§ 152.04 COMPLIANCE.

No subdivision of any real property of less than two and one-half acres shall be made except by a plat duly approved by the City Council and properly recorded in the office of the County Recorder. All metes and bounds conveyances (must be two and one-half acres or larger) shall be accompanied by a registered surveyor’s drawing for recording and approved access shall be provided to all such tracts. Any surveyor performing a survey in the city shall file a copy of that survey with the City Clerk-Treasurer and with the County Recorder. No deed shall be recorded or certified for recording by the County Auditor, Treasurer or County Recorder unless it meets the requirements as set forth above.

(Ord. 3-89, passed 2-16-1989)

§ 152.05 SAVINGS CLAUSE.

All plats approved under this chapter are approved for city purposes only and shall not release the subdivider from any liability or obligation imposed by Minnesota Statutes, federal law or county ordinances. In the event any provision of this chapter shall be found contrary to law by a court of competent jurisdiction from whose final judgement no appeal has been taken, the provision shall be considered void. All other provisions of this chapter shall continue in full force and effect as though the voided provision had never existed.

(Ord. 3-89, passed 2-16-1989)

§ 152.06 EXEMPTION.

(A) The division of a lot for the purpose of attachment to continuous lots where no residual plot or lot is left unattended is exempted from the provisions of this chapter, as are subdivisions substations, poles, towers, telephone booths and the like.

(B) One division of land in which the tract of land is described with one side being an unmeandered original government survey line and the other sides all being parallel or perpendicular to the survey line, provided the tract is over two and one-half acres in size and no other division of this type has been made involving the original tract.

(Ord. 3-89, passed 2-16-1989)

§ 152.07 DEFINITIONS.

As used in this chapter words in the present tense shall include the future tense, and words used in the singular number shall include the plural number and the plural, the singular. The work “shall” is mandatory and not discretionary. The work “may” is permissive. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE OFFICER. The Ottertail City Clerk-Treasurer.

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

ARTERIAL STREET OR HIGHWAY (PRIMARY). A street or highway of considerable continuity designed primarily to serve as an intercommunication link between sectors of the county and beyond (such as from within a city to outlying areas).

COLLECTOR STREET (SECONDARY). A street designed to serve the internal traffic circulation of a recognized land use area which distributes and collects traffic from local streets and connects with arterial streets and/or highways.

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

DEVELOPMENT OBJECTIVES. Those goals which indicate how the city wishes to develop itself in line with orderly and logical direction.

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

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

LOCAL STREET (TERTIARY). A street designed for access to abutting property and not intended to facilitate through traffic.

LOT. A piece, parcel or plot of land intended for building development or as a unit intended to facilitate through traffic.

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

PRELIMINARY PLAT. The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the City Council for its consideration.

SERVICE ROAD. A minor street which is parallel and adjacent to an arterial street or highway and which provides access to an arterial street or highway and which provides access to abutting properties and protection from through traffic.

SUBDIVISION. Any person commencing proceedings under this chapter to effect a subdivision of land hereunder for himself, herself or for another.

SUBDIVISION. The division or redivision of a lot, tract or parcel of land, regardless of how it is to be used, into two or more lots either by plat or by metes and bounds description; or the division or redivision of land involving dedication of a new park, playground, street or other public right-of-way facility; or the vacation, realignment or any other change in existing streets, alleys, easements, recreation areas, water or other public improvements or facilities.
(Ord. 3-89, passed 2-16-1989)

§ 152.08 EFFECTIVE DATE.

This chapter shall be in full force and effect upon due passage in the manner provided by law and shall supersede any previously enacted ordinances which are inconsistent.
(Ord. 3-89, passed 2-16-1989)

PROCEDURES

§ 152.20 GENERALLY.

The following procedures shall be followed in the administration of this chapter and no real property within the jurisdiction of this chapter shall be subdivided and offered for sale or a plat recorded until a pre-application meeting has been held, a preliminary plat has been reviewed and approved and until a final plat has been reviewed and approved as set forth in the procedures provided herein.
(Ord. 3-89, passed 2-16-1989)

§ 152.21 PRE-APPLICATION MEETING.

Prior to the submission of any plat for consideration by the City Council under the provisions of this chapter, the subdivider shall meet with the Administrative Officer to introduce himself or herself as a potential subdivider and learn what shall be expected of him or her in that capacity.
(Ord. 3-89, passed 2-16-1989)

§ 152.22 PRELIMINARY PLAT.

(A) *Submission of plat.* The subdivider shall submit to the Administrative Officer ten copies of a preliminary plat of his or her proposed subdivision, the requirements of which are set forth in this chapter. This preliminary plat shall be submitted 30 days prior to the next regularly scheduled City Council meeting and shall be accompanied by any necessary fees. Any application for a conditional use permit shall also be made at this time.

(B) *Notice procedure.* At least 17 days prior to the public hearing on the preliminary plat, the Administrative Officer shall submit one copy of the preliminary plat to each of the following: the City Attorney, City Council members, the Ottertail Lakes sewer district, if applicable, and to each public utility providing electric, gas and telephone service. Notice of the public hearing at which the City Council will consider the preliminary plat shall be made by the Administrative Officer pursuant to state law. The owner or subdivider shall also be notified as to the time and place of the public hearing.

(C) *Public hearing.* At the public hearing set for consideration of the preliminary plat, the City Council shall consider reaction to the plat by those receiving notice as set forth in division (B) above, and it shall also review the preliminary plat from the standpoint of public health and welfare; crowding potential, the tax balance of industrial, agricultural and residential properties, and overall city planning.

(D) *Planning.* At the conclusion of the public hearing set forth in division (C) above, or as soon thereafter as is practical, the City Council shall either approve, conditionally approve or disapprove the preliminary plat. The City Council shall not approve a preliminary plat unless the presentation requirements set forth in §§ 152.35 and 152.36 have all been met. No lot on the preliminary plat shall be approved if the lot does not provide adequate access or an adequate building site meeting the requirements of all rules and regulations in this chapter and Chapter 151 of this code of ordinances. The City Council shall approve the preliminary report or set forth the conditions of a conditional approval or the specific reasons for disapproval. Approval shall mean the acceptance of the design specifications and the final plat containing design specifications and approval of all engineering specifications presented in the preliminary plat which pertain to such things as water supply, sewage disposal, storm drainage, gas and electric service, road gradients and widths and the surface of streets which must be contained in the final plat. The Council may, after notifying the subdivider, employ qualified persons to check and verify each proposal and the costs of the services shall be paid by subdivider. If the preliminary plat complies with §§ 152.35 and 152.36, hereof, and the Council has approved all provisions thereof, approval of the preliminary plat shall also constitute approval of the final plat subject to compliance with § 152.23. Upon conditional approval, the necessary requirements shall be complied with and the final plat submitted for final approval.
(Ord. 3-89, passed 2-16-1989)

§ 152.23 FINAL PLAT.

(A) *Filing of the final plat.* The owner or subdivider shall file with the Administrative Office within 90 days of the date of the approval of the preliminary plat and the final plat shall conform substantially to the preliminary plat as approved. (See § 152.36(G) for filing document requirements.) Final plat approval shall not be granted to any plat which is not filed within the time herein specified unless an extension is requested in writing and for good cause. Any significant variance from the preliminary plat in the final plat as determined by the Administrative Officer shall be approved by the City Council.

(B) *Contents.* The subdivider may file a final plat limited to the portion of the preliminary plat which he or she proposes to record and develop at one time, provided that that portion must conform to all requirements of this chapter.

(C) *Review.* The Administrative Officer shall check the final plat to see that it is in substantial agreement with the preliminary plat as approved by the City Council and that it meets all ordinances and regulations of the city.

(D) *Action.* Final plat approval shall not be granted unless all presentation requirements of §§ 152.35 and 152.36 have been met. The Clerk-Treasurer shall notify the owner or subdivider of the

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Council's action and within 30 days after approval the final plat shall be filed with the County Recorder. Any approval of the final plat by the Council shall be null and void if the plat is not recorded with the County Recorder within 30 days after the date of approval unless application for an extension of time is made, in writing, during the 30-day period for good cause.
(Ord. 3-89, passed 2-16-1989)

PRESENTATION REQUIREMENTS

§ 152.35 PRELIMINARY PLAT.

(A) *Scale.* One inch equals 100 feet, if possible but not smaller than one inch equals 200 feet.

(B) *Identification and description.*

(1) Proposed name of subdivision, which name shall not duplicate the name of any plat heretofore recorded in the county;

(2) Location by section, town, range or by other identifying description;

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

(4) Graphic scale;

(5) North point; and

(6) Date of preparation.

(C) *Existing conditions in tract and in surrounding area to a distance of 300 feet.*

(1) Boundary line of proposed subdivision, clearly indicated;

(2) Total approximate acreage;

(3) Platted streets, railroad rights-of-way and utility easements;

(4) Boundary lines and ownership of adjoining unsplit land;

(5) Sewers, water mains, culverts or other underground facilities;

(6) Permanent buildings and structures;

(7) Lakes, water courses and marsh areas and such other information as soil tests and contours at vertical intervals of not more than two feet, if requested by the Council to aid in their review. All elevation data shall be mean sea level or some other assumed, workable datum; and

(8) Building setbacks from any lake, river road and sideyard as set forth in Chapter 151 of this code of ordinances must be clearly shown by dotted lines on the plat.

(D) *Subdivision design features.*

(1) Layout and width of proposed streets and utility easements, showing street names, approximate lot dimensions, parks and other public areas. The name of any street heretofore used within the post office service area of the proposed subdivision shall not be used, unless the proposed street is an extension of an already names of street, in which event the name shall be used. The street layout shall include all contiguous land owned or controlled by the subdivider;

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

(3) Preliminary street grades and drainage plans shall be shown on a copy of the contour map if it is requested and found to be necessary by the City Council to aid in its review;

(4) Statement of proposed protective covenants;

(5) Statement of source of water supply; and

(6) Statement of provisions for sewage disposal, drainage and flood control.

(E) *Preliminary title opinion.* The subdivider shall provide a preliminary title opinion prepared by an attorney of the subdivider's choosing in substantial conformity with the form set forth as Appendix A to this chapter.

(Ord. 3-89, passed 2-16-1989)

§ 152.36 FINAL PLAT.

The final plat shall include the following:

(A) Plans for the provision of safe and palatable water, sewage disposal, drainage and flood control;

(B) Information as was found necessary for review and requested by the City Council;

(C) Evidence that ground water control is at least three feet below the level of finished grades or plan for solving ground water problems;

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(D) Data requirements as set forth in M.S. Ch. 505, as it may be amended from time to time, and also the following:

(1) All interior and exterior boundary lines shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle and radii and arc lines for all curves; and

(2) Durable iron monuments shall be set at each angle and curve point on the interior and exterior boundary lines and at all lot lines indicating a change of direction in the lines. The plat shall indicate that the monuments have been set.

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

(F) The size (in square feet) and dimensions of all lots;

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

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

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

(J) Notarized certification by the owner and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas;

(K) Certification showing that all taxes currently due on the property to be subdivided have been paid in full for the calendar year in which the plat is filed;

(L) Form for approval by registered land surveyor found it to be in compliance with the surveying requirements of the this chapter and M.S. Ch. 505, as it may be amended from time to time;

(M) Approval by attorney.

(1) The subdivider shall provide a final title opinion prepared by the attorney who prepared the preliminary title opinion in substantial conformity with the form set forth as Appendix B to this chapter.

(2) The attorney shall also sign the following statement on the fact of the plat:

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

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(N) Form for approval by County Recorder:

I hereby certify that the within instrument was filed in this office for record on the _____ day of _____, A.D. _____, at _____ o'clock _____ m., and was duly recorded in Book of Plats on page _____.

Signed
County Recorder

Signed
Deputy

(O) Form for approval by County Auditor:

No delinquent taxes and transfer entered.

Dated _____, _____.

Signed
County Auditor

Signed
Deputy

(P) Form for approval by County Treasurer:

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

(Q) Form for approval by City Council:

Accepted and approved by the City Council of the City of Ottertail, Minnesota, this _____ day of _____, _____.

Signed
Mayor

Signed
Clerk-Treasurer

Subdivision Control

(R) Form for comparison by Administrative Officer:

Comparison with preliminary plat made and approved this ___ day of ___, 20

Signed
Administrative Officer

(S) Form for mortgage statement:

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

Signed
Subdivider

(Ord. 3-89, passed 2-16-1989)

DESIGN STANDARDS

§ 152.50 STREETS.

(A) The design of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to runoff of storm waters and to the proposed uses of the areas to be served.

(B) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new subdivision adjoins unsubdivided land susceptible of being subdivided, then the new street shall be carried to the boundaries of the unsubdivided land.

(C) (1) The following width and grade standards of street design shall be observed by the subdivider:

<i>Minimum Width (lot line to lot line)</i>	<i>Max. Grade</i>	<i>Min. Grade</i>
Collector streets (secondary) 80 feet	8%	0.5%
Highways and arterial streets (primary) 100 to 300 feet	6%	0.5%
Local streets (tertiary) 66 feet	10%	0.5%

(2) Where new streets extend existing adjoining streets, their projections shall be at the same or greater width but in no case less than the minimum required width.

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(D) Tangents of at least 100 feet in length shall be introduced between reverse curves on collector streets and 50 feet on lesser streets.

(E) Local streets shall be so aligned that their use by through traffic will be discouraged.

(F) Street jogs with centerline offset of less than 150 feet shall be avoided.

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

(H) Maximum length of permanent cul-de-sac streets shall be 500 feet measured along the centerline from the intersection of origin to end of right-of-way. Each cul-de-sac shall be provided at the closed end with a turnaround having a minimum street property line diameter of 120 feet and a curve of at least ten degrees joining the roadway right-of-way and turnaround.

(I) Half streets shall be prohibited.

(J) Proposed streets obviously in alignment with existing and named streets shall bear the names of existing streets. In no case shall the name for the proposed street duplicate existing street names within the same post office service area, phonetically or literally.

(K) The minimum street design standards of the city shall be observed.

(L) Street surfacing done by the developer shall be approved by the Administrative Officer.

(M) Private streets shall not be approved nor shall public improvements be approved for any previously existing private street.

(N) Where a proposed plat is adjacent to a primary street of highway, the City Council may require the developer to provide a service road along the right-of-way of the facility or it may require that lots back on the thoroughfare, in which case vehicular and pedestrian access between the lots and the street shall be prohibited.

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

(P) Property lines at street intersections and curb lines shall be rounded at a radius of not less than 15 feet.

(Ord. 3-89, passed 2-16-1989)

§ 152.51 EASEMENTS.

(A) Utilities easements at least ten feet wide shall be provided for utilities where necessary. They shall be centered on rear and other lot lines or within alley rights-of-way. They shall have continuity of

alignment from block to block. At deflection points, easements for pole line anchors shall be provided where necessary.

(B) Where a subdivision is traversed by a water course, drainage way, channel or street, there shall be provided a storm water easement or drainage right-of-way substantially with the lines of the water course, together with further width or construction or both as will be adequate for storm water runoff. The easement shall include not only the stream channel, but also adjoining areas that have been subject to flooding in years of heavy runoff.

(Ord. 3-89, passed 2-16-1989)

§ 152.52 LOTS.

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

(B) Minimum lot sizes within the city shall in all cases conform to zoning regulations in force.

(C) There shall be no direct vehicular access to a primary street, and residential lots shall be separated from primary streets and railroad rights-of-way by a 25-foot buffer strip in instances where they do not front on a service road which may be in the form of added depth or width of lots backing on or siding on the street or railroad right-of-way.

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

(Ord. 3-89, passed 2-16-1989)

§ 152.53 NATURAL FEATURES.

In the subdividing of land, due regard shall be shown for all natural features which if preserved will add attractiveness and stability to the proposed development. Scalping of large areas is prohibited.

(Ord. 3-89, passed 2-16-1989)

§ 152.54 REQUIRED IMPROVEMENTS.

Before the City Council approves a final plat, the subdivider shall give satisfactory assurance of the provision of the following requirements.

(A) *Monuments.* Steel monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat. All United States, state, county or other

official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

(B) *Streets*. All streets shall be improved in accordance with the specifications established by the city.

(C) *Water supply*. Water supply shall be in compliance with the ordinance of the city.

(D) *Sanitary sewer*. Sanitary sewer shall be in compliance with the ordinance of the city.

(E) *Drainage facilities*. These facilities and easements shall be installed as will adequately provide for the drainage of surface waters.

(F) *Specifications*. All of the required improvements shall conform to standards and specifications as required by the city.

(Ord. 3-89, passed 2-16-1989)

ADMINISTRATION

§ 152.65 VARIANCES FROM STANDARDS.

In any case where, upon application of any responsible parties to the City Council, it appears, that by reason of exceptional circumstances, the strict enforcement of any provision of the standards would cause unnecessary hardship or that strict conformity with the standards would be unreasonable, impractical or not feasible under the circumstances, the City Council may permit a variance therefrom upon those conditions as it may prescribe consistent with the general purposes of this chapter and the intent of this and all other applicable state and local regulations and laws.

(Ord. 3-89, passed 2-16-1989)

§ 152.66 APPEALS.

The City Council shall hear and decide appeals from a review any order, requirement, decision or determination made by the Administrative Officer or any other official charged with the administration of any of the terms of this chapter, as may arise through the administration of this law.

(Ord. 3-89, passed 2-16-1989)

§ 152.67 ENFORCEMENT.

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

(B) A copy of all instruments which convey real estate shall be submitted by the County Recorder to the Administrative Officer for review after recording in the office of the County Recorder. The Administrative Officer shall examine each instrument to determine whether the proposed conveyance complies with the subdivision and platting regulations of the city. If the conveyance does not comply with regulations, the Administrative Officer shall give notice by mail of the potential violation to the parties to the conveyance.

(C) In the event of a violation or a threatened violation of this chapter, the City Council, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate these violations or threatened violations, and it shall be the duty of the City Attorney to institute this action.

(D) Any taxpayer or taxpayers of the city may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this chapter. (Ord. 3-89, passed 2-16-1989)

§ 152.99 PENALTY.

A violation of any provision of this chapter shall be a misdemeanor offense for each violation including penalties and/or incarceration up to the limits allowable by state statute together with payment of all costs of persecution payable to the City Clerk-Treasurer for deposit into the city's general fund.

(Ord. 3-89, passed 2-16-1989)

APPENDIX A: PRELIMINARY TITLE OPINION

City Council of the City of Ottertail

RE: Plat of _____

Subdividers _____

Preliminary Opinion

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

- 1.
- 2.
- 3.

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

Sincerely,

APPENDIX B: FINAL TITLE OPINION

City Council of the City of Ottertail

RE: Plat of _____
Subdividers _____

Gentlemen:

Final Opinion

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

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

Sincerely,

APPENDIX C: MINIMUM ROAD STANDARDS

1. All construction of roads dedicated for public use shall be in compliance with the Minnesota Department of Transportation State Aid Design Standards for Roads as well as the following minimum standards.

2. All roads dedicated for public use or for the use of lot owners on a plat presented for the approval shall have a permanent minimum width of 66 feet right-of-way (during road construction period the right-of-way width may exceed 66 feet to provide for the appropriate backslope). Dead end roads require a cul-de-sac which has a minimum 120 foot diameter. Alleys require a minimum of 20 feet right-of-way.

3. All dedicated roadways have a road bed of not less than 24 feet in width when a permanent gravel surface is anticipated and not less than 32 feet when a bituminous surface is anticipated. All cul-de-sacs, regardless of surface type, shall have a minimum traveled surface diameter of 100 feet.

4. When necessary for drainage, ditches along the roadbed shall not be less than two feet deep.

5. Graveling is required. Minimum gravel thickness shall be three inches compacted or four inches loose.

(Am. Ord. passed 12-17-2015)

[Text continues on page 81.]

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CHAPTER 153: ANTI-BLIGHT REGULATIONS

Section

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

- 153.99 Penalty

§ 153.01 PURPOSE.

The purpose of this chapter is to control, through zoning regulations, certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods. The City Council specifically recognizes the sanctity and fundamental nature of free speech and does not intend to regulate or ban speech based on content. This chapter is intended to supercede the provisions of M.S. § 624.42, as it may be amended from time to time, and to render M.S. § 624.42 inapplicable as authorized by the statute.

§ 153.02 FINDINGS.

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

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

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

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

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

(3) Increased transiency and decreased stability of ownership;

(4) Deteriorated neighborhood appearance from litter and graffiti;

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

(6) A perception that the area is “unsafe”; and

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

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

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

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

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

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

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

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

§ 153.03 DEFINITIONS.

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

SEXUALLY ORIENTED BUSINESS. Shall include the following:

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

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

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

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

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

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

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

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

(3) Are designed for sexual stimulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SPECIFIED ANATOMICAL AREAS. Shall include the following:

- (1) Less than completely and opaquely covered human genitals, pubic area, buttock, anus or female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Shall include the following:

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

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(6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation or vaginal or anal irrigation.

§ 153.04 EXCEPTIONS.

This section does not regulate the following:

(A) Any material with significant literary content or social commentary;

(B) A business where sexually oriented materials are sold, bartered, distributed, leased, furnished or otherwise provided for offsite use or entertainment, if:

(1) The sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time; and

(2) Each item is in an area accessible only by an employee of the business.

(C) Any person or organization exempted under M.S. § 617.295, as it may be amended from time to time;

(D) Any activity regulated under M.S. § 617.202, as it may be amended from time to time;

(E) Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale and the business does not have a liquor license; and

(F) Movies rated G, PG, PG-13, NC-17 or R.

§ 153.05 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) A sexually oriented business may locate only in the Agricultural District with a conditional use permit only.

(B) Sexually oriented businesses shall be at least 1,500 feet from any other sexually oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises to the sexually oriented business to the nearest point of the actual business premises of any other sexually oriented business. This distance requirement applies to the following uses:

(1) Property used or zoned for residential uses;

- (2) A day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution or other public recreational facility;
- (3) Premises licensed under city code Chapter 112, Liquor Regulations; and
- (4) Another sexually oriented business.

Cross-reference:

Sexually Oriented Businesses, see Ch. 119

§ 153.06 SIGN RESTRICTIONS FOR SEXUALLY ORIENTED BUSINESSES.

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

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

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

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

Cross-reference:

Sexually Oriented Businesses, see Ch. 119

§ 153.99 PENALTY.

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

CHAPTER 154: SIGNS AND FENCES

Section

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Signs

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GENERAL PROVISIONS

§ 154.01 FEE SCHEDULE.

(A) Fees/rates shall be set by Council in a fee schedule ordinance. When costs associated with processing or reviewing an application exceed the original application fees, the applicant shall reimburse the city for any additional costs. These expenses may include, but are not limited to, payroll, mailing

costs, consultant fees and other professional services the city may need to hire in reviewing permits. All fees shall be paid before issuance of any permit and any construction of the project begins.

(B) Any non-permitted work on construction shall be removed and/or restored.
(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

SIGNS

§ 154.15 PURPOSE.

The purpose of these standards is to protect the general welfare and safety of the city by providing a policy on aesthetic development to prevent signs from intruding on the rural and residential character of the city; to provide adequate signs for direction and property identification purposes; and to provide adequate and effective signs for commercial use.

(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

§ 154.16 DEFINITIONS.

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

ACCESSORY STRUCTURE. All structures not considered the principal structure.

BANNER. A temporary sign constructed out of paper, plastic, cloth, cardboard or some other non-permanent material and affixed to poles or the side of a building in a manner which can be easily moved, modified or rearranged.

BILLBOARD. A commercial sign which directs attention to a business, activity, service, entertainment or a product not exclusively related to the premises or property where the sign is located.

CHANGEABLE COPY SIGN. Any sign or portion thereof which has a readerboard for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects, not consisting of an illumination device and may be changed or rearranged manually or mechanically with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

CHANGEABLE COPY SIGN, ELECTRONIC. A sign or portion thereof that displays electronic, non-pictorial, text information in which each alphanumeric character, graphic or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. ***ELECTRONIC CHANGEABLE COPY SIGNS*** include computer programmable, microprocessor controlled electronic displays. Also

included are projected images or messages with these characteristics onto a building or other objects. **ELECTRONIC CHANGEABLE COPY SIGNS** do not include official or time and temperature signs.

CONDITIONAL USE. A land use or development as defined by ordinance that would not be appropriate without restrictions of conditions as determined by the City Council upon a finding that:

- (1) The use or development is an appropriate conditional land use in the land use zone;
- (2) The use or development, with conditions, conforms to the comprehensive land use plan;
- (3) The use, with conditions, is compatible with the existing neighborhood; and
- (4) The use, with conditions, would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance or prosperity of the city.

ELECTRONIC GRAPHIC DISPLAY SIGN. A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, re-pixelization or dissolve modes. **ELECTRONIC GRAPHIC DISPLAY SIGNS** include computer programmable, microprocessor controlled electronic displays. **ELECTRONIC GRAPHIC DISPLAY SIGNS** include projected images or messages with these characteristics onto a building or other objects.

FENCE. A constructed barrier intended to prevent escape or intrusion, or to mark a boundary, to shield or screen view, or to perform any similar function.

FLASHING SIGN. A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts and creates the illusion of intermittent flashing light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling or sparkling with an interval between flashes of less than six seconds.

ILLUMINATED SIGN. Any sign which is lighted by an artificial light source either directed upon it or illuminated from an interior source.

LOT LINE. The property lines bounding a lot except that where the description extends into a public right-of-way, the right-of-way line shall be considered the **LOT LINE**.

NON-CONFORMING SIGN. Any advertising structure or sign, which was lawfully erected and maintained and which fails to conform to all the applicable regulations and restrictions of this chapter.

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ORDINARY HIGH WATER MARK (OHW). The boundary of public waters and wetlands consisting of an elevation delineating the highest water level which has been maintained for sufficient period of time to leave evidence on the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses the **ORDINARY HIGH WATER LEVEL** is the elevation of the top of the bank of the channel, for reservoir and flowages, the **ORDINARY HIGH WATER LEVEL** is the operating elevation of the normal summer pool.

PRINCIPAL STRUCTURE OR USE. The single primary structure or use on a lot, as distinguished from accessory uses or structure. To be considered a **PRINCIPAL STRUCTURE**, the structure must be at least 400 square feet.

RIGHT-OF-WAY. A parcel of property dedicated to the public, connecting to other public rights-of-way, which affords primary access by pedestrians and vehicles to abutting properties.

SIGNS. A name, identification, description, display, illustration, advertisement or device which is displayed for the purpose of attracting attention to a person, product, place, activity, institution or business.

SIGNS, DIRECTORY. A sign erected that lists residences or businesses.

SIGNS, FREESTANDING. A sign designed to be free of any other structure/building.

SIGNS, OFFSITE. Any sign not located on the contiguously owned property for which the use is advertised.

SIGNS, ONSITE. Any sign located on the contiguously owned property for which the use is advertised.

SIGNS, PORTABLE. A sign which is designed to be moved or a sign which is not permanently affixed to the ground or a building.

ZONING OFFICIAL. The duly appointed person, by Council, responsible for enforcement of this chapter.

ZONING PERMIT. A permit issued to allow the construction of a structure (sign/fence) for which fees have been paid.

(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008; Am. Ord. 2015-01, passed 5-21-2015)

§ 154.17 GENERAL PROHIBITIONS AND REGULATIONS.

(A) Non-maintained signs or signs for discontinued business will be removed after notification by the Zoning Official or after discontinuance of the business.

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(B) Placement of signs shall consider protecting sight distance at intersections, driveways, curves and meet all state and county highway setbacks.

(C) All flashing, revolving, electronic changeable copy, electronic graphic display and intermittently lighted signs and all portable signs are prohibited, except as specifically allowed in this chapter.

(D) Digital time and temperature signs, as well as electronic gasoline pricing signs that are part of an overall sign design, are allowed in commercial areas.

(E) No permit from the city is required for temporary signs pertaining only to the construction, sale or rental of the premises. They are allowable provided they do not exceed nine square feet in any zone and are removed within 30 days of the completion of construction, sale or rental.

(F) No permit from the city is required for temporary signs, including banners, streamers and portable signs for special events such as grand openings and promotions provided they are not in place longer than 30 days in a calendar year.

(G) A non-conforming sign may be refaced, removed and replaced for maintenance purposes, however it shall not be increased in size, the support system shall not be improved and the sign shall be removed in its entirety upon the determination by the Zoning Official that the sign is in disrepair or the support system is failing. The three existing electronic changeable copy and/or electronic graphic display signs presently in use (Carr's Lake Country Market, First National Bank and Geo-Direct) may be upgraded to new technology as long as the electronic portion of the sign does not increase in size. All flashing, electronic and intermittently lighted signs are limited to message changes in intervals of not less than six seconds where the official speed limits are more than 30 mph but less than 55 mph within the city limits.

(H) Residential and commercial signs may not contain elements commonly used by highway departments to alert, direct or caution traffic such as, but not limited to, octagonal stop signs or speed limit signs.

(I) Street identification signs, no hunting or trespassing signs and temporary signs endorsing a political candidate, party or issue during an election season are allowed without a permit.

(J) No signs, except for official traffic signs, shall be placed on or overhang public property, except where specific permission is granted by the City Council.

(K) All signs must be professionally constructed and painted.

(L) Prohibited signs. No sign shall be permitted on rocks, trees or any other perennial plant, or on any public utility pole.

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(M) All commercial properties affected by Chapter 155 of this code of ordinances shall require a conditional use permit.

(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008; Am. Ord. 2015-01, passed 5-21-2015)

§ 154.18 REQUIRED PERMITS.

All signs are considered structure and require a zoning permit, except signs placed by the city, county or state to relate the laws or ordinances, which are exempt, and signs exempted in § 154.17. (Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

§ 154.19 ONSITE SIGNS.

(A) Residential districts.

(1) Signs shall not be internally or externally lighted but may be reflective.

(2) No sign shall be larger than three square feet, except for a permitted home occupation where six square feet is allowed.

(3) Only one sign shall be allowed.

(B) Commercial districts.

(1) All signs on a property must be coordinated to create an overall appearance in regards to size and color.

(2) Sign area is calculated as the total area of signage (128 sq. ft. total). For two-sided signs, each side shall be counted (64 sq. ft. each side).

(3) Up to 10% of any principal structure facade area which directly abuts and lies generally parallel to the road right-of-way or publicly traveled roadway may be dedicated to signage.

(a) The permitted sign area may be split up into several signs or used for one sign.

(b) Any attached sign that protrudes from a structure two feet or less will be counted as part of the building facade signage.

(c) For commercial buildings that are entirely set back more than 100 feet from the edge of the roadway. Fifteen percent of the facade area may be covered.

(d) Facade area may be transferred from one side to another so long as the area used as signage never exceeds 10% of the side it is on.

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(e) No credit is given for facade area not directly abutting and lying generally parallel to the road-right-of-way or publicly traveled roadway.

(4) Each property is allowed one freestanding sign so long as the sign can meet setbacks and its placement does not obstruct lines of sight or pedestrian corridors.

(a) Buildings located in a 40 mph speed zone or higher are allowed up to 128 square feet (64 sq. ft. each side) of freestanding sign.

(b) Buildings located in a less than 40 mph speed zone are allowed up to 96 square feet (48 sq. ft. each side) of freestanding sign and, for multi-business buildings, are allowed an additional ten square feet for each business after the first.

(c) For corner lots, one freestanding sign conforming to these standards is allowed on each roadway.

(d) Any attached sign that protrudes from a structure more than two feet will be considered a freestanding sign.

(e) For parcels located in a 40 mph speed zone or higher, no freestanding sign shall exceed 20 feet in height. For parcels located in a less than 40 mph speed zone, no freestanding sign shall exceed 15 feet in height. For parcels in more than one zone, the more restrictive standard will apply.

(5) There shall be no signage on accessory structures.

(6) Property owners seeking to display more signs than what are allowed in this chapter or seeking allowances outside of what is allowed in this chapter, may obtain permission to do so by conditional use permit. The application for a conditional use permit shall include submittal of a sign concept plan for the entire parcel. In addition to conditional use permit criteria, the basis for approval or denial shall include an evaluation of:

- (a) Necessity of the additional signage;
- (b) Alternatives to additional signage;
- (c) Continuity with signage on adjacent parcels;
- (d) Aesthetic impacts; and
- (e) Perceived effectiveness of proposed signage.

(7) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards.

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(a) No advertising signs or supporting facilities for signs may be placed upon public waters. Signs conveying information or safety message may be placed in or on public waters by a public authority or a permit issued by the County Sheriff.

(b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

(c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent illumination out across public waters. This does not preclude use of navigational lights.

(C) Recreational district.

(1) Each recreationally zoned development may be allowed onsite signage as regulated by a conditional use permit. Unless otherwise allowed, the size of any single sign shall not exceed 48 square feet in area and shall not exceed ten feet from the ground to the top of the sign.

(2) A recreationally zoned parcel of land may have an unlimited number of internal directional signs that are related to the operation of the recreational facility. These signs do not require a permit.

(3) No signage shall be allowed to direct any light on to an adjacent parcel of land.
(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008; Am. Ord. 2015-01, passed 5-21-2015)

§ 154.20 OFFSITE SIGNS.

Offsite signs are prohibited, except for residential or commercial directory signs. Any existing offsite signs are considered non-conforming structures. Any exceptions to the above requires a conditional use permit.

(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

§ 154.21 CONSTRUCTION STANDARDS.

(A) All signs shall be constructed and maintained in a manner where they will be safe to the general public. A sign shall be repainted whenever its paint begins to fade, chip or discolor and defective parts shall be replaced promptly.

(B) On-premises signs shall be removed from a zoning lot by the owner of such property within 30 days after termination of the use for which the sign was used.

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(C) If the Zoning Administrator shall find that any sign is unsafe, a detriment to the public, not maintained, or constructed, erected or maintained in violation of the provisions of this section, the Zoning Administrator shall give written notice to the property owner thereof. If the property owner fails to comply with the standards of this section within 30 days after such notice, if no appeal is taken, or if no owner, occupant, or agent can be found, such sign may be removed or altered by the city. The cost of such city action shall be specially assessed against the subject property. (Ord. 2019-02, passed 4-18-2019)

FENCES

§ 154.35 STRUCTURES; ZONING PERMIT REQUIRED.

All fences are considered structures and require a zoning permit except for fences referred to in § 154.42. (Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

§ 154.36 SAFETY HAZARDS.

Fences shall not be erected where they create a visual safety hazard. (Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

§ 154.37 LOCATION AND ORIENTATION.

Fences shall sit on the property of the property owner installing the fence. No fence shall be closer than two feet from a property line unless adjoining property owners agree to a lesser setback. The “good side” of the fence shall face abutting properties, meaning that the posts shall face in toward the property on which the fence sits and the finished face of the fence shall face abutting properties. Under no circumstances shall a fence be constructed closer than ten feet from the surface of a public road. (Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

§ 154.38 MATERIALS.

Fence materials shall consist of usual fencing materials with posts and fence of metal, wood, plastic, concrete, brick or smooth wire. Barbed or electrified wire is prohibited except in areas zoned as agricultural.

(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

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§ 154.39 MAINTENANCE.

Fences shall be maintained to retain their aesthetic quality, screening abilities and function. Missing boards, rusting wire and posts, and peeling paint shall be taken care of at the owner's expense as they occur.

(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

§ 154.40 HEIGHT.

Fences not exceeding 72 inches (six feet) in height may be constructed in residential and recreational zones except within the OHW (ordinary high water) setback area. Fences not exceeding 36 inches may be constructed in the OHW setback area so long as the fencing is transparent. Fences in all other zones shall not exceed 84 inches (seven feet) unless a variance from the standard or conditional use applies.

(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008; Am. Ord. 2017-05, passed 12-21-2017)

§ 154.41 TEMPORARY FENCES.

Temporary fences, such as snow fences, shall be allowed without a permit for special events and must be removed within 14 days after the end of the special event unless arrangements have been made with City Council.

(Ord. 2006-02, passed 4-27-2006; revised by public hearing on 4-17-2008)

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**CHAPTER 155: WIRELESS COMMUNICATION TOWERS
PERFORMANCE STANDARDS**

Section

- 155.01 Performance standards for wireless communication facilities
- 155.02 Special definitions relating to wireless communications
- 155.03 Approvals required for telecommunications facilities and support structures
- 155.04 Telecommunications facilities and support structures permitted by administrative approval
- 155.05 Telecommunications facilities and support structures permitted by conditional use permit
- 155.06 General standards and design requirements
- 155.07 Miscellaneous provisions
- 155.08 Telecommunication facilities and support structures in existence on the date of adoption of this chapter

§ 155.01 PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATION FACILITIES.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development and installation of telecommunication and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and aesthetic quality of the City of Ottertail and to encourage and facilitate the managed development of telecommunications infrastructure, while at the same time not unduly restricting development of needed telecommunications infrastructure.

(A) It is the intent that the city shall apply standards to accomplish the following stated objectives.

- (1) Ensure access to reliable wireless communication services throughout all areas of the city;
- (2) Minimize potential adverse effects associated with the construction of monopoles and towers through the implementation of reasonable design, landscaping, and construction practices;
- (3) Ensure that a competitive broad range of telecommunication services and high quality telecommunications infrastructure are provided to serve the community, as well as an important and effective part of the city's emergency service response network, and to avoid potential damage to adjacent properties from tower failure through structural standards and setbacks;

(4) Encourage the location of support structures, to the extent possible, in areas where any potential adverse impacts on the community will be minimized;

(5) Protect the rights, health, safety, and welfare of the city's residents, as well as protect environmentally sensitive areas and scenic views by facilitating responsible deployment of wireless services to the full extent of the city's capabilities;

(6) Encourage the use of existing structures for the collocation of telecommunication facilities and the construction of towers with the ability to support as many collocated facilities as possible for the purposes of reducing the number of towers necessary to serve the city.

(7) To ensure the city has ordinances that are fair to service providers in light of ever changing wireless telecommunication technology yet protects the interests of the city's residents and provide a process to meet requirements.

(B) Furthermore, this ordinance is not intended to regulate residential satellite dishes, or residential television antennas that are used privately.

(C) Radio towers that are personal and non-commercial owned and Federally licensed amateur operators are regulated in § 150.04 of this code.
(Ord. 2017-01, passed 2-16-2017)

§ 155.02 SPECIAL DEFINITIONS RELATING TO WIRELESS COMMUNICATIONS.

For the purposes of this standard, the following definitions apply:

ABANDONED. Occurs when an owner of a support structure intends to permanently and completely cease all business activity associated therewith.

ACCESSORY EQUIPMENT. Any equipment serving or being used in conjunction with a telecommunications facility or support structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

ADMINISTRATIVE APPROVAL. Zoning approval that the Zoning Administrator or designee is authorized to grant after administrative review.

ADMINISTRATIVE REVIEW. Non-discretionary evaluation of an application by the Zoning Administrator or designee. This process is not subject to a public hearing. The procedures for administrative review are established in § 155.04 of this Code.

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ANTENNA. Any structure or device used to collect or radiate electromagnetic waves for the provision of services including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

CARRIER ON WHEELS OR CELL ON WHEELS (“COW”). A portable self-contained telecommunications facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

COLLOCATION. The act of siting telecommunications facilities on an existing structure without the need to construct a new support structure and without a substantial increase in the size of an existing structure.

CONCEALED TELECOMMUNICATIONS FACILITY. Any telecommunications facility that is integrated as an architectural feature of an existing structure or any new support structure designed so that the purpose of the facility or support structure for providing wireless services is not readily apparent to a casual observer.

EXISTING STRUCTURE. Previously erected support structure or any other structure, including but not limited to, buildings and water tanks, to which telecommunications facilities can be attached.

MAJOR MODIFICATIONS. Improvements to existing telecommunications facilities or support structures that result in a substantial increase to the existing structure. Collocation of new telecommunications facilities to an existing support structure with replacement of the structure shall constitute a major modification.

MINOR MODIFICATIONS. Improvements to existing structures that result in some material change to the facility or support structure but of a level, quality or intensity that is less than a substantial increase. Minor modifications does not include the replacement of the structure.

MONOPOLE. A single, freestanding pole-type structure supporting one or more antenna. For purposes of this chapter, a monopole is not a tower.

ORDINARY MAINTENANCE. Ensuring that telecommunications facilities and support structures are kept in good operating condition. **ORDINARY MAINTENANCE** includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example, the strengthening of a support structure's foundation or of the support structure itself. **ORDINARY MAINTENANCE** includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing telecommunications facility and relocating the antennas of approved telecommunications facilities to different height levels on an existing monopole or tower upon which they are currently located. **ORDINARY MAINTENANCE** does not include minor and major modifications.

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PUBLIC UTILITY.

(1) A ***PUBLIC UTILITY*** means persons, corporations or governments supplying gas, electric, transportation, water, sewer or land line telephone service to the general public.

(2) A ***PUBLIC UTILITY*** does not mean, for purposes of this chapter, personal wireless telecommunication service facilities.

REPLACEMENT. Constructing a New support structure of proportions and of equal height or such other height that would not constitute a substantial increase to a pre-existing support structure in order to support a telecommunications facility or to accommodate collocation and removing the pre-existing support structure.

SUBSTANTIAL INCREASE. Occurs when:

(1) The mounting of the proposed antenna on an existing structure would increase the existing height of the existing structure by more than 10%, or by more than the height of one additional antenna array with separation from the nearest existing antenna (not to exceed 20 feet for non-building structures not in ROW; ROW or building structures not to exceed ten feet), whichever is greater; or

(2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

(3) The mounting of the proposed antenna would involve adding an appurtenance to the body of the existing structure that would protrude from the edge of the existing structure more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; or

(4) The mounting of the proposed antenna would involve excavation outside the current Existing Structure site, defined as the current boundaries of the leased or owned property surrounding the Existing Structure and any access or utility easements currently related to the site.

(5) Replacement of a support structure that transmission equipment is located on.

SUPPORT STRUCTURE(S). A structure designed to support telecommunications facilities including, but not limited to, monopoles, towers, and other freestanding self-supporting structures.

TELECOMMUNICATIONS FACILITY(IES). Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A ***TELECOMMUNICATION FACILITY*** can consist of one or more Antennas and Accessory Equipment

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or one base station. For purposes of this chapter; telecommunication activities related to providing water, natural gas or electric energy services whether provided by a public utility as defined in M.S. § 216B.02, a municipality, a municipal gas, water or power agency organized under M.S. Chs. 453 and 453A, or a cooperative electric association organized under M.S. Ch. 308A are not wireless telecommunications.

TOWER. A lattice-type structure, guyed or freestanding, that supports one or more antennas. (Ord. 2017-01, passed 2-16-2017)

§ 155.03 APPROVALS REQUIRED FOR TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES.

(A) *Administrative review.*

(1) Collocations and minor modifications shall be permitted in any zoning district after administrative review and administrative approval in accordance with the standards set forth in this chapter. Notwithstanding the foregoing, the city may not deny, and shall approve, any eligible facilities request (as defined by Section 6409 (a) of the Act) for a modification of existing telecommunication facilities that does not substantially change the physical dimensions of such telecommunication facilities.

(2) Concealed telecommunications facilities that are less than 41 feet in height shall be permitted in any residential district after administrative review and administrative approval in accordance with the standards set forth in this chapter.

(3) Concealed telecommunications facilities that are less than 101 feet shall be permitted in any zoning district other than residential after administrative review and administrative approval in accordance with the standards set forth in this chapter except as noted above.

(4) Concealed telecommunications facilities located in utility easements or rights-of-way that are less than 41 feet in height shall be permitted in any zoning district after administrative review and administrative approval in accordance with the standards set forth in this chapter.

(5) The use of COWs shall be permitted in any zoning district after administrative review and administrative approval in accordance with the standards set forth in this ordinance, except a cow placed for a period of not more than 120 days at any location within the City of Ottertail after a declaration of an emergency or a disaster. If the use of the COW will last in excess of 120 days, a conditional use permit shall be required.

(B) *Conditional use permit.* Telecommunications facilities and support structures not permitted by administrative approval shall be permitted in any district upon the granting of a conditional use permit from the planning commission in accordance with the standards set forth in this chapter.

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(C) *Compliance.* Any telecommunications facilities located in a right-of-way or registered/designated as a public utility is still defined as a telecommunications facilities and must comply with this chapter, § 155.01.

(D) *Exempt.* Ordinary maintenance of existing telecommunications facilities and support structures, as defined herein, shall be exempt from zoning and permitting requirements. In addition, the following facilities are not subject to the provisions of this standard:

(1) Antennas used by residential households solely for broadcast radio and television reception;

(2) Satellite antennas used solely for residential or household purposes;

(3) COWs placed for a period of not more than 120 days at any location within the City of Ottertail after a declaration of an emergency or a disaster.
(Ord. 2017-01, passed 2-16-2017)

§ 155.04 TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES PERMITTED BY ADMINISTRATIVE APPROVAL.

(A) *Telecommunications facilities located on existing structures.*

(1) Telecommunications facilities are permitted in all zoning districts when located on any existing structure subject to administrative approval in accordance with the requirements of this part.

(2) Antennas and accessory equipment may exceed the maximum building height limitations within a zoning district, provided they do not constitute a substantial increase.

(3) Minor modifications are permitted in all zoning districts subject to administrative approval in accordance with the requirements of this part.

(B) *New support structures.*

(1) Concealed telecommunications facilities that are less than 41 feet in height shall be permitted in any residential district after administrative review and administrative approval provided that it meets the applicable concealed telecommunications facility standards in accordance with this standard.

(2) Concealed telecommunications facilities that are less than 101 feet shall be permitted in any zoning district other than residential after administrative review and administrative approval provided that it meets the applicable concealed telecommunications facility standards in accordance with this standard.

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(3) A monopole or replacement pole that will support utility lines or street lighting, as well as a concealed telecommunications facility antennas systems maybe permitted within utility easements or rights-of-way, in accordance with the requirements of this section, but under no circumstance shall such telecommunications facilities be deemed “utilities.”

(a) The utility easement or right-of-way shall be a minimum of 66 feet in width.

(b) The easement or right-of-way shall contain overhead utility transmission and/or street lighting structures that are 20 feet or greater in height.

(c) The height of the monopole or replacement pole may not exceed by more than ten feet the height of existing utility support structures.

(d) Any accessory equipment for wireless facility shall not be mounted on the ground.

(e) Single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by division (c) above.

(f) Poles that use the structure of a utility tower for support are permitted under this part. Such poles may extend up to ten feet above the height of the utility tower.

(g) Monopoles or replacement poles located on public property or within public rights-of-way that will support public facilities or equipment in addition to telecommunications facilities shall be permitted in accordance with requirements of this part. Examples include, but are not limited to, municipal communication facilities, athletic field lights, traffic lights, and other types of utility poles in the public right-of-way.

(C) *Concealed telecommunications facilities.*

(1) Concealed telecommunications facilities less than 101 feet shall be permitted in all zoning districts except residential areas after administrative review and administrative approval in accordance with the requirements below. Concealed facilities in residential areas must be less than 41 feet in height and comply with the requirements below in order to qualify for administrative review.

(a) Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

(b) Existing structures utilized to support the antennas must be allowed within the underlying zone district. Such structures may include, but are not limited to, flagpoles, bell towers, clock towers, crosses, monuments, smoke stacks, parapets, and steeples.

(c) Setbacks for concealed facilities that utilize a new structure shall be governed by the setback requirements of the underlying zoning district.

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(D) *COW facilities and minor modifications.* The use of COWs shall be permitted in any zoning district after administrative review and administrative approval in accordance with the standards set forth in this standard if the use of the COW is either not in response to a declaration or emergency by the Governor or will last in excess of 60 days.

(E) *General standards, design requirements, and miscellaneous provisions.* Unless otherwise specified herein, all telecommunications facilities and support structures permitted by administrative approval are subject to the applicable general standards and design requirements of § 155.06 and the provisions of § 155.07.

(F) *Administrative review process for new support structures, concealed telecommunications facilities, and COW facilities.*

(1) All administrative review applications must contain the following:

(a) Administrative review application form signed by applicant.

(b) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms.

(c) Site plans detailing proposed improvements. Drawings must depict improvements related to the requirements listed in this part, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements.

(d) In the case of a new support structure:

1. Statement documenting why collocation cannot meet the applicant's requirements. Such statement may include justifications, including why collocation is either not reasonably available or technologically feasible as necessary to document the reasons why collocation is not a viable option; and

2. The applicant shall provide a list of all the existing structures considered as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either unavailable, or technologically or reasonably infeasible.

(e) Administrative review application fee.

(2) *Procedure.*

(a) Within 15 business days of the receipt of an application for administrative review, the Zoning Administrator shall either:

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1. Inform the applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or

2. Deem the application complete. If the Zoning Administrator informs the applicant of an incomplete application within 15 business days, the overall timeframe for review is suspended until such time that the Applicant provides the requested information.

(b) An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's unreasonable failure to complete the application within 60 business days after receipt of written notice shall constitute a withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.

(c) The Zoning Administrator must issue a written decision granting or denying the request within 60 days of the submission of the initial application unless:

1. Zoning Administrator notified applicant that its application was incomplete within 15 business days of filing. If so, the remaining time from the 60 day total review time is suspended until the applicant provides the missing information; or

2. Extension of time is asked for by Zoning Administrator before the original 60 days has expired. The maximum extension time that may be asked for is 60 days. This 60 day extension is not available for a non-substantial increase in size applications on an existing wireless facility. On a substantial increase in size application on an existing wireless facility, only a maximum of 30 days may be requested.

3. Both the Zoning Administrator and applicant agree that more time is needed. In such a case a written extension agreement containing the number of days the extension is for and from what date, and both party's signatures.

4. Failure to issue a written decision within 60 days or properly asked for extension shall constitute an approval of the application.

(d) Should the Zoning Administrator deny the application; the Zoning Administrator shall provide written justification for the denial. The denial must be based on substantial evidence of inconsistencies between the application and this standard. The Zoning Administrator may not deny an application for a non-substantial change to an existing wireless facility.

(e) Applicant may appeal any decision of the Zoning Administrator approving, approving with conditions, or denying an application or deeming an application incomplete, within 30 days to the City Council in accordance with this chapter.

(Ord. 2017-01, passed 2-16-2017)

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§ 155.05 TELECOMMUNICATIONS FACILITIES AND SUPPORT STRUCTURES PERMITTED BY CONDITIONAL USE PERMIT.

(A) Any telecommunications facility or support structures not meeting the requirements of § 155.04 shall be permitted by conditional use permit in all zoning districts subject to:

- (1) The submission requirements of § 155.05(B) below;
- (2) The applicable standards of §§ 155.06 and 155.07 below; and
- (3) The requirements of the conditional use permit general conditions at chapter § 151.112.

(B) *Submission requirements for conditional use permit applications.*

(1) All conditional use permit applications for telecommunications facility and support structures must contain the following:

- (a) Conditional permit application form signed by applicant.
- (b) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms.
- (c) Written description and scaled drawings of the proposed support structure, including structure height, ground and structure design, and proposed materials.
- (d) Number of proposed antennas and their height above ground level, including the proposed placement of antennas on the support structure.
- (e) When locating within a residential area, a written technical and operational analysis of why a monopole or similar structure at a height of less than 41 feet cannot be used.
- (f) Line-of-sight diagram or photo simulation, showing the proposed support structure set against the skyline and viewed from the most prominent location within the surrounding areas.
- (g) A statement justifying why collocation is not feasible. Such statement shall include:
 1. Such technical information and other justifications as are necessary to document the reasons why collocation is not a viable option; and
 2. A list of the existing structures considered as possible alternatives to the proposed location and a written explanation why the alternatives considered were either unavailable or technologically infeasible.

(h) 1. A statement that the proposed support structure will be made available for collocation to other service providers at commercially reasonable rates.

2. Conditional use permit application fee.

(C) *Procedure.*

(1) Within 15 business days of the receipt of an application for Administrative Review, the Zoning Administrator shall either:

(a) Inform the applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or

(b) Deem the application complete and meet with the applicant. If the Zoning Administrator informs the applicant of an incomplete application within 15 business days, the overall timeframe for review is suspended until such time that the applicant provides the requested information.

(2) If an application is deemed incomplete, an applicant may submit additional materials to complete the application. An Applicant's unreasonable failure to complete the application within 60 business days after receipt of written notice shall constitute a withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.

(3) A complete application for a conditional use permit shall be scheduled for a hearing date as required by § 151.112.

(4) Applications for new support structures with proposed telecommunications facilities shall be considered as one application requiring only a single application fee.

(5) The posting of the property and public notification of the application shall be accomplished in the same manner required for any conditional use permit application under this chapter.

(6) The Zoning Administrator must issue a written decision granting or denying the request within 60 days of the submission of the initial application unless:

(a) Zoning Administrator notified applicant that its application was incomplete within 15 business days of filing. If so, the remaining time from the 60 day total review time is suspended until the Applicant provides the missing information; or

(b) Extension of time is asked for by Zoning Administrator before the original 60 days has expired. The maximum extension time that may be asked for is 60 days. On a substantial increase in size application on an existing wireless facility, only a maximum of 30 days may be requested.

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(c) Both the Zoning Administrator and applicant agree that more time is needed. In such a case a written extension agreement containing the number of days the extension is for and from what date, and both party's signatures.

(d) Failure to issue a written decision within 60 days or properly asked for extension shall constitute an approval of the application.
(Ord. 2017-01, passed 2-16-2017)

§ 155.06 GENERAL STANDARDS AND DESIGN REQUIREMENTS.

(A) *Design.*

(1) Non-concealed support structures shall be subject to the following:

(a) Shall be designed to accommodate a minimum number of collocations based upon their height:

1. Support structures 60 to 100 feet shall support at least two telecommunications providers;

2. Support structures from 100 to 150 shall support at least three telecommunications providers;

3. Support structures greater than 150 feet in height shall support at least four telecommunications carriers.

4. One of the required telecommunication provider's co-locations that a new support structure in divisions 1., 2., or 3. are required to support can be designed as a future 20 foot extension to the original support structure, if the support structure is less than 180 feet.

(b) The compound area surrounding the structure must be of sufficient size to accommodate accessory equipment for the appropriate number of telecommunications providers in accordance with § 155.06(A)(1)(a).

(2) Concealed telecommunications facilities shall be designed to accommodate the collocation of other antennas whenever economically and technically feasible.

(3) New support structures shall be designed as follows:

(a) Concealment type structures in residential districts.

(b) Monopole type structures in commercial districts.

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(c) Free-standing self-support structures in agricultural and public districts.

(4) Upon request of the applicant, the City Council may waive the requirement that new support structures accommodate the collocation of other service providers if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer antennas will promote community compatibility.

(B) *Setbacks.*

(1) *Property lines.* Unless otherwise stated herein, support structures shall be set back from all property lines in accordance with the minimum setback requirements in the underlying zoning district.

(2) *Residential dwellings.* Unless otherwise stated herein, monopoles, towers and other support structures shall be set back from all off-site residential dwellings a distance equal to the height of the structure. There shall be no setback requirement from dwellings located on the same parcel as the proposed structure. Existing or replacement structures shall not be subject to a setback requirement.

(3) Unless otherwise stated herein, all accessory equipment shall be set back from all property lines in accordance with the minimum setback requirements in the underlying zoning district. Accessory equipment associated with an existing or replacement utility pole shall not be subject to a setback requirement.

(C) *Height.*

(1) In non-residential districts, support structures shall not exceed a height equal to 179 feet from the base of the structure to the top of the highest point, including appurtenances; except in Public-1 District height may not exceed 199 feet.

(2) In residential districts, support structures shall not exceed a height equal to 40 feet from the base of the structure to the top of the highest point, including appurtenances.

(3) In all districts, the City Council shall have the authority to vary the height restrictions listed in this section upon the request of the applicant and a satisfactory showing of need for a greater height. With its waiver request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the City Council.

(D) *Aesthetics.*

(1) *Lighting and marking.* Telecommunications facilities or support structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA). If structure is required to be lighted, nighttime white strobe lights shall not be used.

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(2) *Signage.* Signs located at the telecommunications facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.

(3) *Landscaping.* In all districts, the City Council or Zoning Administrator shall have the authority to impose reasonable landscaping requirements surrounding the accessory equipment. Required landscaping shall be consistent with surrounding vegetation and shall be maintained by the facility owner. The City Council or Zoning Administrator may choose to not require landscaping for sites that are not visible from the public right-of-way or adjacent property or in instances where in the judgment of the City Council or Zoning Administrator, landscaping is not appropriate or necessary.

(E) (1) Accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the telecommunication facility or support structure. Any equipment not used in direct support of such operation shall not be stored on the site.

(2) The accessory equipment must conform to the setback standards of the applicable zone. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the City Council or Zoning Administrator.
(Ord. 2017-01, passed 2-16-2017)

§ 155.07 MISCELLANEOUS PROVISIONS.

(A) *Fencing.*

(1) Ground mounted accessory equipment and support structures shall be secured and enclosed with a fence not less than six feet in height as deemed appropriate by the City Council or Zoning Administrator.

(2) The City Council or Zoning Administrator may waive the requirement of division (1) above if it is deemed that a fence is not appropriate or needed at the proposed location.

(B) *Abandonment and removal.* If a support structure is abandoned, and it remains abandoned for a period in excess of 12 consecutive months, the city may require that such support structure be removed only after first providing written notice to the owner of the support structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the support structure within 30 days of receipt of said written notice. In the event the owner of the support structure fails to reclaim the support structure within the 30 day period, the owner of the support structure shall be required to remove the same within six months thereafter. The city shall ensure and enforce removal by means of its existing regulatory authority.

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(C) *Multiple uses on a single parcel or lot.* Telecommunications facilities and support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

(Ord. 2017-01, passed 2-16-2017)

§ 155.08 TELECOMMUNICATION FACILITIES AND SUPPORT STRUCTURES IN EXISTENCE ON THE DATE OF ADOPTION OF THIS CHAPTER.

(A) Telecommunications facilities and support structures that were legally permitted on or before the date this chapter was enacted shall be considered a permitted and lawful use.

(B) The provisions of this part are limited to those structures that do not meet the height or setback requirements set forth in these regulations.

(C) Non-conforming support structures.

(1) Non-conforming support structure. Ordinary maintenance may be performed on a non-conforming support structure or telecommunications facility.

(2) Collocation and/or minor modifications of telecommunications facilities on an existing non-conforming support structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the administrative approval process defined in § 155.04.

(3) Major modifications may be made to non-conforming support structures utilizing the regulatory approval process defined in § 155.05.

(Ord. 2017-01, passed 2-16-2017)

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CHAPTER 156: PARKING AND STORING OF RECREATIONAL VEHICLES

Section

156.01 Parking and storage of recreational vehicles and camping units

156.02 Camping and storage

156.99 Penalty

§ 156.01 PARKING AND STORAGE OF RECREATIONAL VEHICLES AND CAMPING UNITS.

(A) *Purpose.* To retain the aesthetic quality and encourage responsible development within the city.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

RECREATIONAL CAMPING AREA. Any area, whether privately or publicly owned, used on a daily, weekly, nightly or longer basis for the accommodation of two or more recreational camping vehicles free of charge or for compensation. (Am. Ord. 2022-06, passed 6-30-2022)

RECREATIONAL CAMPING UNIT. A relocatable single-family dwelling unit, including, but not limited to, tents, travel trailers, truck campers, motor homes and other similar vehicles.

RECREATIONAL CAMPING VEHICLE (RVs). A vehicle that is built on a single chassis, is designed to be used as temporary dwelling for recreational, camping, travel, vacation or seasonal use. Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for recreational, camping, travel, vacation or seasonal use. Any folding structure, mounted on wheels designed for recreational, camping, travel, vacation or seasonal use.
(Ord. 2019-05, passed 7-18-2019; Am. Ord 2022-06, passed 6-30-2022)

§ 156.02 CAMPING AND STORAGE.

(A) *General.*

(1) All recreational vehicles must be designed to operate on state roads without a special permit and must have a current license.

(2) No camping unit may be permanently placed or skirted.

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(3) All camping units must be able to be moved readily.

(4) Camping units must meet dwelling setback requirements.

(5) Prior to placing a camping unit, the occupant must have the permission of the property owner. The permission must be written when the property owner is not available on site.

(B) *Properties with principal structures.*

(1) There shall be a maximum of four units allowed at any one time with the provision only one unit can be licensed. All others can be used up to a total of 22 days in one calendar year.

(2) No individual camping unit may be placed for use longer than 22 days within any 60 days.

(3) One camping unit may be allowed in outside storage. That unit may be stored year-round.

(C) *Properties without principal structures.*

(1) There shall be a maximum of four units allowed at any one time with the provision only one unit can be licensed. All others can be used up to a total of 22 days in one calendar year.

(2) Each individual camping unit is allowed for 22 days in any one calendar year without a permit.

(3) A permit is required for camping units established for more than 22 days in any one calendar year. One permit per unit is required and is renewable yearly. This permit requires installation of a city approved permanent sewage treatment system.

(D) *Properties where a principal structure is being constructed.*

(1) Camping units are allowed in conjunction with a land use permit for construction of a principal structure providing a city approved permanent sewage system is in place.

(2) Camping units are allowed up to 12 months during construction, with an extension for an additional 12 months in conjunction with an extension of the land use permit.

(E) *Administration.* The City Council shall exercise the duties and responsibilities as follows:

(1) Issue site permits and inspect building locations following notification by applicant;

(2) Administer the terms of this section; and

(3) Keep necessary records.

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(F) *Enforcement.*

(1) This section shall be administered and enforced by the City Council.

(2) All employees of the city, City Council members, the City Clerk-Treasurer and his, her or its designees, in the performance of their duties, shall have free access on all land included in the city limits.

(Ord. 2019-05, passed 7-18-2019) Penalty, see § 156.99

§ 156.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.98.

(B) A violation of any provision of Chapter 156 in its entirety shall be a misdemeanor offense for each violation including penalties and/or incarceration up to the limits allowable by state statute together with payment of all costs of prosecution payable to the City Clerk-Treasurer for deposit into the city's general fund.

(Ord. 2019-05, passed 7-18-2019)

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Ottertail - Land Usage

**ORDINANCE NUMBER 2022-02
CITY OF OTTERTAIL
COUNTY OF OTTER TAIL
STATE OF MINNESOTA**

**AN ORDINANCE REGULATING AND ADOPTING PERFORMANCE STANDARDS
FOR SOLAR ENERGY SYSTEMS**

WHEREAS, MN Statutes 462.357 Subd. 1 states that a municipality may by ordinance regulate on the earth’s surface, in the airspace above the surface, and in subsurface areas, access to direct sunlight for solar systems.

WHEREAS, consistent with the Statutes, the general purpose of these sections is to regulate the placement, construction and modifications of solar systems and related facilities in order to protect the health, safety and welfare of the public and ensure the objective is accomplished according to city land use, planning and design standards.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OTTERTAIL, ORDAINS as follows:

**CITY CODE – TITLE XV - LAND USE
CHAPTER 157: SOLAR ENERGY SYSTEMS
PERFORMANCE STANDARDS**

- I.** **SCOPE** – This Chapter applies to all solar energy installations in the City of Ottertail.
- II.** **PURPOSE AND INTENT:** The purpose and intent of this ordinance is to maintain the city’s attractiveness, protect the safety of the people, and to promote the general welfare by providing legislation by which solar facilities can be located within the City of Ottertail. These general objectives include, among others, the following:
1. Create an as-of-right solar installation path for property owners. To create a clear regulatory path to solar development for accessory uses and, if appropriate, for principal uses such as large scale solar and ground mounted community shared solar installations.
 2. Enable principal solar uses. Define where community and large solar energy land uses are appropriate as a principal or primary use, set development standards and procedures to guide development, and capture co-benefit opportunities for water quality, habitat, and agriculture.
 3. To correct and prevent conditions that adversely affect the safety, general welfare, and health of nearby property owners.
 4. Promote “solar ready” design. Every building that has a solar resource should be built to seamlessly use it. Encourage builders to use solar-ready subdivision and building design.
 5. To preserve the value of land and structures throughout the City.

III. **DEFINITIONS.**

The following terms, as used in this section, shall have the meanings stated.

Agrivoltaics. a solar system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries or other agricultural products or services.

Community Solar Garden. Means a community solar energy system that generates electricity by means of a ground mounted or building integrated solar system and that is supplied to multiple community members or businesses residing or located off-site from the location of the solar system under provisions of MN Statutes 216B.1641 or successor statute.

Grid-intertie Solar Energy System. A photovoltaic that is connected to an electric circuit served by an electric company.

Ground Mounted. A solar energy system that is mounted on a rack or pole that rests or is attached to the ground directly. Either accessory or principal uses.

Large-Scale Solar Energy System. A ground mounted solar energy system designed for wholesale production or sale of power and is the principal land use for the parcel(s) on which it is located. This type of system is only allowed in Agricultural or Light Industrial zone areas.

Off-grid Solar Energy System. A photovoltaic solar energy system in which the circuits energized by the system are not electrically connected in any way to electric circuits that are served by an electric company

Passive Solar Energy System. A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via heat exchanger. This type is allowed in all zoning areas.

Photovoltaic System. A solar system that converts solar energy directly into electricity.

Small Solar Energy System. A ground mounted or roof mounted solar energy system that is an accessory use in which the energy produced is first used on-site before any excess energy produced is sold back to the operator's regular electrical service provider. Small Solar Energy System include solar thermal systems that are designed to provide heat or energy on-site.

Solar Energy System. A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generating, or water heating.

Solar Energy System, Roof Mounted. A solar energy system mounted to the roof of a dwelling or other building.

IV. PERMITTED ACCESSORY USE – Solar energy systems are a permitted accessory use in all land use districts where structures of any kinds are allowed, subject to certain requirements as set forth below. Solar energy systems that do not meet the following design standards will require a Conditional Use Permit.

1. Height. Solar energy systems must meet the following height requirements:

- A. Roof-mounted solar energy systems shall not exceed the maximum height allowed in the land use district in which it is located. Principal dwelling is 35 feet.
- B. Ground-mounted solar energy systems shall not exceed accessory structure height of 20 feet when oriented at maximum tilt.

2. Location and Setbacks. Solar energy systems must meet the accessory structure setback for the land use district on which the system is located.
 - A. Roof-mounted Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - B. Systems will be allowed with a primary structure in all areas and as accessory structure in all areas. Lots with no principal structure will require a Conditional Use Permit.
3. Visibility. Solar energy systems shall be designed to blend into the architecture of the building or be screened from routine view from adjacent properties and the public right-of-ways other than alleys.
 - A. Building Integrated Photovoltaic Solar Energy Systems shall be allowed regardless of whether the system is visible from the public right-of-way, providing the building component in which the system is integrated meets all required setback, land use, or performance standards for the district in which the building is located.
 - B. Aesthetic restrictions. Roof or ground-mounted solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way other than an alley, or if the system meets the following standards.
 - 1) Roof-mounted systems on pitched roof that are visible from the nearest edge of the front right-of-way shall have the same finished pitch as the roof and be no more than 10 inches above the roof.
 - 2) Roof-mounted systems on flat roofs that are visible from the nearest edge of the front right-of-way shall not be more than five feet above the finished roof and are exempt from any roof-top equipment or mechanical screening.
 - C. Reflectors used on solar energy systems shall minimize glare affecting adjacent or nearby properties.
4. Lot Coverage.
 - A. Ground-mounted systems total collector (panels) area shall not exceed more than 50% of the building footprint of the principal structure.
 - B. Ground-mounted systems shall be exempt from impervious surface standards if the soil under the collector (panel) is maintained and in a non-compacted vegetation state.
5. Plan Approval. All solar energy systems requiring a land use permit or other permit from the City shall provide a site plan to review.
 - A. Plan Applications. Plan applications for solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for ground-mounted system including property-line setbacks, buildings, septic system and well (if any).
 - B. Plan Approvals. Applications that meet design requirements of this ordinance shall be granted administrative approval by the land use official. Large Scale and Small Scale Solar Systems must

be approved by the City Council. Plan approval does not indicate compliance with Building Code or Electrical Code.

- 1) Electric solar energy systems components must have UL or equivalent listing and solar hot water systems must have a SRCC rating.
 - 2) All solar energy systems shall be consistent with the MN State Building Code and thermal systems shall comply with HVAC-related requirements of the Energy Code.
 - 3) All photovoltaic systems shall comply with the Minnesota State Electric Code.
 - 4) Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.
6. Utility Notifications. All grid-interior solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.
7. Decommissioning plan. A decommissioning plan may be required for large and small solar energy systems to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan describing the financial resources that will be available to fully decommission the site. The city may require the posting of a bond, letter of credit or the establishment of an escrow to ensure proper decommissioning.
8. Other standards and codes. All solar energy systems shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; and the National Electrical Code, as amended.

V. PRINCIPAL USES. The City encourages the development of commercial or utility scale solar energy systems where such systems present few land use conflicts with current and future development patterns. Ground mounted systems that are the principal use on the development lot or lots are conditional uses in selected districts.

1. Principal Use General Standard

A. Site Design

- 1) Setbacks for both large and small solar arrays must meet the following setbacks:
 - a. Setbacks for buildings or structures in the district in which system is located shall be met.
 - b. Roadway setback of 100 ft. from the ROW centerline of State Highways and CSAHs. 100 ft. for other roadways except as determined in A. 1) d. below.
 - c. Setback distance should be measured from the edge of the solar energy system array, excluding security fencing, screening or berm.
 - d. All setbacks can be reduced by 50% if the array is fully screened from the setback point of measurement.

B. Screening both large and small scale solar energy systems shall be screened from existing residential zones.

Effective Date: This ordinance amendment shall be in full force and effect from and after passage and publication according to state law.

Repeal: This ordinance shall repeal all ordinances inconsistent herewith.

Passed by the Ottertail City Council this 16th day of June, 2022.

Ron Grobeck, Mayor

ATTEST:

Amanda Thorson, City Clerk-Treasurer