



**Madison Lake Zoning Code  
DRAFT #2**

**APRIL 2, 2019**

## **CITY OF MADISON LAKE ZONING**

### **SUBD. 1. TITLE.**

This Ordinance shall be known as the "Madison Lake Zoning Ordinance" except as referred to herein, where it shall be known as "this Ordinance" and shall supersede any previous Ordinance specifically pertaining to the regulation of land uses/zoning within the City.

### **SUBD. 2. INTENT AND PURPOSE.**

The intent of this Ordinance is to protect the public health, safety, and general welfare of the City of Madison Lake and its people through the establishment of minimum regulations governing development and use.

This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration, and use of structures and land.

Such regulations are established to provide adequate light, air and convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population; to provide for compatibility of different land uses; to provide for administration of this Ordinance; to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties for violation of such regulations; and to define powers and duties of the City Staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to the Zoning Ordinance.

### **SUBD. 3. SHORT TITLE.**

This ordinance shall be known and may be cited as the "Madison Lake Zoning Ordinance of 2019".

### **SUBD. 4. STANDARD, REQUIREMENT.**

Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule, or regulation of the city, the ordinance, rule, or regulation which imposes the more restrictive condition standard or requirements shall prevail.

### **SUBD. 5. RELATION TO COMPREHENSIVE PLAN.**

It is the policy of the City of Madison Lake that enforcement, amendment and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the City's Comprehensive Plan as the policy for responsibility to regulate land use and development in accordance with the policies and purpose herein set forth.

### **SUBD. 6. APPLICATION.**

In their interpretation and application, the provisions of this Ordinance shall be held to the

minimum requirements for the promotion of the public health, safety, and welfare.

**SUBD. 7. CONFORMITY.**

No structure shall be erected, converted, enlarged, or used for any purpose which is not in conformity with the provisions of this Ordinance.

**SUBD. 8. PERMIT ISSUANCE.**

Except as herein provided, no building, structure, or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.

**SUBD. 9. INTERPRETATIONS**

The interpretation and application of the provisions of this code shall be by the Zoning Administrator. An appeal of an interpretation by the Zoning Administrator shall be submitted to the Planning Commission and City Council as outlined in this Ordinance, who, unless otherwise provided, is authorized to interpret the code, and such interpretation shall be considered to be final.

Uses are permitted within the various zones as described in this code and as otherwise provided herein. It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zones described in this code.

If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zone's classification, it shall be considered as a permitted/nonpermitted use within a general zone classification, subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a zone, it may be permitted as determined by the hearing body in public hearing as an amendment to the Zoning Ordinance.

**SUBD. 9 SEPARABILITY.**

It is hereby declared to be the intention of the City that Every Chapter, provision or part of this Ordinance or any permit issued pursuant to this Ordinance, is declared separable from every other Chapter, provision or part thereof to the extent that:

- A. If any court of competent jurisdiction shall adjudge any Chapter, provision or part of this Ordinance or any permit issued pursuant to this Ordinance to be invalid, such judgment shall not affect any other Chapter, provision or part of this Ordinance or any permit issued pursuant to this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or other structure,

such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

#### **SUBD. 11. PREVAILING DOCUMENT**

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

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

#### **SUBD. 12. RULES.**

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural and the plural the singular.
- B. The present tense includes the past and the future tenses, and the future the present.
- C. The word "shall" is mandatory while the word "may" is permissive.

### **CHAPTER 2 — ADMINISTRATION AND ENFORCEMENT**

#### **EXISTING BUILDINGS AND USES**

- A. General. Lawfully established buildings and uses in existence at the time of the adoption of this code shall be permitted to have their existing use or occupancy continued, provided that such continued use is not dangerous to life.
- B. Additions, alterations or repairs. Additions, alterations or repairs shall be permitted to be made to any building or use without requiring the existing building or use to comply with the requirements of this code, provided that the addition, alteration or repair conforms to that required for a new building or use.
- C. Maintenance. Buildings or uses, both existing and new, and all parts thereof, shall be maintained. The owner or owner's authorized agent shall be responsible for the maintenance of buildings and parcels of land
- D. Moved and temporary buildings, structures and uses. Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code for new buildings and structures.
- E. Illegal uses. Uses that were illegally established prior to the adoption of this code shall remain illegal.

The City of Madison Lake Zoning Ordinance will be administered by a Zoning Administrator appointed by the City Council.

## **SUBD. X. ZONING ADMINISTRATOR**

- A. The governing body of the City of Madison Lake shall appoint Zoning Administrator. The /Zoning Administrator shall enforce this Ordinance and shall perform the following duties:
1. Issue zoning and other permits and make and maintain records thereof.
  2. Conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance.
  3. Maintain permanent and current records of this Ordinance, including, but not limited to: all maps, amendments and special uses, variances, appeals and applications therefore.
  4. Ensure that the appropriate documents are filed with the County Recorder or other appropriate official as required by law.
  5. Receive, file and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
  6. Institute, in the name of the City, any appropriate actions or proceedings against a violator as provided for.
  7. Serve as an ex-officio non-voting member of the Planning Commission and secretary to the Planning Commission and Board of Adjustment.
  8. Review of building permits. Applications for building permits and amendments thereto shall be submitted to the Zoning Administrator for review and approved prior to permit issuance. Each application shall include a set of building plans and all data necessary to show that the requirements of this code are met.
  9. Site plan reviews. The code official shall receive all applications for site plan review and review for completeness and prepare submittals for review by the appropriate body.

## **SUBD PLANNING COMMISSION**

1. General. This section addresses the duties and responsibilities of a planning commission, hereafter referred to as "the commission," and other officials and agencies, with respect to the administration of this code.
  2. Establishment of the commission. The establishment of the commission shall be in accordance with the policies and procedures as set forth in state law. The commission shall consist of the number of members as specified in Minnesota State law.
- C. The Planning Commission shall provide assistance to the City Council and Zoning Administrator in administration of this Ordinance, and the recommendation of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings and make recommendations to the City Council on all applications for zoning amendments and conditional use permits, variances, rezonings and plats.
- D. The Officers of the Planning Commission shall be elected by the members of the Planning

Commission at a regular meeting thereof in January of each year. The officers shall consist of a Chairperson, a Vice-Chairperson, and a Secretary-Treasurer. The Chairperson shall preside at all meetings and hearings of the Planning Commission and shall have the duties normally conferred by parliamentary usage of such officers as well as any other duties specified within this Ordinance. The Vice-Chairperson shall act for the Chairperson in his/her absence. The Secretary/Treasurer shall be given the duties as may be assigned by the Planning Commission. Vacancies in office of the officers of the Planning Commission shall be filled immediately by the same procedure.

- E. A quorum for any meeting or hearing of the Planning Commission shall be a majority of the voting members of the Commission.

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- B. The Planning Commission may set such rules and procedures as are necessary for the orderly conduct of its business. Rules and procedures not otherwise adopted or not covered by applicable law shall be governed by Roberts Rules of Order, Revised, as may be necessary for the proper conduct of the business of the Planning Commission.

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- D. The members of the Planning Commission may receive such compensation for per diem and expenses as may be allowed by the City Council.

#### **SUBD. 6. BOARD OF ADJUSTMENT.**

The City Council of the City of Madison Lake shall, through the passing of an Ordinance, provide for the establishment of a Board of Adjustment. **The Board of Adjustment shall only review variance requests from the Zoning Ordinance.** The Board of Adjustment shall be the **City Council**. The members of the Board of Adjustment may be paid their necessary expenses in attending the meetings of the Board and in the conduct of the business of the Board.

- A. It shall adopt rules for the transaction of its business and such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The Board shall provide a public record of its proceedings, which shall include the minutes of its meeting, its findings and the action taken on each matter heard by it, including the final order. The meeting of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board in its rules of procedure may specify.

#### **SUBD. 8. CITY COUNCIL.**

- A.** The City Council shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made **by the Zoning Administrator** charged with enforcing the Ordinance.

- B. The City Council may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The council shall make written findings of fact and keep appropriate minutes of its meetings.

The reasons for the Council's decisions may be stated.

- C. The decision of such Council shall be final. However, any person having an interest affected by such decision shall have the right to appeal to district court in the county in which the land is located on questions of law and fact.

#### **SUBD. 9. ZONING AMENDMENTS.**

- A. Criteria for Granting Amendments: The City Council may adopt amendments to the zoning ordinance and the zoning map in relation to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Comprehensive Plan or changes in conditions in the City.

- B. Procedure:

1. An amendment to the text of the Ordinance or the Official Zoning Map may be initiated by the City Council, the Planning Commission, **Zoning Administrator, City Administrator** or by application of a property owner.
2. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Council until it has received the Planning Commission's recommendations. Individuals wishing to initiate an amendment to the zoning ordinance shall complete a zoning amendment application form and submit it to the Zoning Administrator.
3. Property Owners initiating an amendment to the official zoning map or regulations specific to an individual zoning district shall submit the following information upon making said application:
  - a. A legal description and ~~boundary survey~~, preliminary building and site development plan.
4. A public hearing on a rezoning application shall be held by the Planning Commission within thirty (30) days after the request for the zoning amendment has been received. Legal notice concerning official action pursuant to this Chapter shall be as follows:
  - a. A notification of the date, time and place of the hearing shall be published in the municipality's official newspaper at least ten (10) days before the hearing.
  - b. In addition, persons who own property situated wholly or partly within three hundred fifty (350) feet of the affected parcel or parcels shall receive similar, individual notifications by mail.
  - c. Copies of all notices of any public hearings to consider amendments affecting the Shoreland Overlay District shall be sent to the Commissioner of the Minnesota Department of Natural Resources or the Commissioner's designee and must be postmarked at least ten (10) days before the

hearing(s).

5. The City Council shall take action on the application within sixty (60) days following receipt of a complete application, unless an extension is provided for in accordance with State Statute 15.
  6. The City shall maintain records of amendments to the text and zoning map of the Ordinance.
  7. Amendments shall be filed with the County Recorder.
  8. A copy of decisions granting zoning amendments within the Shoreland Overlay District shall be sent to the Commission of the Department of Natural Resources or the Commissioner's designee, postmarked within ten (10) days of final action.
  9. No application of a property owner for an amendment to the text of the Ordinance or the zoning map shall be considered by the Planning Commission within the one (1) year period following a denial of such request, except the Planning Commission may permit a new application, if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.
- C. Fees: To defray administrative costs of processing requests for an amendment to this Ordinance, the applicable fee shall be paid by the petitioner. The applicable fee for a Zoning Ordinance Amendment shall be established by the City Council.

#### **SUBD. 10. CONDITIONAL USE PERMITS.**

- A. Criteria for granting conditional use permits.
1. In granting a conditional use permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety and general welfare of occupants of surrounding lands. Among other things, the City Council may make the following findings where applicable:
    - a. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.
    - b. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
    - c. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
    - d. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

- e. That adequate measures have been or will be taken to provide or control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- f. The developer shall submit a time schedule for completion of the project.
- g. The use, in the opinion of the City Council, is reasonably related to the overall needs of the City and to the existing land use.
- h. The use is consistent with the purposes of the zoning code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- i. The use is not in conflict with the Comprehensive Plan of the City.
- j. The use will not cause traffic hazard or congestion.
- k. Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.
- l. The proposed conditional use is not injurious to the use and enjoyment of adjoining property already existing or substantially diminish and impair property values within the immediate vicinity of the proposed conditional use.
- m. Proof of ownership is provided.
- n. Conditional uses allowable within shoreland areas shall be subject to the following additional evaluation criteria and conditions:
  - (1) Soil erosion and other possible pollution of public waters shall be prevented both during and after construction;
  - (2) The visibility of structures and other facilities as viewed from public waters shall be limited to the extent possible.
  - (3) The site shall have adequate water supply and on-site sewage treatment.
  - (4) The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

B. Additional Conditions:

- 1. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the City as a whole. The conditions may include, but are not limited to, the following:
  - a. Increasing the required lot size or yard dimension.

- b. Limiting the height, size or location of the buildings, including but not limited to increasing setback requirements.
- c. Controlling the location and number of vehicle access points.
- d. Increasing the street width.
- e. Increasing the number of required off-street parking spaces.
- f. Limiting the number, size, location or lighting of signs.
- g. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- h. Designating sites for open space.
- i. Impose time limitations on the use.
- j. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
- k. Special provisions for the location, design and use of watercraft launching and docking areas.

C. Procedures.

1. The person applying for a Conditional Use Permit shall fill out and submit to the Zoning Administrator a Conditional Use application form.
2. The information required for all conditional use permits generally consists of the following items, and shall be submitted **when requested by the City**.
  - a. Site Development Plan.
    - (1) Location of all buildings on lots including both existing and proposed structures.
    - (2) Location of all adjacent buildings located within three hundred fifty (350) feet of the exterior boundaries of the property in question.
    - (3) Location and number of existing and proposed parking spaces.
    - (4) Vehicular circulation.
    - (5) Architectural elevations (type and materials used in all external surfaces)
    - (6) Location and type of all proposed lights.
    - (7) Curb cuts, driveways, number of parking spaces.
  - b. Dimension Plan.
    - (1) Lot dimensions and area.
    - (2) Dimensions of proposed and existing structures.
    - (3) "Typical" floor plan and "Typical" room plan.

- (4) Setbacks of all buildings located on property in question.
    - (5) Proposed setbacks.
    - (6) Sanitary sewer and water plan with estimated use per day.
  - c. Grading Plan.
    - (1) Existing contour.
    - (2) Proposed grading elevations.
    - (3) Drainage configuration.
    - (4) Storm sewer catch basins and invert elevations.
    - (5) Spot elevations.
    - (6) Proposed road profile.
  - d. Landscape Plan.
    - (1) Location of all existing trees, type, diameter and which trees will be removed.
    - (2) Location, type and diameter of all proposed plantings.
    - (3) Location and material used for all screening devices.
  - e. Legal description of property under consideration.
  - f. Proof of Ownership of the land for which a conditional use permit is requested.
3. The property owner or his/her agent shall meet with the Zoning Administrator to explain his/her situation, learn the procedures for review of request and obtain an application form.
  4. The Zoning Administrator shall refer the application to the Planning Commission for review.
  5. The Planning Commission shall hold a public hearing on the proposal. Legal notice concerning official action pursuant to this Chapter shall be as follows:
    - a. A notification of the date, time and place of the hearing shall be published in the municipality's official newspaper at least ten (10) days before the hearing.
    - b. In addition persons who own property situated wholly or partly within three hundred fifty (350) feet of the affected parcel or parcels shall receive similar, individual notifications by mail.
    - c. Copies of all notices of any public hearings to consider conditional use permits relative to the Shoreland Overlay District shall be sent to the Commissioner of the Minnesota Department of Natural Resources or the Commissioner's designee and must be postmarked at least ten (10) days before the hearing(s).
  6. The petitioner or his representative may appear before the Planning Commission in order to answer questions concerning the proposed conditional use.

7. The report of the Planning Commission shall be placed on the agenda of the City Council at its next regular meeting following referral from the Planning Commission, but not later than sixty (60) days after the applicant has submitted the application, unless an extension is provided for in accordance with State Statute 15.
  8. The City Council shall take action on the application within sixty days after receipt of a complete application, unless an extension is provided for in accordance with State Statute 15. The City Council, at its discretion, may hold an additional public hearing on the Conditional Use Permit, the City Council may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare, and such conditions may include a time limit for the use to exist or operate.
  9. A copy of decisions granting conditional use permits within the Shoreland Overlay District shall be sent to the Commission of the Department of Natural Resources or the Commissioner's designee, postmarked within ten (10) days of final action.
- D. Re-Application. No application for a Conditional Use Permit shall be resubmitted for a period of six (6) months from the date denial of said application.
- E. Periodic Review. If conditions outlined in the Conditional Use Permit are not being adhered to or a Conditional Use Permit for a particular parcel is no longer applicable, the Conditional Use Permit may be reviewed a public hearing following notice of the property owner and publication of said notice at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearing, and the owner of land having a Conditional Use Permit shall be allowed to comment on his/her behalf and shall not be required to pay a fee for said review.
- F. Compliance. In the event that the applicant violates any of the conditions set forth in this Permit, the City Council shall have the authority to revoke the Conditional Use Permit.
- G. Records. A record and appropriate minutes shall be prepared by the Planning Commission from the public hearing on the Conditional Use Permit application. Specific findings of fact shall be made in addition to the recommendations of the Planning Commission.
- H. Fees. To defray administrative costs for processing a Conditional Use Permit, the applicable fee shall be paid by the applicant. The applicable fee shall be set by the City Council.

#### **SUBD. 12. VARIANCES.**

- A. Criteria for granting variances: A variance to the provision of the Zoning Ordinance may be issued by the Board of Zoning Appeals/ City Council to provide relief to the landowner in those zones where the Ordinance imposes undue hardship or practical difficulties to the property owner in the use of his land. No use variances may be issued. A variance may be granted only in the event that

the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owners of property since enactment of this Ordinance have had no control;
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
3. No variance shall be granted which would allow any use that is prohibited in the zoning district in which the subject property is located;
4. That the special conditions or circumstances do not result from the actions of the applicant;
5. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district;
6. For existing developments not serviced by municipal utilities, the application for variance must clearly demonstrate whether a conforming individual sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming, individual sewage treatment system;
7. The variance requested is the minimum variance which would alleviate the hardship; and,
8. The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone.

*NOTE: Economic conditions alone shall not be considered a hardship.*

B. Procedure:

1. The person applying for a variance shall meet with the Zoning Administrator to explain his/her situation, learn the procedures and obtain an application form.
2. The person applying for a variance shall then fill out and submit to the Zoning Administrator a variance request form containing the following information when requested by the City
  - a. Description of the site (legal and address).
  - b. Site plan showing parcel and building dimensions.
  - c. Location of all buildings and their square footage measurements.
  - d. Curb cuts, driveways, sidewalks, parking spaces and off-street loading areas.
  - e. Landscape and screening plans.
  - f. Water, sanitary sewer and storm water plans.

- g. Any additional information reasonably requested by the **City Council**.
  - h. If the work will not be completed in one (1) year, the applicant shall submit a time schedule for completion of the work.
3. The Zoning Administrator shall refer the application to the **City Council** Planning Commission for review.
4. The **City Council** Planning Commission shall hold a public hearing on the proposal. Legal notice concerning official action pursuant to this Chapter shall be as follows:
  - a. A notification of the date, time and place of the hearing shall be published in the municipality's official newspaper at least ten (10) days before the hearing.
  - b. In addition, persons who own property situated wholly or partly within three hundred fifty (350) feet of the affected parcel or parcels shall receive similar, individual notifications by mail.
  - c. Copies of all notices of any public hearings to consider variances under the local shoreland overlay district shall be sent to the Commissioner of the Minnesota Department of Natural Resources or the Commissioner's designee and must be postmarked at least ten (10) days before the hearing(s).
5. The petitioner or his representative shall appear before the Planning Commission in order to answer questions concerning the proposed variance.
6. The **City Council** shall make findings of fact and recommend approval or denial of the request. The City Council/Board of Appeals must take action on the application within sixty (60) days after the completed application was received, unless an extension is provided for in accordance with State Statute 15. The Commission's recommendation, shall be presented to the Council.
7. The City Council shall not grant a variance until they have received a recommendation from the Planning Commission or within sixty (60) days after the completed application was filed, unless an extension is provided for in accordance with State Statute 15.
8. The Zoning Administrator shall place the recommendation on the agenda for the next Board of Appeals or regular City Council meeting. Such recommendations shall be made a part of the permanent written record of said meeting(s).
9. The City Council shall review the application and may at its option conduct a public hearing on the request.
10. The City Council shall make finding of fact and approve or deny a request for variance within sixty (60) days after receipt of the complete application, unless an extension is provided for in accordance with State Statute 15.
11. A variance of this Ordinance shall be simple majority vote of the or City Council.

12. If it grants the variance, the City Council may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
  13. A copy of decisions granting variances within the Shoreland Overlay District shall be sent to the Commission of the Department of Natural Resources or the Commissioner's designee, postmarked within ten (10) days of final action. When a variance in the Shoreland Overlay District is approved after the Department of Natural Resources has formally recommended denial, the notification of the approved variance shall include the Board of Adjustment/City Council summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- C. Lapse of Variance: Variance permits shall expire if they have not been installed within one (1) year after the date of issuance.
- D. Fees: To defray the administrative costs of processing requests for variances, the applicable fee shall be paid by the applicant. The applicable fee is in addition to the regular zoning permit. Fees shall be established by the City Council.

### **SUBD. 13. BUILDING PERMITS.**

#### Sec. 50-39. - Building permits.

A building permit must be obtained by all persons intending to erect, alter, demolish or move any building or structure.

- (1) Persons requesting a building permit shall fill out a building permit application available from the building official. All applications for building permits shall be accompanied by a certificate of survey (if determined to be required by the Zoning Administrator) or a scaled site plan. The site plan shall show dimensions of existing and/or proposed structures to be erected or structurally altered, their location on the zoning lot in relation to the outside boundary, the required off-street parking plan, and such other information as may be necessary to provide for the enforcement of these regulations.
- (2) Completed building permit applications together with the building permit fee shall be submitted to the building official. If the proposed structure conforms in all respects to this Ordinance, and after approval by the city council where required, a building permit shall be issued by the building official.
- (3) If the proposed structure involves the need for a zoning amendment, variance, or conditional use permit, the application signed by the owner, together with a site plan, shall be submitted to the planning commission and/or board of appeals, as appropriate, for review and appropriate action according to the procedures set forth herein.
- (4) Certificate of occupancy. No new structure or addition, and no change in use of an existing structure shall be occupied other than for a public utility use until a certificate of occupancy has

been issued stating that the new occupancy complies with all applicable provisions of this Code.

- (5). Every building permit issued by the City Clerk/Zoning Administrator or Building Official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. All exterior construction and landscaping must be completed within one (1) year after the date of issuance.
  - A. For the purposes of enforcing this Ordinance, no person shall erect, alter, remodel, demolish, or move any kind of structure or building or part thereof without first securing a building permit. **General maintenance of a structure is exempt from this requirement**
  - B. In the Shoreland Overlay District, a permit is required for the construction of buildings or building additions (including such related activities as construction of decks and signs), the installation and/or alteration of waste treatment systems, and those grading and filling activities not exempted by this Ordinance. The application shall include information necessary or required by the /Zoning Administrator to determine the site's suitability for the intended use in addition to evidence that a compliant sewage treatment system will be provided.
  - C. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, shall be reconstructed or replaced in accordance with the provisions of **Blue Earth County**.
  - D. Persons requesting a building permit shall fill out a building permit form available from the City. The following items shall accompany the building permit application unless this requirement is waived by the **Zoning Administrator**.
    1. Boundary survey of an area including the property in question showing existing utilities, lot boundaries and dimensions, buildings, easements, foliage, topography and waterways if pertinent. Soil tests may be included if pertinent.
    2. Preliminary building and site development plan showing building's location, dimensional parking and loading arrangements, vehicular and pedestrian access and egress, surface drainage plan, landscaping plan, utility plan, screening plan, size and location of all signs, building floor plans of all floors, and elevations of all specifications as appropriate.
  - E. Procedure:
    1. Persons requesting a building permit shall fill out a building permit form available from the Zoning Administrator.
    2. Completed building permit forms and a fee as may be established by City Council Ordinance shall be submitted to the **Zoning Administrator** If the

proposed development conforms in all respects to the Zoning Ordinance, a building permit shall be issued by the City Clerk/Zoning Administrator or Building Official within a period of sixty (60) days.

3. Certificate of Compliance: The Zoning Administrator shall issue a certificate of compliance for each activity requiring a permit as specified in this Chapter. The certificate may take the form of a signature on the building permit application and will specify the use of land and that the proposed action conforms to the requirements of this ordinance.
- F. Any use, arrangement or construction **in difference** with the approved building permit shall be punishable as provided in this Ordinance.
- G. Every building permit issued by the City shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. All exterior construction and landscaping must be completed within one (1) year after the date of issuance.

## **CHAPTER . ENFORCEMENT, REPEAL, EFFECTIVE DATE.**

### **SUBD. 1. VIOLATIONS AND PENALTIES.**

#### A. Violations.

1. The violation of any provision of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Ordinance shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to a fine or imprisonment for a term not to exceed ninety (90) days or both.
2. In cases where a building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Ordinance, the City Clerk or designee, in addition to other remedies may institute any proper action or proceedings in the name of the City. The City and/or its designee shall hereby have the power to prevent unlawful erection, construction, repair, conversion, maintenance or use to restrain, correct or abate such violation to prevent any illegal act, conduct, business or use in or about said premises. It shall be the duty of the City and/or its designee to institute action.

#### B. Penalties.

1. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues constitute a separate offense.
2. Equitable Release: In the event of a violation or the threatened violation of any provision of this Ordinance or any provision or condition of a permit issued pursuant to this Ordinance, the City in addition to other remedies, may institute

appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violation.

**SUBD. 2. REPEAL.**

All Ordinances previously in effect pertaining to the regulation of land uses within the City and/or applicable scope and jurisdiction of this Ordinance, to the extent inconsistent with these provisions, are hereby repealed.

**SUBD. 3. EFFECTIVE DATE.**

This Ordinance shall be in full force and effect from and after July 1, 2019.

Ordained by the City Council of the City of Madison Lake. \_\_\_\_\_

**CHAPTER 1. ADMINISTRATION.**

**SUBD. 1. PURPOSE.**

The purpose of this Chapter is to outline administration of this Ordinance and establish procedures for non-conformances, exceptions, variances, conditional use permits and duties of administering officers and commission.

**SUBD. 2. APPLICATION.**

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.
- B. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which impose higher standards or requirements shall prevail.
- C. Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used for any purpose or in any manner which is not in conformity with this Ordinance.

**SUBD. 3. EXISTING LOTS.**

A lot or parcel of land for which a deed, recorded contract for deed or other legal conveyance has been executed prior to the effective date of this Ordinance shall be deemed a buildable lot provided it can meet the minimum setback requirements in the zoning district where it is located.

**SUBD. 4. NON-CONFORMANCE.**

Sec. 50-9. - Nonconforming structures and uses.

The lawful use of any land or structures existing at the time of the effective date of this Ordinance may be continued, at the size and in the manner of operation existing on such date, even if such use does not conform to the regulations of this Ordinance subject to the following provisions:

(1) *Nonconforming structures.*

- A. *Maintenance.* Any nonconforming building or structure existing at the time of the adoption of an additional control under this Ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, subject to paragraphs B. and C. of this subdivision.
- B. *Enlargement.* A nonconforming building or structure shall not be added to or enlarged in any manner unless such additions or enlargements are made to bring the building or structure into conformity with the regulations of this Ordinance.
- C. *Restoration.* A nonconforming building or structure that is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, may be restored under the following conditions:
  - 1. A building permit is applied for within 180 days of when the property is damaged;
  - 2. The restoration shall be permitted provided that it repairs and restores the existing structure; and
  - 3. Any changes that would result in an increase in nonconformity or enlargement of the structure shall not be permitted. However, if a proposed change would result in a decrease in the degree of nonconformity the proposed restoration may be permitted at the discretion of the zoning administrator.

(2) *Nonconforming uses and structures.*

- A. *Enlargement or alteration.* No nonconforming structure or use shall be enlarged or increased, or extended to occupy a greater area than was occupied when the use became non-conforming, except in the following case:

A nonconforming use may be extended throughout any parts of an existing structure which were manifestly arranged or designed for such use when the use became nonconforming, but no such use shall be extended to occupy land outside the structure.
- B. *Relocation.* No nonconforming use or structure shall be moved in whole or in part to any other part of the parcel of land upon which the use or structure was conducted at the time of passage of this Ordinance, nor shall the use or structure be moved in whole or in part to any other zoning lot except to bring it into conformance with the regulations of this Ordinance.
- C. *Discontinuance or abandonment.* A nonconforming use or structure that has been discontinued or abandoned for a period of one year shall not be reestablished and any future use shall be in conformity with the regulations of this Ordinance.
- D. *Status change.*
  - 1. A nonconforming use of a structure or land may be changed to a similar nonconforming use or a more restrictive nonconforming use. Once a structure or parcel of land has been changed to a more restrictive nonconforming use, it shall not return to a less restrictive use.

2. When a nonconforming structure or use of land has been changed to a conforming use or structure, it shall not thereafter be changed back to a nonconforming use or structure.
3. When a nonconforming use meets the requirements for and is granted a conditional use permit as an allowed conditional use in that district, such use or structure is thereafter deemed a conforming use subject to the terms of the conditional use permit.

D. Special Requirements.

1. City Approvals.

a. Condition for approval. The City may not issue a Conditional Use Permit (CUP), Planned Unit Development (PUD), or building permit for an additional which increases the leasable floor area or density for any property that is not in compliance with the provisions of this Chapter.

b. Exception, If a new use requiring a CUP or PUD is proposed for part of a multiple tenet building, and there are no exterior modifications needed to accommodate the new tenet which would result in an increase in floor area ratios, ground floor area ratio, building height, density, or a decrease in required yards, or other substantial change (other than property improvement to meet building code requirements), then the city may issue a CUP or PUD provided that the following standards are met:

1. The new use does not involve an expansion of the nonconformity or otherwise increase the noncompliance with the provisions of this chapter.

2. Any nonconformity or other items of noncompliance existing on the site shall be brought into greater or complete compliance with this chapter to the extent reasonable and possible, except that great or complete compliance will not be required with the following provisions of this chapter:

- i. Lot area.
- ii. Lot width.
- iii. Required yards.
- iv. Building height.
- v. Floor area ratio.
- vi. Ground floor area ratio.
- vii. Density.
- viii. Useable open space.

2. Permitted construction. Construction is permitted under the following circumstances.

a. The repair, replacement, restoration, maintenance or improvement of any nonconformity, but not including expansion, except that such construction is prohibited in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of construction to flood flows in the floodway.

b. Construction which would allow additions and alteration to buildings containing nonconforming dwelling units complying with the following conditions:

1. The construction will not result in the increase of dwelling units; and
2. The building or parcel is not located in an area which the council has designated as a high

priority for redevelopment according to an adopted redevelopment strategy or plan. For the purpose of this section, a redevelopment strategy or plan shall be defined as a document and/or process which specifically outlines the area to be redeveloped and may include timelines and/or action steps to be taken, or which are being taken, to achieve the redevelopment. These action steps may include, but are not limited to, solicitation of developers, the purchase of property, environmental testing or remediation, demolition of structure and other similar activities.

3. Change in tenet or ownership. Any change of a tenet or in the ownership of any land which is classified as a nonconforming use shall require the new tenet or owner to obtain a certificate of occupancy or Registration of Land Use before the nonconforming use may be continued.

4. Change to less intense use. A nonconforming use may be changed to a less intense nonconforming use subject to approval by the zoning administrator. The property owner or tenet has the burden of providing evidence that the proposed use is less intense than the existing nonconforming use. The zoning administrator shall consider the evidence provided by the property owner or tenet in evaluating relative intensities including, but not limited to, each of the following factors:

- a. Hours of operation.
- b. Signage.
- c. Off-street parking and loading.
- d. Nature of business operations.
- e. Type of equipment or machinery.
- f. Outdoor storage.
- g. Number of employees.
- h. Aesthetic impacts on surrounding property.
- i. Property values.

The decision of the zoning administrator may be appealed in the manner set forth in subdivision 6 (3).

5. Reduction in nonconformity. Any nonconformity which is reduced in size, intensity or otherwise becomes conforming may not again expand or become less conforming.

E. Use of Existing Lots of Record.

1. In any district where residential dwellings are permitted, a garage or accessory building may be located on any lot or plot of official record improved with a dwelling unit as of the date of this Chapter irrespective of its area or width; provided, however;

- a. The proposed accessory building complies with setback regulations set forth in the respective zoning district.
- b. The proposed accessory building complies with maximum site coverage requirements set forth in the respective zoning district.
- c. The proposed accessory building complies with all other provisions contained in Chapter 22, Subdivision 12.

2. A nonconforming single lot of record in a shoreland area can be allowed as a building site without need for variances from lot size restrictions as long as all structural setbacks can be met and is connected to a public sewer system, and does not exceed 25% impervious surface by area. With two or more contiguous lots of record under common ownership, each lot would not be considered a separate parcel for purposes of sale or development as long as it meets the following requirements: the

lot is 66% of the State shoreland dimensional width and size standards in MN Rules Chapter 6120, it is connected to a public sewer, it does not exceed 25% impervious surface by area; and development of the lot would be consistent with an adopted local comprehensive plan. If these conditions cannot be met, lots must be combined so they equal one or more conforming lots to the extent possible.

3. Variances of area, width and yard requirements shall be obtained only in accordance with Chapter 23, Subdivision 10 of this Ordinance.

F. Non-Conforming Signs.

1. Signs existing on the effective date of this Ordinance which do not conform to the regulations set forth in this Ordinance shall become a non-conforming use. Business signs on the premises of a non-conforming building or use may be continued, however, such signs shall not be increased in number, area, height or illumination. No sign erected before the passage of this Ordinance shall be rebuilt, altered or moved to a new location on the affected property without being brought into compliance with the requirements of this Ordinance.

Revised 10/22/2007; 06/07/2010

## **CHAPTER 2. DEFINITIONS AND TERMS.**

### **SECTION XX GENERAL**

1. **Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this code, have the meanings shown in this chapter.

2. **Interchangeability.** Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

3. **Terms defined in other codes.** Where terms are not defined in this code and are defined in the Building Code, such terms shall have the meanings ascribed to them as in those codes.

4. **Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

The following words/terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

**Subd Accessory use.** "Accessory use" shall mean a use that is incidental to and customarily associated with a specific principal use and located on the same parcel as the principal use. Accessory uses that are permissible within each zoning district are listed within the zoning districts.

**Subd 2 Accessory structure.** "Accessory structure" shall mean a detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same zoning lot therewith. Separated from the main structure, does not include attached garage

**Subd 3 Addition** shall mean a vertical or horizontal physical enlargement of an existing structure.

**Subd. 2. Advertising.**

A billboard, poster panel board, painted bulletin board, or other communicative device which is used to advertise products, goods, and/or services which are not exclusively related to the premise on which the sign is located.

**Subd. 3. Address Sign.**

A sign communicating street address only, whether written or in numerical form.

**Subd 4 Adult Uses/Sexually Orientated Businesses** - Adult uses/sexually orientated businesses include, but are not limited to, adult bookstores, adult motion picture theaters, adult picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse, sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

**Subd. 4. Agriculture Uses.**

Those uses commonly associated with the growing of produce on farms. These include, but are not limited to, field crop farming; pasture for hay; fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale in season; and livestock raising and feeding; but not including fur farms, commercial animal feed lots, and kennels.

**Subd. 5. Alley.**

A public right-of-way which affords secondary access to abutting property.

**Subd. 6. Alteration.**

As applied to a building or structure, is a change or rearrangement in structural parts, or enlargement or the moving from one location to another.

**Subd. 7. Apartment.**

A part of a building consisting of a room or suite of rooms which is designed for, intended for, or used as a residence for one family or an individual and equipped with cooking facilities.

**Subd. 8. Apartment Building.**

Three or more suites of rooms which are designed for, intended for, or occupied as a residence by a single family or an individual, and are equipped with cooking facilities (includes dwelling units and efficiency units).

**Subd. 9. Applicant.**

Any person who wishes to obtain a zoning permit, zoning, or Subdivision approval.

**Subd. 10. Automobile Repair.**

General repair, rebuilding or reconditioning engines, motor vehicles, boats, snowmobile, motor cycle or trailers; collision service, including but not limited to, body, frame, or fender straightening or repair; painting and vehicle steam cleaning.

**Subd. 11. Automobile Wrecking or Junk Yard.**

Any place where two (2) or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation; or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles, or merchandise.

**Subd. 12. Billboard.**

"Billboard" shall mean a sign that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location that is typically different than the premises on which the sign is located.

**Subd. 13. Basement.**

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

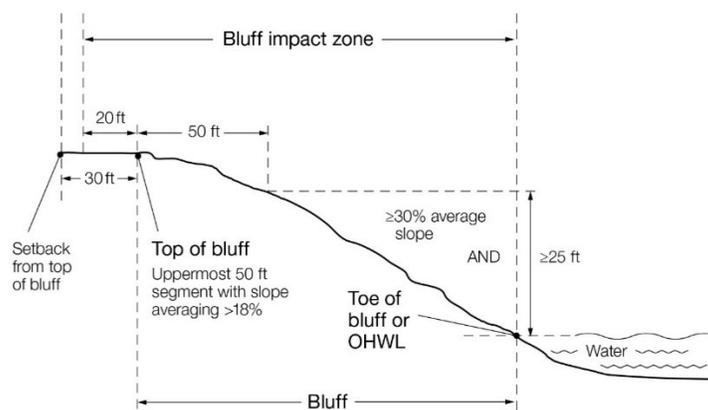
**Subd xx Bed and breakfast.** "Bed and breakfast" shall mean an owner-occupied residence within which is provided guest rooms for a fee, and which may provide meals to those renting the guest rooms.

**Subd 14 Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- A. Part or all of the feature is located in a shoreland area;
- B. The slope rises at least 25 feet above the toe of bluff;
- C. The grade of the slope from the toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 percent or greater, except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff; and

**State Shoreland Ordinance**

Bluff, Bluff Impact Zone, Top and Toe of Bluff



A.

2.514 **Bluff impact zone.** A bluff and land located within 20 feet of the top of a bluff.

2.515 **Bluff, Toe of.** The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

2.516 **Bluff, Top of.** For the purposes of measuring setbacks, the higher point of a 50-foot segment

with an average slope exceeding 18 percent.

**Subd. 17. Boarding House.**

A building other than a hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided to three (3) or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than ten (10) people.

**Subd. 18. Boathouse.**

A structure used solely for the storage of boats or boating equipment, not for use as a dwelling.

**Subd. 19. Buildable Area.**

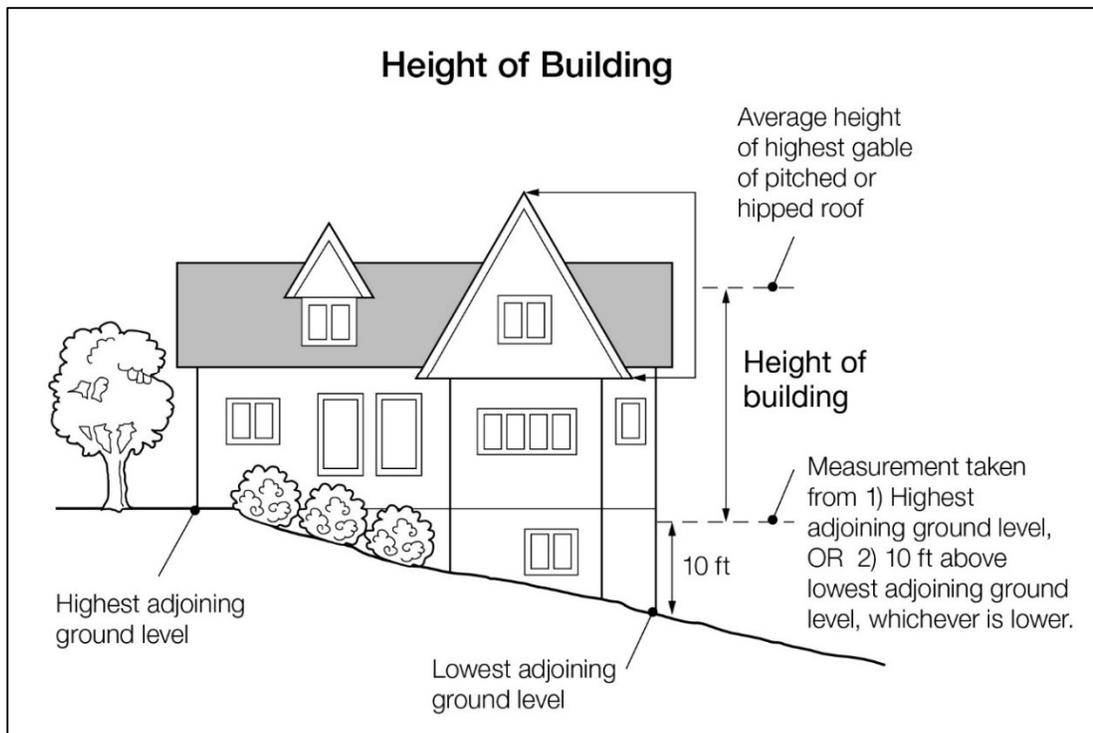
"Buildable area" shall mean the space remaining on a zoning lot after the minimum open space, offset, and setback requirement have been complied with; excepting any floodplain, wetland, bluff, buffers, or similarly designated unbuildable land.

**Subd. 20. Building.**

Any structure used or intended for supporting or sheltering any use or occupancy.

**Subd. 21. Building Height.**

The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point of a round or other arch-type roof, to the mean distance of the highest gable on a pitched or hipped roof.



**Building Line** -. The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, patio, cornices and other ornamental features projecting from the walls of the building or structure.

**Subd xx Building Permit** - A permit issued by the City for development activities. The permit will be reviewed by the City Building Official and activity must meet Building Code. The permit needs to be approved by the City before any building activities take place.

**Subd. 23. Building Setback.**

The minimum horizontal distance between the building and the specified lot line as prescribed in this Ordinance. The building setback shall be measured from the foundation of a building.

**Subd. 24. Business.**

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

**Subd. 25. Business Sign.**

Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including, but not limited to, entertainment, offered or sold upon the premise where such sign is located.

**Subd. 26. Campground.**

An area accessible by vehicle and containing campsites or camping spurs for tent and trailer camping.

**Subd. 27. Carport.**

A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on three (3) sides.

**Certificate of occupancy.** "Certificate of occupancy" shall mean a document issued by the building official as a condition precedent to the commencement of a use after the construction or reconstruction of a structure which acknowledges that the specified use and structure complies with the provisions of this Ordinance and the Building Code.

**Subd. 28. Church.**

A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**Subd. 29. Clear-Cutting.**

The removal of an entire stand of vegetation.

**Subd. 30. Clinic.**

A place for the care, diagnosis and treatment of sick, ailing or injured individuals.

**Subd. 31. Club or Lodge.**

A non-profit association of persons who are members paying annual dues, use of premises being restricted to members and their guests.

**Subd. 32. Commercial Agricultural.**

The use of land for the growing and/or production of field crops, livestock, and livestock products.

**Subd. 33. Commercial Planned Unit Developments.**

Typically uses which provide transient, short-term lodging spaces, room, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service-oriented activities.

**Subd. 34. Commercial Recreation.**

Bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, tavern, theatre, boat rental, amusement rides, campgrounds and similar uses.

**Subd. 35. Commercial Vehicle.**

1. A motor vehicle used in commerce to transport passengers or property that:
  - a. Has a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds, whichever is greater, or a lesser gross vehicle weight rating or gross vehicle weight the U.S. Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds; or
  - b. That is designed to transport at least 16 passengers, including the driver; or,
  - c. Is used to transport material found by the Secretary, except as identified in 49 USC Sec. 31301(3)C.
2. Off-road motorized construction equipment, including but not limited to, backhoes, motor scrapers, motor graders, compactors, tractors, trenchers, bulldozers, railroad track maintenance equipment, cranes, front end loaders, tractor trailer, straight trucks even if converted offices.
3. Items similar in nature to those described above.

**Subd. 37. Commissioner.**

The Commissioner of the specified agency including, but not limited to the Commissioner of the Department of Natural Resources, the Commissioner of the Minnesota Department of Transportation, the Commissioner of the Federal Aviation Administration.

**Subd. 38. Conditional Use.**

A use, which because of special problems of control the use permits, requires reasonable, but special, unusual and extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the Madison Lake Comprehensive Plan.

**Subd. 39. Conditional Use Permit.**

A permit issued by the Council in accordance with procedures specified in this Ordinance, as a flexibility device to enable the council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

**Subd. 40. Condominium.**

A multiple dwelling containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes, Section 515.01 to 515.19.

**Subd. 41. Control Measure.**

A practice or combination of practices to control erosion and attendant pollution.

**Subd. 42. Convenience Food Establishment.**

An establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

**Subd. 43. Cooperative (Housing).**

A multiple family dwelling owned and maintained by the residents. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

**Subd. 44. Curb Level.**

The level of the established curb in front of the building measured at the center of such front.

**Subd. 45. Day Care-Home.**

A family dwelling in which foster care, supervision, and training for children is provided during part of a day with no overnight accommodations and where children are delivered and removed daily.

**Subd. 46. Day Care-Group Nursery.**

A service provided to the public, in which children of school or preschool age are cared for during established business hours.

**Subd 47 Deck, Attached.** A structure within six (6) feet of the main building that may or may not have railings or access to the ground, but does not contain walls or a roof. May also be referred to as a balcony.

**Subd. 48. Deck, Unattached.** A structure six (6) feet or more from the main building that may or may not have railings or access to the ground, but does not contain walls or a roof.

**Subd. 49. District.**

A Chapter or Chapters of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

**Subd. 50. Dredging.**

To enlarge or clean out a waterbody, watercourse, or wetland.

**Subd. 51. Drive-in Establishment.**

An establishment which accommodates the patron's automobile from which products purchased from the establishment may be consumed.

**Subd. 53. Dwelling-Multiple (Apartments).**

A building designated with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other but having hallways and main

entrances and exits.

**Subd. 54. Dwelling-Single-Family.**

A detached dwelling unit designed for occupancy of one (1) family.

**Subd. 55. Dwelling Site.**

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

**Subd. 56. Dwelling-Two-Family.**

A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

**Subd. 57. Dwelling Unit.**

A residential building, structure or shelter or any portion thereof that designed as short or long-term living quarters for one or more persons, including, but not limited to rental or timeshare accommodations and resort rooms and cabins; but not including motels, nursing homes or trailers.

**Subd. 58. Easement.**

A grant by a property owner for the use of a strip of land which includes but is not limited to the constructing and maintaining of utilities including but not limited to sanitary sewer, water mains, electric lines, telephone line, storm sewer or storm drainage way and gas lines.

**Subd. 59. Elderly (Senior Citizen) Housing.**

A public agency owned or controlled multiple dwelling buildings with open occupancy, limited to persons over sixty (60) years of age or in accordance with Federal and State Laws and Regulations.

**Subd. 60. Efficiency Apartment.**

A dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.

**Subd. 61. Essential Services.**

Underground or overhead gas, electrical, steam, or water distribution systems; collection, communication, supply, or disposal systems including, but not limited to, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, or other similar equipment and accessories in conjunction therewith; but not including buildings.

**Subd. 62. Extractive Use.**

The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Chapters 93.44 to 93.51.

**FAMILY.** An individual or 2 or more persons related by blood, marriage, adoption, foster children, or a group of not more than 5 unrelated persons, living together as a single housekeeping unit, within a dwelling unit, as distinguished from individuals or a group occupying a hotel, motel, club, lodge, sorority, fraternity, or dormitory.

**FAMILY(FUNCTIONAL).** A collective group of unrelated persons residing in a single dwelling unit, limited to not more than 2 adult persons, together with their traditional family

members of any age.

**FAMILY(TRADITIONAL).** One or more persons related by blood or marriage residing in a single dwelling unit.

**Subd. 64. Farm.**

A tract of land which is principally used for commercial agriculture, all of which is owned and operated by a single family, farm corporation, individual or corporation.

**Subd. 65. Farm-Dwelling.**

A single family dwelling located on a farm which is used or intended for use by the farm's owner, a relative of the owner, or a person employed thereon.

**Subd. 67. Fence.**

A barrier, railing, or other upright structure, typically of wire, wood or vinyl/pvc, enclosing an area of ground to mark a boundary or control access.

**Subd. 68. Floor Area.**

The sum of the gross horizontal area of the several floors of the building, measured from the exterior faces of the exterior walls.

**Subd 69 Forest Management** – A process by which the proper care so that a forest stand remains healthy and vigorous.

**Subd. 70. Forestry.**

The management, including logging, of a forest, woodland, or plantation, and related research and educational activities, including, but not limited to, the construction, alteration, or maintenance of wood roads, skid roads, landing and fences.

**Subd. 71. Garage.**

An accessory building or accessory portion of the principal building intended for and used to store the private passenger vehicles of the family or families resident upon the premises.

**Glare .** A sensation of brightness within the visual field that causes annoyance, discomfort, or loss in visual performance.

**Subd. 72. Governmental Sign.**

A sign which is erected by a governmental unit for the purpose of identification and directing or guiding of traffic.

**Subd. 73. Grading.**

Changing the natural or existing topography of land.

**Subd. 74. Guest Cottage/Accessory Dwelling Unit**

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

**Subd. 75. Guest Room.**

A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

**Subd. 76. Hardship.**

The same as that term is defined in Minnesota Statutes, Chapter 462 (i.e. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the request, if granted will not alter the essential character of the locality, economic considerations alone shall not constitute a hardship.)

**Hard Surfaced Parking, Driving, and Loading Area.** Parking and loading service areas shall be paved with asphalt, bituminous, concrete or other surfaces of comparable durability (pervious parking materials) approved by the city engineer or Zoning Administrator.

**Subd. 78. Home Occupation.**

Any occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.

**Subd. 79. Hotel.**

Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six (6) or more guest rooms, used, designated or intended to be used, let or hired out to be occupied or which are occupied by six (6) or more individuals for compensation, whether the compensation be paid directly or indirectly.

**Subd. 80. Hydric Soils.**

Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**Subd. 81. Hydrophytic Vegetation.**

Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**Subd. 82. Identification Signs.**

Signs located in a residential district which identify a Subdivision, apartment complex or similar identifications and set forth the address of the premises where the sign is located; and signs in all other districts which identify the business or owner, and set forth the address of the premises where the sign is located.

**Subd. 83. Impervious Surface.**

Minnesota State DNR considers gravel to be an impervious surface, how should the code treat this.

**Impervious surface.** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces. **DNR Definition**

**Subd. 84. Industrial Use.**

A permitted or accessory use allowed in the Industrial "I-1" District.

**Subd. 86. Interim Use Permit.**

A permit issued by the Council for a specific period of time in accordance with procedures specified in this Ordinance, as a flexibility device to enable the Council to assign dimensions including a time-limit to a proposed use and conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

**Subd. 87. Junk or Salvage Yard.**

Land or building where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products and products from wrecking of automobiles and other vehicles.

**Subd. 88. Land Disturbing or Development Activities.**

Any change of the land surface including, but not limited to, excavating, filling, grading and the construction of any structure.

**Subd. 91. Lot (of Record).**

A parcel of land, whether Subdivided or otherwise legally described, as of the effective date of this Ordinance, which is occupied by or intended for occupancy by one (1) principal building or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage on a street or proposed street approved by the Council.

**Subd. 92. Lot.**

Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this zoning regulation.

**Subd. 93. Lot Area.**

The area of a horizontal plane within the lot lines of a lot.

Lot, Corner - shall mean a zoning lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.

**Subd. 95. Lot Coverage.**

The area of a lot occupied by **impervious surfaces as defined by this Ordinance**, the principal building or buildings and accessory buildings. (See earlier account with DNR Rules).

**Subd. 96. Lot, Depth.**

The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

**Subd. 97. Lot, Frontage.**

The front of a lot shall, for purposes of complying with this Ordinance, be that boundary abutting a public right-of-way.

**Subd. 98 Lot, Frontage Riparian (Lake)**

The parcel of property belonging to a riparian lot opposite or across from a public right-of-

way. The front of the property for the purpose of this ordinance shall be the adjacent right-of-way

**Subd. 99. Lot, Line.**

A property boundary line of any lot held in single or separated ownership, except that where any portion of a lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

**Subd. 100. Lot, Through.**

A lot fronting on two parallel streets.

**Subd. 101. Lot, Width.**

The shortest horizontal distance between the side lot lines measured at right angles at the building line.

**Subd. 102. Manufactured Home.**

A structure transportable in one or more Chapters used as a dwelling for one family, with or without a permanent foundation when connected to the required utilities, which includes the plumbing, heating, air conditioning, and electrical systems contained therein. No manufactured dwelling shall be moved into the City that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes.

**Subd. 103. Manufactured Home Park.**

Any site, lot or tract of land under single ownership designed, maintained or intended for the placement of two (2) or more occupied manufactured homes. This also includes any buildings or structures appurtenant to the park.

**Subd. 104. Manufacturing - Heavy.**

The manufacture, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located.

**Subd. 105. Manufacturing - Light.**

All uses which include the compounding, processing, packaging, treatment or assembly of products and materials, provided such use will not generate offensive odors, glare, smoke, dust, noise, vibration or other objectionable influences that extend beyond the lot on which the use is located.

**Subd. 106. Mining Operation.**

The removal from the land of stone, sand and/or gravel, coal, salt, iron, copper, nickel, granite, petroleum products or other material for commercial, industrial or governmental purposes.

**Subd. 107. Mobile Home.**

A dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers and arriving at the site ready for occupancy except for incidental assembly, location on foundation, connection to utilities and the like.

**Subd. 108. Modular Home.**

A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made permanently affixing the module to the site.

**Subd. 109. Motor Fuel Station. (Gas Station)**

A place where gasoline (stored only in underground tanks), kerosene, motor oil, lubricants and grease for operation of vehicles are stored or sold to the public. This also includes accessories and services for automobiles.

**Subd. 111. Natural Drainage System.**

All land surface areas which by nature of their contour configuration collect, store and channel surface water run-off.

**Subd. 113. Non-Conforming Building/Structure**

A building or portion of thereof existing at the time of adoption of this ordinance and not conforming to the regulations for the district in which it is situated except that such a use is not non-conforming if it would be permitted under a conditional use permit where located.

**Subd. 114. Non-Conforming Use of Land.**

Any use of a lot which does not conform to the applicable use regulations of the district in which it is located.

**Subd. 115. Non-Riparian Lot.**

A lot that does not abut public waters.

**Subd. 117. Nursing Home (Rest Home).**

A building having accommodations where care is provided for two (2) or more invalids, infirmed, aged convalescent or physically disabled persons that are not of the immediate family; but not including hospitals, clinics, sanitariums or similar institutions.

**Subd. 118. Off Street Loading Space.**

A space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials. Such space shall be of such size as to accommodate one (1) truck of the type typically used in the particular business.

**Subd. 119. On-Premise Signs.**

A sign located on the premise or property of an individual, business or organization when the sale or lease of the premise or the identification, products or services or the individual, business or organization are the subject of the sign.

**Subd. 120. Open Space Recreational Use.**

Recreational use particularly oriented to and utilizing the character of an area, including hiking and riding trails, primitive campsites, campgrounds, waysides, parks and recreational areas.

**Subd. 121. Ordinary High Water Level**

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

**Subd. 122. Parking Space** An area, enclosed in the main building, in an accessory building

or unenclosed, suitably surfaced and permanently maintained area, sufficient in size to store one (1) automobile which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

**Subd. 123. Permitted Use.**

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

**Subd. 124. Person.**

An individual, firm, partnership, association, corporation or organization of any kind.

**Subd. 125. Planned Unit Development.**

A large lot or tract of land developed as a unit rather than as individual development wherein two (2) or more buildings may be located in relationship to each other rather than to lot lines or zoning district boundaries. This is a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster Subdivision of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

**Subd. 126. Planning Commission.**

The Planning Commission of the City of Madison Lake.

**Subd. 127. Portable Sign.**

A sign so designed as to be movable from one (1) location to another and which is not permanently attached to the ground, sales display device or structure.

**Subd. 128. Principal Use.**

The main use of land or buildings as distinguished from subordinate or accessory uses.

**Subd. 129. Public Use.**

Uses owned or operated by municipal, school districts, county, state or other governmental units.

**Subd. 130. Public Utility.**

Any person, firm, corporation, municipal department or board fully authorized to furnish under municipal regulation to the public, electricity, gas, steam, communication services, telegraph services, transportation, water sewer and storm sewer.

**Subd. 131. Public Waters.**

Any waters as defined in Minnesota Statutes, §103G.005 Subd. 15.

**Subd. 132. Recreational Field or Building.**

An area of land, water or any building in which amusement, recreation or athletic sports are provided for public or semi-public use, whether temporary or permanent, except a theatre, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium, circus or gymnasium is a recreation field or building for the purpose of this Ordinance.

**Subd. 133. Recreational Vehicle.**

A vehicular portable structure used for amusement, vacation or recreational activities, including but not limited to, travel trailers, boat & utility trailers, motor homes, camping trailers, personal watercraft, snowmobiles, four-wheelers, ice fishing houses and boats.

**Subd. 134. Regional Flood.**

A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100 year reoccurrence interval.

**Subd. 135. Residential Planned Unit Development.**

A use where the nature of residency is non-transient and the majority or primary focus of the development is not service-oriented. For example, residential apartments, timeshare condominiums, townhouses, cooperatives and full fee ownership residences would be considered as residential planned unit developments.

**Subd. 136. Restaurant.**

An establishment serving food to be consumed primarily while seated at tables or booths within the building.

**Subd. 138. Riparian.**

Land contiguous to the bank of a stream, the shore of a lake, or the edge of a wetland. NOTE: Wetland setbacks should be considered different than Riparian.

**Subd. 139. Screening.**

The use of plant materials, fences or earthen berms to partially conceal the separate land use from the surrounding land use.

**Subd. 141. Sediment.**

Solid matter carried by water, sewage or other liquids.

**Subd. 142. Semi-Public Use.**

The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**Subd. 143. Sensitive Resource Management.**

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

**Subd. 144. Setback.** The minimum required distance between the property line and a structure, bluff, ordinary high water level.

**Subd. 145. Sewage Treatment System.**

Any system for the collection, treatment and dispersions of sewage, including but not limited to, septic tanks, soil absorption systems, drain fields or other individual or cluster type

sewage treatment system.

**Subd. 146. Sewer System.**

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

**Subd. 147. Shore Impact Zone.**

Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

**Subd. 148. Shoreland.**

Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shore lands 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 of the MNDNR.

**Subd. 149. Sign.**

The use of any words, numerals, figures, devices or trademarks by which anything is made known, such as are used to show an individual, firm, profession or business and are visible to the general public.

**Subd. 151. Slope.**

The degree of deviation of a surface from the horizontal usually expressed in percent or degrees.

**Subd. 152. Steep Slope.**

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

**Subd. 153. Story.**

That portion of a building included above and between the upper surface of a floor and upper surface of floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

**Subd. 154. Story, Half.**

That portion of a building under a gable, hip or gambrel roof, the wall plate of which, on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

**Subd. 137. Stormwater Detention Facility.**

A permanent natural or man-made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

**Subd. 156. Street Frontage.**

The proximity of a parcel of land to one (1) or more streets. An interior lot has one (1) street frontage and a corner lot has two (2) street frontages.

**Subd. 157. Structure.**

Anything which is built, constructed or erected. An edifice or building of any kind or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character, **all impervious surface**, including but not limited to, any building or appurtenance and including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, poles, and other supporting facilities.

**Subd. 158. Subdivision.**

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

**Subd. 159. Substandard Use.**

Any use existing prior to the date of this Ordinance which is permitted within the applicable zoning district, but does not meet the minimum lot area, frontage, setbacks or other dimensional standards of this Ordinance.

**Subd. 160. Surface Water Oriented Commercial Use.**

The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

**Subd. 161. Temporary Sign.**

Any sign which is erected or displayed for a specified period of time.

**Subd. 164. Townhouses.**

~~Structures housing Three (3) two (2) or more dwelling units in a row of at least three (3) such units each and contiguous to each other only by sharing one (1) or more vertical common fire-resistant walls, such structures to be of the town or row houses type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of eight (8) dwelling units, and each dwelling unit shall have separate entrances.~~

**Subd. 165. Twin Home.**

A two family dwelling in which the units are connected at a common wall along a common property line also twin homes are commonly referred to a "zero lot line home," and in which each of the units and their attendant lot area intended for conveyance as separate dwelling units.

**Subd. 166. Use.**

The purpose or activity for which the land or building thereon is designated, arranged or intended or for which it is occupied, utilized or maintained and shall include the performance of such activity as defined by the performance standards of this Ordinance.

**Subd. 167. Use, Accessory.**

A use incidental to and on the same lot as a principal use.

**Subd. 169. Variance.**

The waiving action of the literal provisions of the Zoning Ordinance in instances where their

strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

**Subd. 170. Vegetation.**

The sum total of plant life in some area or a plant community with distinguishable characteristics.

**Subd. 171. Waterbody.**

A body of water (lake, pond) in a depression of land or expanded part of a river or an enclosed basin that holds water and is surrounded by land.

**Subd. 172. Watercourse.**

A channel or depression through which water flows, such as rivers, streams or creeks and may flow year around or intermittently.

**Subd. 173. Water-Oriented Accessory Structure or Facility.**

A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

**Subd. 174. Watershed.**

The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

**Subd. 175. Wetlands.**

Lands 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. For the purposes of this definition, 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
- C. Under normal circumstances support a prevalence of such vegetation.

**Yard.** An open, unoccupied space on a lot, other than a court, that is unobstructed from the ground upward by buildings or structures, except as otherwise provided in this code.

**Subd. 177. Yard - Front.**

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

**Subd. 178. Yard - Rear.**

A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest building line.

**Subd. 179. Yard - Side.**

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

**Subd. 180. Zoning Administrator.**

A person appointed by the City Council to enforce the Zoning Ordinance

**Subd. 181. Zoning Map.**

The maps or map incorporated into this Ordinance as part thereof, and as amended, designating the zoning district.

**Subd xx Zoning Permit** – A permit issued by the City for development activities that need to meet the City's Zoning regulations. The permit needs to be approved by the City before any building activities take place.

Zoning Permits are required for lakeshore alterations, replacing sidewalks, driveways, sheds (under 12 X 12), landscaping, signs, fencing, etc. Please contact the Clerk's office for additional information.

 [Fee Schedule.pdf](#)

Note: From City's website.

**CHAPTER 3. CLASSIFICATION OF DISTRICTS**

**SUBD. 1. ESTABLISHMENT OF DISTRICTS.**

The following zoning districts are hereby established within the City of Madison

Lake:

- A-1 Agricultural District
- R-1 Single Family Residential District
- R-1-S One Family Dwelling District
- R-2 Two Family Residential District
- R-3 Multiple Family Residential District (Mobile Home Rules Contained)
- B-1 Highway Commercial District
- B-2 Central Business District with Downtown Overlay District
- B-3 Recreational Business District
- I-1 Industrial District

**SUBD. 2. MAP.**

The location and boundaries of the districts established by this Ordinance are hereby set forth on the Zoning Map entitled "Zoning Map of Madison Lake." Said Map is on file with the Zoning Administrator, and hereinafter referred to as the "Zoning Map" which map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference.

**SUBD. 3. ANNEXATION.**

In the event of annexation of new areas to the City, such areas shall be considered to be in the "A-1" Agricultural District unless otherwise classified.

**SUBD. 4. ZONING DISTRICT BOUNDARIES.**

- A. Boundaries indicated as approximately following the centerline of streets, highways, alleys or railroad lines shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, lakes or other bodies of water shall be construed to following such centerlines.
- D. Boundaries indicated as approximately following the City limits shall be construed as following such City limits.
- E. Where a district boundary line divides a lot which was in a single ownership at

the time of passage of this chapter, the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot may be interpreted by the Zoning Administrator upon request of the owner.

**SUBD. 5. DISTRICT REGULATIONS.**

The regulations of this Ordinance within each district shall be minimum and shall apply uniformly to each class or kind of structure of land, except as hereinafter provided.

- A. No buildings, structures or land shall hereafter be used and no building structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all of the regulations herein specified for the district in which it is located.
- B. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- C. No provision hereunder shall be construed so as to prevent emergency repair/rebuild of existing essential services provided said repair/rebuild does not exceed area, width, height, etc. in existence and conforming to this ordinance prior to the emergency situation which shall mean an natural disaster or a event outside the owners (or his/her representative's) control.

**SUBD. 6. AMENDMENTS.**

It shall be the responsibility of the Zoning Administrator to maintain the Zoning Map. Amendments to said zoning map shall be recorded thereon within thirty (30) days after official publication of amendments. The Madison Lake Zoning Map shall be kept on file in the City Clerk's Office.

**CHAPTER XX "A-1" AGRICULTURAL DISTRICT.**

**SUBD. 1. PURPOSE.**

The purpose of the Agricultural District is to provide for existing rural uses, single-family residences and institutional uses. It is designed for areas within the City which may presently be used for agriculture, but which may be converted to urban uses in the future.

**SUBD. 2. PERMITTED PRINCIPAL USES**

- A. The following are permitted uses in the non-shoreland overlay portion of the "A-1" Agricultural District:
1. Single-family dwellings.
  2. Public parks and playgrounds, recreational areas and wildlife areas/refuges.
  3. Farming and Agriculture plus related buildings and structures subject to Minnesota Pollution Control Agency standards, and all other applicable local, state, regional and federal standards.
  4. Essential services.

**SUBD. 3. PERMITTED ACCESSORY USES.**

The following are permitted accessory uses in the "A-1" Agricultural District:

1. Private garages, parking areas and car ports for licensed and operable passenger cars and trucks.
2. Operation and storage of such vehicles, equipment and machinery which are incidental to permitted or conditional uses allowed in this district.
3. Tool houses, sheds and similar buildings for storage of domestic supplies and non-commercial recreational equipment provided said storage is placed in the side and/or rear portion of the lot, furthest from the public right-of-way upon which the lot fronts.
4. Recreational vehicles and equipment in operable condition and displaying current licenses.
5. Swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.
6. Home occupations as regulated by this Ordinance.
7. Storage of facilities used solely for the purpose of ice-fishing provided said facilities are stored in the side or rear yard, displaying current licenses and are not used as independent living/sleeping quarters when stored as permitted provided said storage is placed in the side and/or rear yard portion of the lot, lying furthest from the public right-of-way upon which the lot fronts.

8. Piers and Docks and storage thereof provided said storage is placed in the side or rear lot on the part of the lot furthest from the public right-of-way upon which the lot fronts.
9. Each lot may have one water-oriented accessory structure not meeting the normal structure setback as defined by Subdivision 5 of this Chapter and Chapter 22, Subd. 3(A) provided the water-oriented structure or facility:
  - a. Shall not exceed ten (10) feet in height, exclusive of safety rails, and shall not occupy an area greater than twenty-five (25) square feet. Detached decks shall not exceed eight(8) feet above grade at any point.
  - b. The structure or facility shall be setback from the ordinary high water level a minimum of ten (10) feet.
  - c. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shore lands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
  - d. The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area.
  - e. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.
  - f. As an alternative for water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
  - g. Uses determined by Planning Commission to be similar to those listed in this Subdivision.

## List of Permitted Accessory Uses, Setbacks, and Heights

Use	Setbacks	Maximum Height	Permit
Shed	5 feet – Rear & Side	10 feet	Yes
Fence	3 feet	4 feet – Front Yard 6 feet – Side and Rear Yard	Yes
Decks	10 feet -side 15 feet – rear 20 feet - front	NA	Yes
Pool	10 feet – side 10 feet – rear 6 feet from Not allowed in Front	NA	Yes
Water Oriented Structure	10 feet from OHWL	10 feet size 120 square feet	Yes
Fish House	5 feet Rear & Side	10 feet – Only allowed in rear yard/Hardsurfaced area required	No
RV Storage	5 feet Rear & Side	Only in rear/front yard/ Hardsurfaced Required	No
Dog Kennel	5 feet	Only in rear yard	No

### SUBD. 4. CONDITIONAL USES.

- A. The following are conditional uses in the "A-1" Agricultural District.
1. Governmental and public related utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
    - a. When abutting a residential use in a residential use district, the property is adequately screened and landscaped as determined by the **Zoning Administrator** Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.
  2. Cemeteries
  3. Golf courses.
  4. Kennels and riding stables, commercial recreational areas and similar uses, provided that:
    - a. The principal use, function, or activity is recreational in character.
    - b. Not more than thirty percent (30%) of the land area of the site be covered by buildings or structures in the non-shoreland overlay area. In the shoreland overlay area no more than 25% of the land area of the site may be covered by buildings/structures or any combination thereof.
    - c. When abutting a residential use in a residential district, the property is adequately screened and landscaped.
    - d. Animals shall be, at a minimum, kept in an enclosed pen or corral of sufficient

- e. height and strength to retain such animals.
  - e. Any building in which animals are kept shall be located a minimum of one hundred (100) feet from a lot line.
  - f. The provisions of all applicable Minnesota Pollution Control Agency standards and all other applicable state and federal standards are complied with, as may be amended.
5. Sale of farm produce from road-side stands.
  6. Uses determined by the **Zoning Administrator** of similar nature to the uses cited above and not found to be detrimental to the general health and welfare of the City.

**SUBD. 6. PERFORMANCE STANDARDS.**

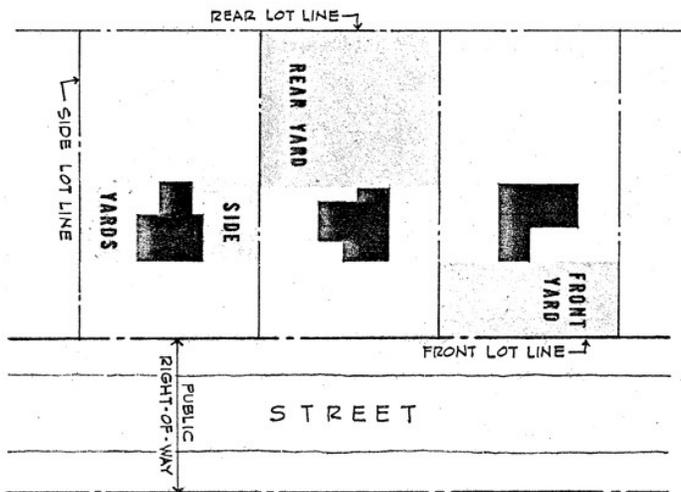
*Minimum Lot Area.* The minimum area lots shall be 1 acre.

*Minimum Lot Width .* The minimum lot width for the "A-1" Agricultural District is 150 feet.

*A. Yard and Setbacks*

1. Setbacks (as measured from lot lines) for structures unless noted.

A- 1 Setback	Current	Proposed
Front	50'	50'
Side	15'	15'
Corner Side	30'	30'
Rear	50'	50'
Accessory Buildings	???XXX	10'



Source: Illustrating the Zoning Ordinance APA

- B. Maximum Building Height: Thirty-five (35) feet or two and one-half (2 ½) stories.

C. *Maximum Site Coverage:*

1. No structure or combination of structures shall occupy more than thirty percent (30%) of the lot area.

D. *Driveways and Parking Areas*

1. Curb cut openings shall be a minimum of five (5) feet from the side property line.
2. All property shall be entitled to at least one (1) curb cut. Single family uses shall be limited to one (1) curb cut access per property.
3. The driveway width shall not exceed 24 feet at the curb line or roadway line. Driveways in the front yard may be 1 foot from the property line. Parking pads in the front yard shall be at least 3 feet from the property line.
4. The following percent of a front yard may be covered with impervious parking surface.

Lots 50 feet wide and less	40%
Lots 51 feet to 100 feet wide	35%
Lots more than 100 feet	30%

5. No parking space shall be allowed in the required side yard.

**DIVISION 2. "R-1" ONE FAMILY DWELLING DISTRICT.**

**SUBD. 1. PURPOSE.**

The *purpose* of the R-1 One Family Dwelling District is to provide for low-density, one family dwellings and conditional uses such as schools, churches, and health care facilities.

**SUBD. 2. PERMITTED PRINCIPAL USES.**

- A. The following uses are permitted in the "R-1" One Family Dwelling District which are allowed administratively with no further permits.

1. One Family Dwelling
2. Public parks, playgrounds, tennis courts and swimming pools
3. Schools \*\*
4. Public utilities, essential service utility facilities and structures if permitted in the right of way or recorded easement.

\*\* Requirements for setbacks, screening and on site parking.

**SUBD 3 PERMITTED ACCESSORY USES**

**SUBD. 3. ACCESSORY USES.**

In addition to [Chapter 22. GENERAL DISTRICT PROVISIONS.](#), the following are permitted accessory uses in the "R-1" One Family Dwelling District.

Accessory uses are contingent upon one family dwelling being located on the same parcel as the accessory use or located on an adjacent parcel designated as an out lot on record at the County for the one family dwelling parcel with common ownership. Accessory uses not under common ownership are prohibited.

- A. Private garages, parking spaces and carports, provided said garage shall not be used for the storage of commercial vehicles.
- B. Home Occupations as regulated by this Ordinance.
- C. Swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.
- D. Storage of facilities used solely for the purpose of ice-fishing provided said storage is placed in the side and/or rear yard portion of the lot, lying furthest from the public right-of-way upon which the lot fronts and providing said facilities display current licenses and are not used as independent living/sleeping quarters. **These storage units must be on a hardsurfaced area.**
- E. Storage of Recreational Vehicles and Recreational Habitable Vehicles and equipment displaying current licenses and in operable condition. Provided said storage is placed on an impervious parking space and not blocking the public right of way. Recreational Vehicles are not to be used as independent living/sleeping quarters or dwelling of any kind.
- F. Piers and Docks, boat lifts and storage thereof provided said storage is placed in the side and/or rear yard portion of the lot, lying furthest from the public right-of-way upon which the lot fronts.
- G. Fences.
- H. Tool houses, sheds and similar non-commercial storage buildings.
- I. Water Access Lots- each water access lot may have one water-oriented accessory structure not meeting the normal structure setback as defined in [Subd. 6.Performance Standards](#) of this Division and [Chapter 22Subd. 3.Accessory Buildings. 22-1](#) provided the water- oriented structure or facility:
  - 1. Shall not exceed ten (10) feet in height, exclusive of safety rails, and shall not occupy an area greater than one hundred 120 (120) square feet.
  - 2. The structure or facility shall be setback from the ordinary high water level a minimum of ten (10) feet.
  - 3. The structure or facility shall be treated to reduce visibility as viewed from

public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area. Detached decks shall not exceed eight (8) feet above grade at any point.

4. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.

J. Uses determined by the Zoning Administrator be similar to those listed in this Subdivision. The following is a summary of allowed Accessory Uses and their appropriate setbacks.

**List of Permitted Accessory Uses, Setbacks, and Heights**

Use	Setbacks	Maximum Height	Permit
Shed	5 feet – Rear & Side	10 feet	Yes
Fence	3 feet	4 feet – Front Yard 6 feet – Side and Rear Yard	Yes
Decks	10 feet -side 15 feet – rear 20 feet - front	NA	Yes
Pool	10 feet – side 10 feet – rear 6 feet from Not allowed in Front	NA	Yes
Water Oriented Structure	10 feet from OHWL	10 feet size 120 square feet	Yes
Fish House	5 feet Rear & Side	10 feet – Only allowed in rear yard/Hardsurfaced area required	No
RV Storage	5 feet Rear & Side	Only in rear/front yard/ Hardsurfaced Required	No
Dog Kennel	5 feet	Only in rear yard	No

**SUBD. 4. CONDITIONAL USES.**

- A. Conditional uses are contingent upon one family dwelling being located on the same parcel as the accessory use or located on an adjacent parcel designated as an out lot on record at the County for the one family dwelling parcel with common ownership.

**CONDITIONAL USES**

1. Bed and Breakfast residences
2. Child care facilities, when not operated as a home occupations
3. Cemeteries, crematories and mausoleums.
4. Churches or places of worship\*\*
5. Government institutions, municipal buildings, museums and libraries.
6. Nursing homes and similar institutions such assisted living
7. *Parking lots providing off-street parking for a use permitted in a residential zoning*

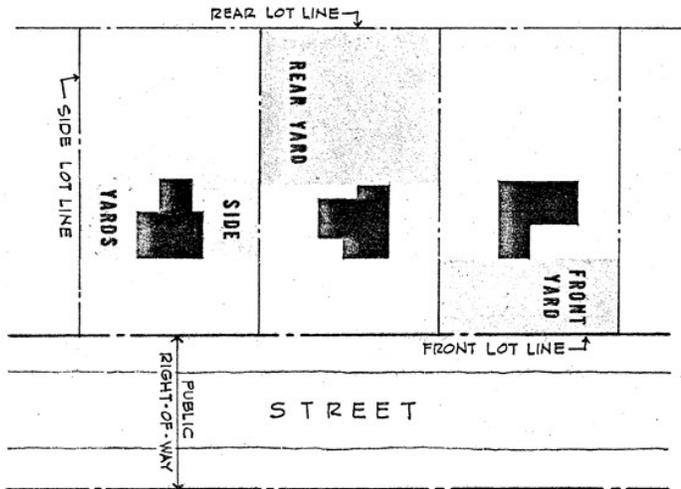
*district, provided the parking lot is within 500 feet of the main building of said use.*

8. Other residential, institutional, or government service uses determined by the Zoning Administrator Planning Commission to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety and welfare.
9. Off Street Parking.

**SUBD. 6. PERFORMANCE STANDARDS**

- E. *Minimum Lot Area.* The minimum area for R-1, One Family Dwelling District lots shall be 9,000 square feet.
- F. *Minimum Lot Width .* The minimum lot width for the R-1 One Family Dwelling District is 75 feet and shall be measured at the front setback line.
- G. *Yard and Setbacks*
  1. Setbacks (as measured from property lines) for structures unless noted.

R- 1 Setback	Proposed
Front	30'
Side	10'
Corner Side	20'
Rear	30'
Accessory Buildings	5'



Source: Illustrating the Zoning Ordinance APA

- H. *Maximum Site Coverage:*  
 A combination of structures or impervious surface shall occupy more than thirty percent (30%) of the lot area.
- I. *Driveways and Parking Areas*
  6. Curb cut openings shall be at least (3) feet from the side property line.

7. All property shall be entitled to at least one (1) curb cut. Single family uses shall be limited to one (1) curb cut access per property.
8. The driveway width shall not exceed 24 feet at the curb line or roadway line. Driveways in the front yard may be 1 foot from the property line. Parking pads in the front yard shall be at least 3 feet from the property line.
9. The following percent of a front yard may be covered with hard surfaced parking surface as long as the total hard surfaced coverage does not exceed

Lots 50 feet wide and less	40%
Lots 51 feet to 100 feet wide	35%
Lots more than 100 feet	30%

\*\* Lots in the Shoreland Overlay District shall not exceed an overall bituminous surface (structures and driveways of 25% of the lot area).

## SUBD R-1-S One Family Dwelling District

### SUBD. 1. PURPOSE

The purpose of the R-1S Single Family Small Lot Residential District is to provide for low-density, single family residences and directly related complimentary uses in annexed area with pre-existing structures.

### SUBD. 2. PERMITTED PRINCIPAL USES

The following uses are permitted in the of the “R-1S” Single Family Small Lot Residential District:

1. Single-family dwelling
2. Licensed Day Care Home/facility serving twelve (12) or fewer persons.
3. Public parks and playgrounds.

### SUBD. 3. PERMITTED ACCESSORY USES

The following are permitted accessory uses in the “R-1S” Single Family Small Lot Residential District.

In addition to [Chapter 22. GENERAL DISTRICT PROVISIONS.](#), the following are permitted accessory uses in the R-1S” Single Family Small Lot Residential District

Accessory uses are contingent upon one family dwelling being located on the same parcel as the accessory use or located on an adjacent parcel designated as an out lot on record at the County for the one family dwelling parcel with common ownership. Accessory uses not under common ownership are prohibited.

- A. Private garages, parking spaces and carports, provided said garage shall not be used for the storage of commercial vehicles.

- B. Home Occupations as regulated by this Ordinance.
- C. Swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.
- D. Storage of facilities used solely for the purpose of ice-fishing provided said storage is placed in the side and/or rear yard portion of the lot, lying furthest from the public right-of-way upon which the lot fronts and providing said facilities display current licenses and are not used as independent living/sleeping quarters. **These storage units must be on a hardsurfaced area.**
- E. Storage of Recreational Vehicles and Recreational Habitable Vehicles and equipment displaying current licensees and in operable condition. Provided said storage is placed on an impervious parking space and not blocking the public right of way. Recreational Vehicles are not to be used as independent living/sleeping quarters or dwelling of any kind.
- F. Piers and Docks, boat lifts and storage thereof provided said storage is placed in the side and/or rear yard portion of the lot, lying furthest from the public right-of-way upon which the lot fronts.
- G. Fences.
- H. Tool houses, sheds and similar non-commercial storage buildings.
- I. Water Access Lots- each water access lot may have one water-oriented accessory structure not meeting the normal structure setback as defined in [Subd. 6.Performance Standards](#) of this Division and [Chapter 22 Subd. 3.Accessory Buildings. 22-1](#) provided the water- oriented structure or facility:
  1. Shall not exceed ten (10) feet in height, exclusive of safety rails, and shall not occupy an area greater than one hundred 120 (120) square feet.
  2. The structure or facility shall be setback from the ordinary high water level a minimum of ten (10) feet.
  3. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
  4. The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area. Detached decks shall not exceed eight (8) feet above grade at any point.
  5. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.
- J. Uses determined by the **Zoning Administrator** be similar to those listed in this Subdivision. **The following is a summary of allowed Accessory Uses and their appropriate setbacks.**

**List of Permitted Accessory Uses, Setbacks, and Heights**

<b>Use</b>	<b>Setbacks</b>	<b>Maximum Height</b>	<b>Permit</b>
Shed	5 feet – Rear & Side	10 feet	Yes
Fence	3 feet	4 feet – Front Yard 6 feet – Side and Rear Yard	Yes
Decks	10 feet -side 15 feet – rear 20 feet - front	NA	Yes
Pool	10 feet – side 10 feet – rear 6 feet from Not allowed in Front	NA	Yes
Water Oriented Structure	10 feet from OHWL	10 feet size 120 square feet	Yes
Fish House	5 feet Rear & Side	10 feet – Only allowed in rear yard/Hardsurfaced area required	No
RV Storage	5 feet Rear & Side	Only in rear/front yard/ Hardsurfaced Required	No
Dog Kennel	5 feet	Only in rear yard	No

Uses determined by Planning Commission to be similar to those listed in this Subdivision.

**SUBD. 6. PERFORMANCE STANDARDS.**

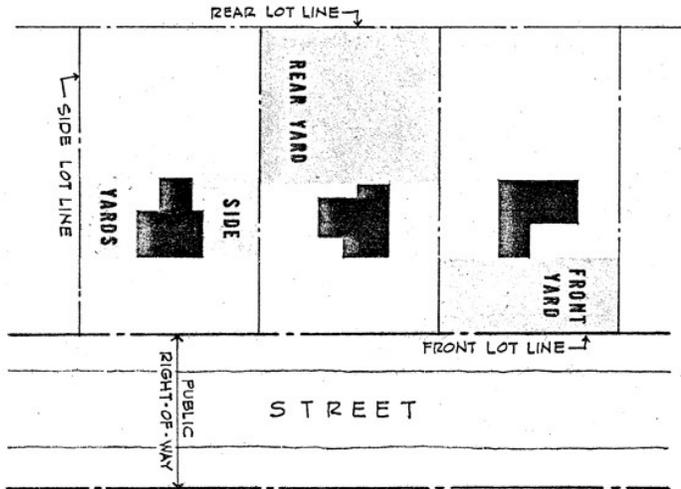
*A. Minimum Lot Area.* The minimum area of a lot is 9,000 square feet

*B. Minimum Lot Width .* The minimum lot width for the "R-1S" District is 75 feet.

*Yard and Setbacks*

4. Setbacks (as measured from lot lines) for structures unless noted.

R-1 S Setback	Current	Proposed
Front	20'	20'
Side	10%	10%
Corner Side	None	10'
Rear	30'	30'
Accessory Buildings	??	5'



Source: Illustrating the Zoning Ordinance APA

B. Maximum Building Height: Thirty-five (35) feet or two and one-half (2 ½) stories.

C. *Maximum Site Coverage:*

1. Non-shoreland overlay areas: No structure or combination of structures shall occupy more than thirty percent (30%) of the lot area.
2. Shoreland overlay areas: Structures or combinations of structures on lots shall conform to the coverage limitations in the following table:

Lot Size	Maximum Coverage	Not to Exceed
>15,000 square feet	25%	3,750 square feet
>10,000 square feet	35%	3,500 square feet
>7,500 square feet	40%	3,250 square feet
<7,500 square feet	45%	3,000 square feet

3. For all lots less than 7,500 square feet multiply lot size by 45% to determine permitted coverage.  
e.g.: 4,000 square feet x 45% = 1,800 square feet permitted coverage. Coverage includes all impervious surfaces.

4. The combined square footage of all accessory structures, excluding one water orientated accessory structure, shall not exceed the square footage of the primary structure.

5. Basement floor levels shall be a minimum of one (1) foot above the ordinary high water mark.

B. Additional requirements, including but not limited to shoreland, surface water, home occupation, parking, sign, and general district provisions as set forth within the appropriate Chapters of this Ordinance, as may be amended.

- C. The lot width and lot size requirement may not be less than those allowed in Subd. 4A, except if all of the following apply.
1. The lot of record is within a residential district.
  2. There is a demonstrated need and potential for continued residential use.
  3. The building has an evident re-use as a principal structure in a residential district.

**DIVISION 4. "R-2" TWO FAMILY DWELLING DISTRICT.**

**SUBD. 1. PURPOSE.**

*The purpose of the R-2 Two-Family Residential District is to provide for low-density residential including two-family residences and conditional uses such as schools, churches, and health care facilities.*

**SUBD. 2. PERMITTED USES.**

- B. The following uses are permitted in the "R-2" Two Family Dwelling District which are allowed administratively with not further permits.

**PERMITTED PRINCIPAL USES**

1. One family Dwellings
2. Two-family dwelling.
  1. Public parks, playgrounds, tennis courts and swimming pools
  2. Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutes limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues\*\*
  3. Public utilities, essential service utility facilities and structures if permitted in the right of way or recorded easement.
  4. \*\* Requirements for setbacks, screening and on site parking.

**PERMITTED ACCESSORY USES**

In addition to [Chapter 22. GENERAL DISTRICT PROVISIONS.](#), the following are permitted accessory uses in the R-2" Two Family Dwelling District.

Accessory uses are contingent upon one family dwelling being located on the same parcel as the accessory use or located on an adjacent parcel designated as an out lot on record at the County for the one family dwelling parcel with common ownership. Accessory uses not under common ownership are prohibited.

- A. Private garages, parking spaces and carports, provided said garage shall not be used for the storage of commercial vehicles.
- B. Home Occupations as regulated by this Ordinance.
- C. Swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.
- D. Storage of facilities used solely for the purpose of ice-fishing provided said storage is placed in the side and/or rear yard portion of the lot, lying furthest from the public right-of-way upon which the lot fronts and providing said facilities display current licenses and are not used as independent living/sleeping quarters. **These storage units must be on a hardsurfaced area.**
- E. Storage of Recreational Vehicles and Recreational Habitable Vehicles and equipment displaying current licensees and in operable condition. Provided said storage is placed on an impervious parking space and not blocking the public right of way. Recreational Vehicles are not to be used as independent living/sleeping quarters or dwelling of any kind.

- F. Pies and Docks, boat lifts and storage thereof provided said storage is placed in the side and/or rear yard portion of the lot, lying furthest from the public right-of-way upon which the lot fronts.
- G. Fences.
- H. Tool houses, sheds and similar non-commercial storage buildings.
- I. Water Access Lots- each water access lot may have one water-oriented accessory structure not meeting the normal structure setback as defined in [Subd. 6.Performance Standards](#) of this Division and [Chapter 22Subd. 3.Accessory Buildings. 22-1](#) provided the water- oriented structure or facility:
  - 6. Shall not exceed ten (10) feet in height, exclusive of safety rails, and shall not occupy an area greater than one hundred 120 (120) square feet.
  - 7. The structure or facility shall be setback from the ordinary high water level a minimum of ten (10) feet.
  - 8. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
  - 9. The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area. Detached decks shall not exceed eight (8) feet above grade at any point.
  - 10. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.
- J. Uses determined by the [Zoning Administrator](#) be similar to those listed in this Subdivision. [The following is a summary of allowed Accessory Uses and their appropriate setbacks.](#)

**List of Permitted Accessory Uses, Setbacks, and Heights**

<b>Use</b>	<b>Setbacks</b>	<b>Maximum Height</b>	<b>Permit</b>
Shed	5 feet – Rear & Side	10 feet	Yes
Fence	3 feet	4 feet – Front Yard 6 feet – Side and Rear Yard	Yes
Decks	10 feet -side 15 feet – rear 20 feet - front	NA	Yes
Pool	10 feet – side 10 feet – rear 6 feet from Not allowed in Front	NA	Yes
Water Oriented Structure	10 feet from OHWL	10 feet size 120 square feet	Yes
Fish House	5 feet Rear & Side	10 feet – Only allowed in rear yard/Hardsurfaced area required	No
RV Storage	5 feet Rear & Side	Only in rear/front yard/ Hardsurfaced Required	No
Dog Kennel	5 feet	Only in rear yard	No

**SUBD. 4. CONDITIONAL USES.** Conditional uses are contingent upon one family dwelling being located on the same parcel as the accessory use or located on an adjacent parcel designated as an out lot on record at the County for the one family dwelling parcel with common ownership.

1. Congregate housing,
2. Golf and Country Clubs.
3. Government institutions, municipal buildings, museums and libraries.
4. Hospital and medical clinics.
5. Nursing homes and similar institutions.
6. Other residential, institutional, or government service uses determined by the Planning Commission to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety and welfare.
7. Public utilities, essential service utility facilities and structures.
8. Parking lots providing off-street parking for a use permitted in a residential zoning district, provided the parking lot is within 500 feet of the main building of said use.
9. Bed and Breakfast residences as regulated by Chapter 18.

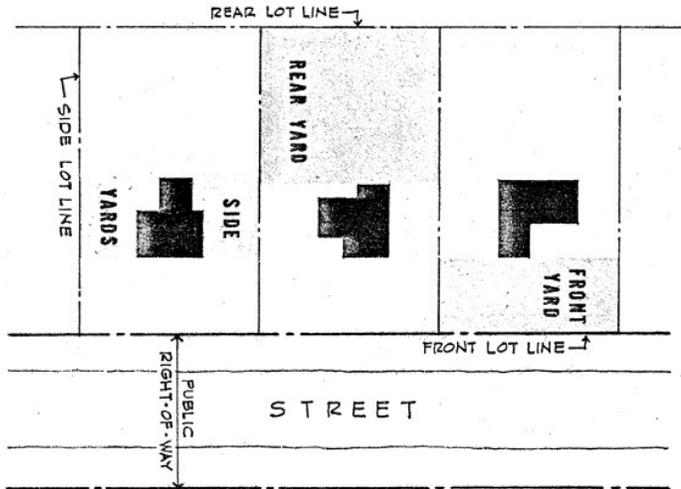
10. Water Access Lots- each water access lot may have one water-oriented accessory structure not meeting the normal structure setback as defined in Subdivision 5 of this Division and Chapter 22, Subd. 3(A) provided the water-oriented structure or facility:
- a. As an alternative for water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water- oriented sporting equipment, may occupy an area greater than one hundred twenty (120) square feet up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
  - b. The structure or facility shall be setback from the ordinary high water level a minimum of ten (10) feet.
  - c. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
  - d. The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area. Detached decks shall not exceed eight (8) feet above grade at any point.
  - e. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.

**SUBD. 6. PERFORMANCE STANDARDS**

- J. *Minimum Lot Area.* The minimum area for R-2, One and Two Family Dwelling District lots shall be 9,000 square feet for a single family dwelling and 12,000 for a two family dwelling.
- K. *Minimum Lot Width .* The minimum lot width for the R-2 One and Two Family Dwelling District is 75 feet and shall be measured at the front setback line.
- L. *Yard and Setbacks*

- 1. Setbacks (as measured from lot lines) for structures unless noted.

R- 2 Setback	Proposed
Front	30'
Side	10'
Corner Side	20'
Rear	30'
Accessory Buildings	5'



Source: Illustrating the Zoning Ordinance APA

*M. Maximum Site Coverage:*

1. No structure or combination of structures shall occupy more than thirty percent (30%) of the lot area.

*N. Driveways and Parking Areas*

10. Curb cut openings shall be a minimum of **three (3)** feet from the side property line.
11. All property shall be entitled to at least one (1) curb cut. Single family uses shall be limited to one (1) curb cut access per property.
12. The driveway width shall not exceed 24 feet at the curb line or roadway line. Driveways in the front yard may be 1 foot from the property line. Parking pads in the front yard shall be at least 3 feet from the property line.
13. The following percent of a front yard may be covered with impervious parking surface.

Lots 50 feet wide and less	40%
Lots 51 feet to 100 feet wide	35%
Lots more than 100 feet	30%

**DIVISION 5. "R-3" MULTIPLE-FAMILY DWELLING DISTRICT**

**SUBD. 1. PURPOSES.**

The purpose of the "R-3" Multiple-Family Residential District is to provide for multiple-family residences.

**SUBD. 2. PERMITTED USES.**

The following uses are permitted in the "R-3" Multiple Family Dwelling District which are allowed administratively with not further permits.

**PERMITTED **PRINCIPAL** USES**

1. One family dwelling
2. Two-family dwelling.
3. Multiple family dwellings
4. Public parks, playgrounds, tennis courts and swimming pools
5. Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutes limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues\*\*
6. Public utilities, essential service utility facilities and structures if permitted in the right of way or recorded easement.
7. \*\* Requirements for setbacks, screening and on site parking.

### SUBD 3 PERMITTED ACCESSORY USES

In addition to [Chapter 22. GENERAL DISTRICT PROVISIONS.](#), the following are permitted accessory uses in the “R-3” Multiple Family Dwelling District

Accessory uses are contingent upon one family dwelling being located on the same parcel as the accessory use or located on an adjacent parcel designated as an out lot on record at the County for the one family dwelling parcel with common ownership. Accessory uses not under common ownership are prohibited.

- K. Private garages, parking spaces and carports, provided said garage shall not be used for the storage of commercial vehicles.
- L. Home Occupations as regulated by this Ordinance.
- M. Swimming pools, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests.
- N. Storage of facilities used solely for the purpose of ice-fishing provided said storage is placed in the side and/or rear yard portion of the lot, lying furthest from the public right-of-way upon which the lot fronts and providing said facilities display current licenses and are not used as independent living/sleeping quarters. **These storage units must be on a hardsurfaced area.**
- O. Storage of Recreational Vehicles and Recreational Habitable Vehicles and equipment displaying current licensees and in operable condition. Provided said storage is placed on an impervious parking space and not blocking the public right of way. Recreational Vehicles are not to be used as independent living/sleeping quarters or dwelling of any kind.
- P. Pies and Docks, boat lifts and storage thereof provided said storage is placed in the side and/or rear yard portion of the lot, lying furthest from the public right-of-way upon which the lot fronts.
- Q. Fences.
- R. Tool houses, sheds and similar non-commercial storage buildings.
- S. Water Access Lots- each water access lot may have one water-oriented accessory structure not meeting the normal structure setback as defined in [Subd. 6.Performance Standards](#) of this Division and [Chapter 22Subd. 3.Accessory Buildings. 22-1](#) provided the water- oriented structure or facility:
  - 1. Shall not exceed ten (10) feet in height, exclusive of safety rails, and shall not occupy an area greater than one hundred 120 (120) square feet.
    - 11. The structure or facility shall be setback from the ordinary high water level a minimum of ten (10) feet.
    - 12. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

13. The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area. Detached decks shall not exceed eight (8) feet above grade at any point.

14. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.

T. Uses determined by the Zoning Administrator be similar to those listed in this Subdivision. The following is a summary of allowed Accessory Uses and their appropriate setbacks.

**List of Permitted Accessory Uses, Setbacks, and Heights**

Use	Setbacks	Maximum Height	Permit
Shed	5 feet – Rear & Side	10 feet	Yes
Fence	3 feet	4 feet – Front Yard 6 feet – Side and Rear Yard	Yes
Decks	10 feet -side 15 feet – rear 20 feet - front	NA	Yes
Pool	10 feet – side 10 feet – rear 6 feet from Not allowed in Front	NA	Yes
Water Oriented Structure	10 feet from OHWL	10 feet size 120 square feet	Yes
Fish House	5 feet Rear & Side	10 feet – Only allowed in rear yard/Hardsurfaced area required	No
RV Storage	5 feet Rear & Side	Only in rear/front yard/ Hardsurfaced Required	No
Dog Kennel	5 feet	Only in rear yard	No

Uses determined by Planning Commission to be similar to those listed in this Subdivision.

**SUBD. 4. CONDITIONAL USES.**

Conditional uses are contingent upon one family dwelling being located on the same parcel as the accessory use or located on an adjacent parcel designated as an out lot on record at the County for the one family dwelling parcel with common ownership.

11. Congregate housing,

12. Golf and Country Clubs.

13. Government institutions, municipal buildings, museums and libraries.

14. Hospital and medical clinics.

15. Nursing homes and similar institutions.
16. Other residential, institutional, or government service uses determined by the **Zoning Administrator** to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety and welfare.
17. Public utilities, essential service utility facilities and structures.
18. Parking lots providing off-street parking for a use permitted in a residential zoning district, provided the parking lot is within 500 feet of the main building of said use.

#### **19. Manufactured Home Parks**

**Manufactured Home Park Requirements. (As part of the conditional use permit process, other requirements may be placed on the property.)**

- 1. Each manufactured home site shall contain at least five thousand (5,000) square feet of land area for the exclusive use of the occupant and shall be at least fifty (50) feet wide.**
- 2. Manufactured homes shall be placed upon manufactured home lots so that there shall be at least a twenty (20) foot clearance between manufactured homes and twenty (20) feet between the front of the manufactured home and the front lot line and twenty-five (25) feet between the rear of the manufactured home and the rear lot line.**
- 3. The area occupied by a manufactured home shall not exceed fifty percent (50%) of the total area of a manufactured home site; land may be occupied by a manufactured home, a vehicle, a building, a cabana, a carport, an awning, storage closet or cupboard or any structure.**
- 4. The yards shall be landscaped except for necessary driveway and sidewalk needs which shall not exceed one-half (1/2) the width of the site.**

- 5. Each manufactured home lot shall have off-street parking space for at least two (2) automobiles. Each space shall be nine (9) feet by twenty (20) feet minimum.
- 6. The corners of each manufactured home lot shall be clearly marked.
- 7. Each site shall be numbered.
- 8. Each manufactured home lot shall be so designed that automobiles may not be parked within five (5) feet of the front or back of the manufactured home.

20. Bed and Breakfast residences as regulated by Chapter 18.

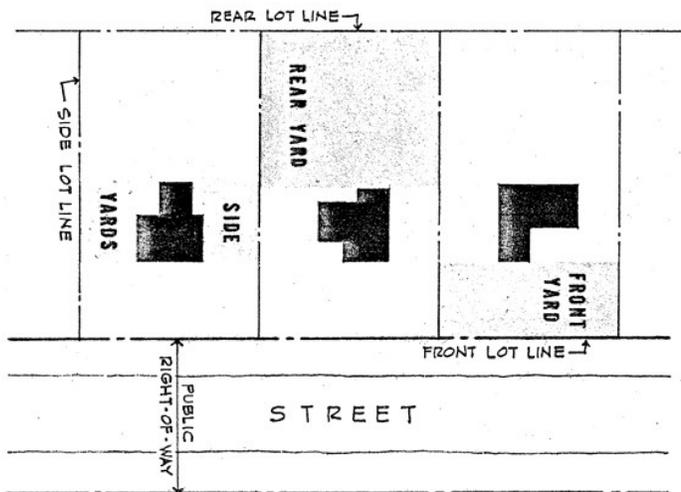
21. Water Access Lots- each water access lot may have one water-oriented accessory structure not meeting the normal structure setback as defined in Subdivision 5 of this Division and Chapter 22, Subd. 3(A) provided the water-oriented structure or facility:

- A. As an alternative for water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area greater than one hundred twenty (120) square feet up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
- B. The structure or facility shall be setback from the ordinary high water level a minimum of ten (10) feet.
- C. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
- D. The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area. Detached decks shall not exceed eight (8) feet above grade at any point.
- E. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.

**SUBD. 6. PERFORMANCE STANDARDS**

- O. *Minimum Lot Area.* The minimum area for R-3, Multiple Family Dwelling District lots shall be 9,000 square feet for a single family dwelling and 12,000 for a two family dwelling and 15,000 for a multiple family dwelling.
- P. *Minimum Lot Width .* The minimum lot width for the R-3 Multiple Family Dwelling District is 100 feet and shall be measured at the front setback line.
- Q. *Yard and Setbacks*
  - 1. Setbacks (as measured from lot lines) for structures unless noted.

R- 3 Setback	Proposed
Front	30'
Side	10'
Corner Side	20'
Rear	30'
Accessory Buildings	5'



Source: Illustrating the Zoning Ordinance APA

**R. Maximum Site Coverage:**

1. No structure or combination of structures shall occupy more than thirty percent (30%) of the lot area.

**S. Driveways and Parking Areas**

1. Curb cut openings shall be a minimum of five (5) feet from the side property line.
2. All property shall be entitled to at least one (1) curb cut. Single family uses shall be limited to one (1) curb cut access per property.
3. The driveway width shall not exceed 24 feet at the curb line or roadway line. Driveways in the front yard may be 1 foot from the property line. Parking pads in the front yard shall be at least 3 feet from the property line.
4. The following percent of a front yard may be covered with impervious parking surface.

Lots 50 feet wide and less	40%
Lots 51 feet to 100 feet wide	35%
Lots more than 100 feet	30%

**CHAPTER 9. "B-1" HIGHWAY COMMERCIAL BUSINESS DISTRICT.**

**SUBD. 1. PURPOSE.**

The purpose of the "B-1" Highway Commercial Business District is to provide for and limit the establishment of motor vehicle oriented or dependent high intensity commercial and service activities and acceptable "quasi-industrial" and wholesale enterprises that do not need an industrial setting but which have considerable customer contact. Permitted uses take advantage of direct access to major highways, frontage roads or streets intersecting a highway in a manner other businesses are not afforded.

**SUBD. 2. PERMITTED USES.**

- A. The following are permitted uses in the non-overlay portion of the "B-1" Highway Commercial Business District:
  - 1. Office, Retail, and Commercial land uses that are less than 3,000 square feet in building area.
  - 2. Uses determined by Planning Commission to be similar to those listed in this Subdivision

**SUBD. 3. ACCESSORY USES.**

The following are permitted accessory uses in the "B-1" Highway Commercial Business District:

- A. Any incidental repair, processing and storage necessary to conduct a principal use, but not to exceed thirty percent (30%) of the floor space of the principal building.
- B. Commercial or business buildings and structures for a use accessory to the principal use but such use shall not exceed thirty (30) percent of the gross floor space of the principal use.
- C. Fences.
- D. Off-Street Parking Facilities and Off-Street Loading Facilities as regulated by Chapter 20 of this Ordinance.
- E. Apartments/Multi-Family: 1st floor apartments within the existing principal (located in rear of business). 2nd story apartments located in the existing principal building.

**SUBD. 4. CONDITIONAL USES.**

- A. The following are conditional uses in the non-shoreland overlay portion of the "B-1" Highway Commercial Business District (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 23, Subd. 10 of this Ordinance):
  - 1. Commercial Planned Unit Developments as regulated by Chapter 17 of this Ordinance.
  - 2. Drive-in and convenience food establishments.
  - 3. Commercial car washes (drive through, self-service and mechanical).
  - 4. Motor vehicle and truck fuel sales, auto repair and service.
  - 5. Convenience Store with gasoline.
  - 6. Open or outdoor service, sale and rental other than those specified as a permitted use in this district.
  - 7. Daycare Centers.
  - 8. Off-site" advertising signs.
  - 9. Industrial Uses.

**SUBD. 5. PERFORMANCE STANDARDS.**

- A. Minimum Lot Size: Ten thousand (10,000) square feet
- B. Minimum lot width: One hundred (100)

1. Front yard: Thirty (30) feet
  2. Side yard: Twenty (20) feet, unless abutting a residential district, then thirty-five (35) feet.
  3. Rear yard: Twenty (20) feet, unless abutting a residential district, then thirty-five (35) feet.
- C. Maximum Building Height: Forty-five (45) feet or three (3) stories.
- D. Maximum Site Coverage: No structure or combination of structures shall occupy more than sixty (60) percent of the lot area, providing:
1. Non-shoreland overlay areas: No structure or combination of structures shall occupy more than sixty (60) percent of the lot area.
  2. Shoreland overlay areas within the Hwy. 60 Corridor (one block north of Hwy. 60): No structure or combination of structures shall occupy more than sixty (60) percent of the lot area, providing:
    - a. Appropriate structures and practices are in place for the treatment of storm water runoff and/or prevention of storm water from directly entering a public water; and,
    - b. Wherein surface water management standards and erosion control measures identified in Chapters 15 and 16 of this code are achieved/observed/maintained.
  3. Within the shoreland overlay district structures or combinations of structures on lots not in conformance with sub-items a. and b. above shall not occupy more than twenty-five (25) percent of the lot area. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the provisions contained in Chapter 19 (Signs) and Chapter 22, Subd. 11 (Lighting).
- E. Additional requirements, including but not limited to, shoreland, surface water, home occupation, parking, sign, and general district provisions as set forth within the appropriate Chapters of this Ordinance, as may be amended.

Revised 08/05/2013

## **CHAPTER 10."B-2" CENTRAL BUSINESS DISTRICT**

### **SUBD. 1. PURPOSE.**

The "B-2" Central Business District has been established to encourage the continuation of a viable downtown by allowing prime retail sales and service uses, office, entertainment facilities and public and semi-public uses. The purpose of this district is to provide specifically for regulation of the high intensity commercial uses located within the downtown core of the City.

### **SUBD. 2. PERMITTED USES.**

- B. The following are permitted uses in the non-overlay portion of the "B-2" Central Business District:
  - 1. Office, Retail, and Commercial land uses that are less than 4,000 square feet in building area.
  - 2. Uses determined by Planning Commission to be similar to those listed in this Subdivision

### **SUBD. 3. ACCESSORY USES.**

The following are permitted accessory uses in the "B-2" Central Business District:

A. Commercial or business buildings and structures for a use accessory to the principal use but such use shall not exceed fifty percent (50%) of the gross first floor space of the principal use.

### **SUBD. 4. CONDITIONAL USES.**

- A. The following are conditional uses in the non-shoreland portion of the "B-2" Central Business District (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 23, Subd. 10 of this Ordinance).
  - 1. Office, Retail, and Commercial land uses that are more than 4,000 square feet in building area.
  - 2. Commercial Planned Unit Developments as regulated by Chapter 17 of this Ordinance.
  - 3. Adult use subject to the following:
    - a. It shall not be located within one thousand (1,000) feet (measured in a straight line between buildings) of an existing adult use.
    - b. It shall not be within five hundred (500) feet (measured in a straight line between buildings) of any PUD district or property which is or is projected to be residential.
    - c. It shall not be located within one thousand (1,000) feet (measured in a straight line between buildings) of an existing school or place of worship.
    - d. It shall not sell or dispense non-intoxicating liquors, nor shall it be located in a building which contains a business that sells or dispenses non-intoxicating or intoxicating liquors.
    - e. It shall not involve or permit any person to engage in any activity or conduct in or about the establishment which is prohibited by local, state or federal law. Nothing in this Chapter shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or City Code provisions prohibiting the

exhibition, sale or distribution of obscene material generally or the exhibition, sale or distribution of specified materials to minors.

- f. It shall not be conducted in a manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing or related to “specified sexual activities” or “specified anatomical areas” by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.
  - g. It shall prominently display at the entrance and located within two feet of the door-opening device of the establishment a sign which states “This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter.” Said sign shall have letters between three-eighths (3/8) inch and two (2) inches in height.
  - h. No person under the age of eighteen (18) shall be permitted on the premises, and no person under the age of eighteen (18) shall be permitted access to material displayed or offered for sale or rent by the establishment.
4. Rental Storage under the following conditions:
- a. Must be accessory to another primary use.
  - b. Cannot occupy more than 50% of the first floor gross square footage.
  - c. Prohibits storage of industrial or chemical materials that may decompose, explode, or are listed with special are prohibited.
  - d. Must be located indoors and away from public sight.

**SUBD. 6. PERFORMANCE STANDARDS.**

- A. No minimum lot size required for permitted or accessory uses.
- B. Minimum lot width: none.
- C. Setbacks:
  - 1. Front yard: None
  - 2. Side yard: None, twenty (20) feet if abutting a residential district.
  - 3. Rear yard: None, twenty (20) feet if abutting a residential district.
- D. Maximum Building Height: Forty-five (45) feet or three (3) stories.
- E. Maximum Site Coverage:
  - 1. Lot Coverage areas: No structure or combination of structures shall occupy more than eighty-five (85) percent of the lot area.
  - 2. Shoreland overlay areas within the Hwy. 60 corridor (one block north and one block south of Hwy. 60): No structure or combination of structures shall occupy more than eighty-five (85) percent of the lot area, providing:
    - a. Appropriate structures and practices are in place for the treatment of storm water runoff and/or prevention of storm water from directly entering a public water; and,
    - b. Wherein surface water management standards and erosion control measures identified in Chapters 15 and 16 of this code are achieved/observed/maintained.

3. Within the shoreland overlay district structures or combinations of structures on lots not in conformance with sub-items a. and b. above shall not occupy more than twenty-five (25) percent of the lot area.

**F.** Uses without water oriented needs shall be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, shall either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer leaf-on conditions.

## **CHAPTER 26. OVERLAY DISTRICT DOWNTOWN OVERLAY DISTRICT**

### **SUBD. 1. DEFINITION**

The Downtown overlay district encompasses the area located within 75 feet of the centerline of Main Street and a 75 foot radius of the segment of Main Street running from the Walnut Avenue intersection to the Cherry Avenue Intersection.



## **SUBD. 2. ADMINISTRATION**

- A. Guidelines are intended to convey desirable elements. They are recommendations and not requirements, unless public financing is involved in the construction or rehabilitation of the building. Standards identified are requirements and enforced through the Zoning Administrator.
- B. The standards outlined will apply to the following:
  - I. All newly constructed buildings;
  - II. All exterior building improvements and signage changes that require a building and/or sign permit (only standards applicable to the changed element apply);
  - III. Renovation altering over 20% of the building or 10% of any side of the building adjacent to the public right of way;
  - IV. All new or reconstructed parking areas with 5 or more spaces;
- C. All portions of properties in the Downtown overlay district are required to conform to this Chapter and requirements laid out in all Chapters in the City Ordinance as applicable.

## **SUBD. 3. PURPOSE**

The purpose of the Madison Lake Downtown overlay district is to: preserve the small-town, unique character of Madison Lake; complement and enhance the existing historic architecture; promote the Community's Vision and Identity; to ensure long term viability and complementary design.

## **SUBD. 4. SITE PLAN REVIEW AND HEARING PROCEDURE.**

- A. Site Plan Review is required on all properties meeting the standards laid out in Subd. 2B of this ordinance or as recommended by City Staff.
- B. Filing of request. Request for site plan approval, as provided within this chapter, shall be filed with the City Administrator or Building Official on an official application form. Such application shall be accompanied by a fee as established by city council resolution. Such application shall also be accompanied by detailed written and graphic materials, the number and size as prescribed by the City Administrator, fully explaining the proposed change, development or use. The request shall be considered as being officially submitted and complete when the applicant has complied with all specified information requirements. In cases where an application is judged to be incomplete, the City Administrator or Building Official shall notify the applicant, in writing, within 15 days of the date of submission.
- C. *Proof of ownership or authorization.* The applicant shall supply proof of title and the legal description of the property for which the site plan approval is requested, consisting of an abstract of title and, as applicable, supply documented authorization from the owners of the property in question to proceed with the requested site plan application.
- D. *Technical reports.* The City Administrator shall instruct the appropriate staff persons or staff consultants to prepare technical reports where appropriate, and provide general assistance in conducting an evaluation of the request.
- E. *Additional information.* City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert assistance with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to evaluate the request and to establish

performance conditions in relation to all pertinent sections of this chapter. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

- F. *Meeting with the City Administrator and staff.* The applicant or a representative thereof shall meet with the City Administrator and city staff in order to present information and answer questions concerning the proposed requests.
- G. Site Plan Review is done by the Planning Commission and must receive a majority vote to be approved. The commission shall conduct a public hearing regarding the site plan. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten days before the date of the hearing to each owner of property situated wholly or partly within 350 feet of the tract to which the petition relates, insofar as the names and addresses of such owners can reasonably be determined by the clerk. After reviewing the report of the City Administrator and hearing the oral or written views of all interested persons, the commission shall make its decision at the same meeting or at a specified future date and send its recommendation to the council. No new notice need be given for hearings that are continued by the commission to a specified future date. The Planning Commission will review the development based on this ordinance, the criteria for approval laid out in sub. 5, staff reports, public comment and any other relevant information. Approval of the proposed development shall be granted by simple majority vote. Approval is effective 48 hours after the approval, if no appeal is made.
- H. Decisions of the Planning Commission can be appealed to the City Council within 48 hours of the decision. Either party can appeal a decision for any reason. The Zoning Administrator will summarize the findings of the Planning Commission's decision for the appeal to the Council.
- I. All appeals will go to the next possible Council meeting and are approved based on simple majority vote.

#### **SUBD. 5. CRITERIA FOR APPROVAL**

- A. The following criteria shall be considered and evaluated by the Planning Commission when reviewing a site plan:
  - I. Compatibility with other properties within the district.
  - II. Historical preservation and enhancement.
  - III. Long-term district viability and complementary design of the district.
  - IV. Preserve and enhance the small-town unique character of Madison Lake.
  - V. Build upon the district vision and the purpose of this ordinance (Subd. 3).
  - VI. Environmentally friendly features and materials are encouraged.

#### **SUBD. 6. GENERAL PROPERTY MAINTENANCE AND UPKEEP**

- A. Objective: To create a pedestrian friendly and welcoming communityoriented environment, for people of all ages to enjoy.
- B. Guideline: Property owners are encouraged to reinvest and keep their property welcoming and to a higher standard because of the public nature of the area.

- C. Standard: Properties shall be kept in conformance with all standards of the City Code as applicable to other properties. Boarded windows are only allowed in the downtown overlay district as a temporary measure and must be repaired or replaced within 10 days. Property owners are allowed to do minor property maintenance.

#### **SUBD. 7. UTILITY AREAS & MECHANICAL EQUIPMENT SCREENING**

- A. Objective: Utility areas and mechanical equipment should be designed so that they do not detract from the aesthetic appeal of the district.
- B. Guideline: The screening of exterior trash and storage areas, service yards, loading areas, transformers and air conditioning units should use the same materials, color and/or style as the primary building in order to be architecturally compatible with the building it is adjacent to. If the utility area is separate from the building it serves, it should be consistent with the City of Madison Lake streetscape theme. All roof equipment must be screened from public view if visible from the street. All exterior trash and storage areas, service yards, loading areas and air conditioning units must be screened from view. Camouflaging air conditioning units is an acceptable screening method.

#### **SUBD. 8. FENESTRATIONS (WINDOWS & DOORS)**

- A. Objective: Utility areas and mechanical equipment should be designed so that they do not detract from the aesthetic appeal of the district.
- B. Guideline: The screening of exterior trash and storage areas, service yards, loading areas, transformers and air conditioning units should use the same materials, color and/or style as the primary building in order to be architecturally compatible with the building it is adjacent to. If the utility area is separate from the building it serves, it should be consistent with the City of Madison Lake streetscape theme. All roof equipment must be screened from public view if visible from the street. All exterior trash and storage areas, service yards, loading areas and air conditioning units must be screened from view. Camouflaging air conditioning units is an acceptable screening method.

#### **SUBD. 9. MATERIALS & DETAILING**

- A. Objective: Rehabilitation or redevelopment projects should be constructed to be long lasting and use materials and detailing that maintains the distinct character and harmony of the downtown.
- B. Guideline: Traditional materials including brick, stone (including cast stone) and stucco should be used as the primary building materials. Tile, stone, glass block, copper flashing, metal and wood should be considered for accent materials. Preferred is a high level of design and architectural detail. At rear entrances the primary materials should be used in a way that highlights the entrance. Infill construction should reflect some of the detailing of surrounding buildings in window shape, cornice lines and brick work. Building renovation and alterations should restore architectural details of cornices, brickwork, transom, display windows and bulkheads.

#### **SUBD. 10. COLOR**

- A. Objective: To encourage a varied but complimentary use of color.

- B. Guideline: The color of buildings should complement the adjacent buildings' colors. The color of brick or other natural building materials should dictate the color family choice. Bricks in the red and brown tones are encouraged. Buildings should use primarily earth tones with light and bright colors use only as minor accents. The accent colors should complement the primary color. Accents in Madison Lake Blue are encouraged

#### **SUBD. 11. STREETScape**

- A. Objective: The streetscape should be uniform so that it acts to provide continuity throughout the downtown.
- B. Guideline: When making improvements to private property, including the addition of benches, trash receptacles, fencing, bike racks, or trash enclosures, owners should match the approved Madison Lake styles for these elements.
- C. Standard: When a redevelopment project disturbs existing streetscape elements those items must be replaced with approved Madison Lake streetscape elements.

#### **SUBD. 12. LIGHTING**

- A. Objective: Lighting in the downtown should serve to illuminate façades, entrances and signage and provide an adequate level of personal safety while enhancing the aesthetic appeal of the buildings.
- B. Guideline: Avoid colored lighting schemes in order to achieve continuity in building lighting within the downtown.
- C. Standard: Building and signage lighting must be indirect, with the light source(s) hidden from direct pedestrian and motorist view. For exterior sign illumination, shaded gooseneck lamps are encouraged.

#### **SUBD. 13. AWNINGS**

- A. Objective: To enhance the historic feel of Main Street while providing sun protection for display windows, shelter for pedestrians, and a sign panel for businesses.
- B. Guideline: Retractable or operable awnings are encouraged. Long expanses of awning should be broken into segments that reflect the door or window openings beneath them.
- C. Standard: Awnings must be constructed of durable, protective, and water repellent material, however, plastic or fiberglass awnings are not allowed. Awnings must project a minimum of 36" from the building. Awnings must be self-supporting and posts cannot be placed in the public right of way.

#### **SUBD. 14. PARKING**

- A. Objective: Parking in the downtown should adequately serve the users without detracting from the compact design that makes it a successful commercial center.
- B. Guideline: Parking lots should be kept small and close to the businesses served. Larger parking lots should have visual breaks of four-season landscaping treatments. Off-street

parking is encouraged to be located in the rear of buildings on Main Street.

- C. Standard: Parking lots must be paved and well maintained. Parking must conform to the appropriate requirements of all chapters of the ordinance.

#### **SUBD. 15. LANDSCAPING**

- A. Objective: Landscaping treatments should be used to enhance the pedestrian experience, complement architectural features and/or screen utility areas.
- B. Guideline: The use of flower boxes, planters and hanging flower baskets is encouraged.
- C. Standard: all usable open space as defined by shall be planted and maintained in grass, sodding, shrubs or other suitable vegetation or treatment as specified, unless devoted to drives, sidewalks or patios. All exterior landscaping must be completed within one (6) months after the date of issuance of a building permit requiring landscaping.

#### **SUBD. 16. REAR ENTRANCES:**

- A. Objective: To provide a rear entrance to the buildings on Main Street that is welcoming.
- B. Guideline: The rear entrance should be clean and well maintained. A small sign, awnings, display windows and planter boxes can improve the appearance.

#### **SUBD. 17. SIGNS**

- A. Objective: Signs should be architecturally compatible with the style, composition, materials, colors and details of the building and with other signs on nearby buildings, while providing for adequate identification of the business. Signs are strongly encouraged as part of a business use.
- B. Guideline: Symbolic and historic three-dimensional signs such as barber shop poles and appropriately-sized projecting signs are encouraged. Signage should have the capability of being lit in the evening, although the source of light must not be visible to motorists or pedestrians. Signs constructed of natural materials such as metal or wood are preferred. Permanently painted window signage is encouraged if compatible with the architecture of the building. Painted window signs should not consume more than one-third of the glazed area of the window. Neon signs are permitted on the exterior of the building and in display windows, if not covering more than one-third of the window surface area. The following types of signage are encouraged:
  - I. Grand Projecting Signs are tall, large, vertically oriented signs which project from the building perpendicular to the facade and which are structurally integrated into the building.
  - II. Marquee Signs are large, canopy-like structures mounted over the entrance to a theater.
  - III. Grand Wall Signs are large signs located on, and parallel to, large unwindowed building wall areas.
  - IV. Wall Signs are signs which are located on, and parallel to, a building wall.
  - V. Blade Signs are signs which are oriented perpendicularly to the building façade and which are suspended under a bracket, armature, or other mounting device.
  - VI. Projecting Signs are cantilevered signs which are structurally affixed to the building

- and oriented perpendicularly to the building facade.
- VII. Awning Face Signs are signs applied to the primary face of an awning, including sloped awning faces and vertical “box” awning faces.
  - VIII. Awning Valance Signs are signs applied to the awning valance.
  - IX. Awning Side Signs are signs applied to the side panel of an awning.
  - X. Above Awning Signs are signs which are mounted partially or entirely above the upper edge of a valance of an awning and oriented parallel to the building wall surface.
  - XI. Under Awning Signs are signs which are suspended under an awning, perpendicular to the building facade.
  - XII. Canopy Fascia Signs are signs which are mounted to the front or side fascia of a canopy and contained completely within that fascia.
  - XIII. Above Canopy Signs are signs which are mounted partially or entirely above the front fascia of a canopy and oriented parallel to the building wall surface.
  - XIV. Under Canopy Signs are signs which are suspended under a canopy, perpendicular to the building facade.
  - XV. Recessed Entry Signs are signs which are oriented parallel to the building façade and which are suspended over a recessed entry.
  - XVI. Window Signs are signs which are applied directly to a window or mounted or suspended directly behind a window.
  - XVII. Building Identification Canopy Fascia Signs are signs which are mounted to the front or side fascia of a canopy, contained completely within that fascia and oriented parallel to the building wall surface and which announce the name of a building.
  - XVIII. Building Identification Wall Signs are signs located on, and parallel to a building wall which announce the name of a building.
  - XIX. Building Identification Window Signs are signs applied directly to a window or mounted or suspended directly behind a window.
  - XX. Temporary Window Signs are signs which are applied directly to a window or mounted or suspended directly behind a window and are designed, constructed and intended for display on private property for a period of not more than ninety (90) consecutive days per year. Examples include “grand opening,” “special sale,” and seasonal signage.
  - XXI. Temporary Wall Signs which are located on, and parallel to, a building wall and are designed, constructed, and intended for display on private property for a period of not more than ninety (90) consecutive days per year. Examples include “grand opening,” “special sale,” and seasonal temporary banner signage.
  - XXII. Freestanding Signage are freestanding signs which are located on the edge of property out of the right of way.
- C. Standard: Temporary window signage is limited to one-third of the window surface area. The combination of neon signage, permanently painted signage and temporary signage should not exceed a total of two-thirds of the window surface area. Projecting signs must be no greater than 12 square feet and have a maximum width of three feet. No less than 10 feet of clearance shall be provided between the sidewalk elevation and the lowest point of the projecting sign. Maximum distance between sign and building face is one foot. Signs cannot

block or obliterate design details, windows or cornices of the building upon which they are placed. Signage must conform to appropriate requirements of all chapters of the ordinance.

**SUBD. 18. ROOFLINES.**

A. Guideline: ornate rooflines to complement current rooflines on existing buildings are encouraged.

**SUBD. 19. EXCEPTIONS.**

A. Property owners are allowed to do property maintenance and upkeep that does not alter the use, exterior design, color or materials without site plan review, this shall be determined at the discretion of the Zoning Administrator.

**Adopted June 2, 2014**

**CHAPTER XX        "B-3" RECREATIONAL BUSINESS DISTRICT.**

**SUBD. 1.        PURPOSE.**

The purpose of the "B-3" Recreational Business District is to provide for and regulate businesses which are recreational in nature and interspersed in areas predominately residential nature. The recreational business district capitalizes on the unique nature of the community and is recognized as a benefit to the community.

**SUBD. 2.        PERMITTED USES.**

- A. The following are permitted uses in the "B-3" Recreational Business District:
  - 1. Surface Water Oriented commercial.
  - 2. Public, semi-public uses.
  - 3. Uses determined by Planning Commission to be similar to those listed in this Subdivision.
  - 4. Private residence to be occupied by owner of the recreational facility.
  - 5. Rental of seasonal and non-seasonal facilities

**SUBD. 3.        ACCESSORY USES.**

The following are permitted accessory uses in the "B-3" Recreational Business District:

- A. Commercial or business buildings and structures for a use accessory to the principal use but such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.
- B. Piers and Docks.
- C. Each lot may have one water-oriented accessory structure not meeting the normal structure setback as defined in Subdivision 5 of this Chapter and Chapter 22, Subd. 3(A) provided the water-oriented structure or facility:
  - 1. Shall not exceed ten (10) feet in height, exclusive of safety rails, and shall not occupy an area greater than twenty-five (25) square feet. Detached decks shall not exceed eight (8) feet above grade at any point.

2. The structure or facility shall be setback from the ordinary high water level a minimum of ten (10) feet.
  3. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shore lands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
  4. The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area.
  5. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.
  6. As an alternative for water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
- D. Off-street parking facilities (not including semi-trucks) and off-street loading facilities as regulated by Chapter 20 of this Ordinance.
- E. Apartments/Multi-family: 1<sup>st</sup> floor apartments related to Business structure (located in rear of business). 2<sup>nd</sup> story apartment related to business structure.

**SUBD. 4.      CONDITIONAL USES.**

- A. The following are conditional uses in the "B-3" Recreational Business District (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 23, Subd. 10 of this Ordinance):
1. Commercial Planned Unit Developments as regulated by Chapter 17 of this Ordinance.
  2. Recreational Camping Areas, subject to the following:
    - a. Definitions:
      - (1) Recreational Camping Area means any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational camping vehicles free of charge or for compensation. "Recreational camping area" excludes:
        - (aa) Children's camps;
        - (ff) State wildlife management areas or state-owned public access areas which are restricted in use to picnicking and boat landing; and
      - (2) Recreational Camping Vehicle includes the following:
        - (aa) Any vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses;
        - (bb) Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;
        - (cc) Any portable, temporary dwelling to be used for travel, recreation,

and vacation, constructed as an integral part of a self-propelled vehicle; and

(dd) Any folding structure, mounted on wheels and designed for travel, recreation, and vacation use.

- b. No person, firm or corporation shall establish, maintain, conduct or operate a recreational camping area without first obtaining a license therefor from the state department of health pursuant to Minn. Stat. 327.14 – 327.16.
- c. A responsible attendant or caretaker shall be in charge of every recreational camping area at all times, who shall maintain the park or area, and its facilities and equipment in a clean, orderly and sanitary condition.
- d. Pursuant to Rules established in Minn. Stat. 327.20, wastewater from recreational camping vehicles shall not be deposited upon the surface of the ground.
- e. An adequate, safe and approved water supply shall be provided.
- f. Per Minn. Stat. 327.27, the speed limit within the recreational camping ground shall not exceed ten (10) miles per hour, and the speed limit shall be posted throughout the park by the park owner.
- g. No person shall attempt to develop or operate a recreational camping area within the City without first obtaining a conditional use permit. The permit application shall include the name and address of the Developer and requested information, including but not limited to the following:
  - (1) Location and site of the recreational camping ground.
  - (2) Location, size and character of lots.
  - (3) Detailed description of maintenance procedures and grounds supervision.
  - (4) Severe weather shelter specifications and/or plans, as required by MN. Stat. 327.

#### **SUBD. 5. PERFORMANCE STANDARDS.**

- A. Minimum Lot Size: Ten thousand (10,000) square feet (lot size/width requirements for lots existing on the effective date of this ordinance may adjusted to an average of adjoining lots without a variance when adjoining lots are of standard width/size but in conformance with this ordinance).
- B. Minimum lot width: One hundred (100) feet (lot size/width requirements for lots existing on the effective date of this ordinance may adjusted to an average of adjoining lots without a variance when adjoining lots are of standard width/size but in conformance with this ordinance).
- C. Setbacks (measured from lot lines). When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks including but not limited to, front, side and rear setbacks and setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:
  - 1. Front yard: Thirty (30) feet
  - 2. Side yard: Twenty (20) feet, unless abutting a residential district, then thirty-five (35) feet.
  - 3. Rear yard: Twenty (20) feet, unless abutting a residential district, then thirty-

five (35) feet.

4. Structures and independent sewage treatment facilities shall be setback from the Ordinary High Water Mark as follows:

<b>Lake</b>	<b>Structures on unsewered lots</b>	<b>Structures on sewer lots</b>	<b>Sewage treatment system</b>
Madison/Ballantyne	100 feet	75 feet	75 feet
Duck Lake	75 feet	50 feet	50 feet

5. One water-oriented accessory structure designed in accordance with this Ordinance may be setback a minimum distance of ten (10) feet from the ordinary high water level.
6. All structures shall be setback a minimum of thirty (30) feet from the top of the bluff and in accordance with standards contained in Chapter 22 (General Provisions), Chapter 15 (Surface Water Management) and Chapter 16 (Land Preservation).

*Note: in the case of a corner lot, that yard with the shortest dimension on a public street shall be considered the front.*

- D. Maximum Building Height: Forty-five (45) feet or three (3) stories.
- E. Maximum Site Coverage: No structure or combination of structures shall occupy more than sixty (60) percent of the lot area, providing:
  - 1. Non-shoreland overlay areas: No structure or combination of structures shall occupy more than sixty (60) percent of the lot area.
  - 2. Shoreland overlay areas within the Hwy. 60 Corridor (one block north of Hwy. 60): No structure or combination of structures shall occupy more than sixty (60) percent of the lot area, providing:
    - a. Appropriate structures and practices are in place for the treatment of storm water runoff and/or prevention of storm water from directly entering a public water; and,
    - b. Wherein surface water management standards and erosion control measures identified in Chapters 15 and 16 of this code are achieved/observed/maintained.
    - c. Within the shoreland overlay district structures or combinations of structures on lots not in conformance with sub-items a. and b. above shall not occupy more than twenty-five (25) percent of the lot area.
- F. Uses without water oriented needs shall be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, shall either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer leaf-on conditions.
- G. Surface water-oriented commercial uses and industrial, public or semi-public 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. Those uses with water-oriented needs must meet the following standards:
  - 1. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, 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 facilitates and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
  - 3. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the provisions contained in Chapter 19 (Signs) and Chapter 22, Subd. 11 (Lighting).
- H. Additional requirements, including but not limited to, shoreland, surface water, home occupation, parking, sign, and general district provisions as set forth within the appropriate Chapters of this Ordinance, as may be amended.

## **CHAPTER XX "I-1" INDUSTRIAL DISTRICT.**

### **SUBD. 1. PURPOSE.**

The purpose of the Industrial District is to establish, preserve and regulate areas in the City for manufacturing, processing, assembly and fabrication, storage and warehousing and other industrial and related uses. These uses shall maintain a high level of performance and appearance, including open spaces and landscaping and encouraging development that is compatible with abutting districts.

### **SUBD. 2. PERMITTED USES.**

- A. The following uses are permitted in the non-shoreland portion of the "I-1" Industrial District:
1. Manufacturing or assembly of a wide variety of products that produces no exterior noise, glare, fumes, obnoxious products, by-products or wastes or creates other objectionable impact on the environment, including the generation of large volumes of traffic. Examples of such uses include: fabrication or assembly of small products such as opticals, electronic, pharmaceutical, medical supplies and equipment and printing and publishing.
  2. Warehousing
  3. Offices related to industrial uses.
  4. Machine shops, lumber yards, etc.
  5. Major automotive repair.
  6. Highway maintenance shops and yards.
  7. Grain elevators.
  8. Uses determined by Planning Commission to be similar in nature to those listed in this Subdivision.
- B. There are no permitted uses within the shoreland overlay portion of the "I-1" district, see Chapter 13, Subd. 4(B).

### **SUBD. 3. ACCESSORY USES.**

The following are permitted accessory uses in the "I-1" Industrial District:

- A. Off-street parking as defined in Chapter 20 of this Ordinance.
- B. Any use customarily incidental to the uses permitted in Subdivisions 2 and 4 of this Chapter, provided the buildings do not exceed thirty percent (30%) of the floor space of the principal building.

### **SUBD. 4. CONDITIONAL USES.**

- A. The following are conditional uses in the non-shoreland overlay portion of the "I-1" Industrial District. (Requires a conditional use permit based upon procedures set forth in and regulated by Chapter 23, Subd. 10 of this Ordinance):
1. Government buildings and public facilities.
  2. Commercial/Industrial Planned Unit Developments.
  3. Open or outdoor service, sale and rental as a principal or accessory use, provided that:
    - a. Outside services, sales and equipment rental connect with the principal use is limited to fifty percent (50%) of the gross floor area of the principal use.
    - b. Outside sales areas are fenced and screened from view of neighboring residential uses or an abutting residential district.
    - c. Sales area is grassed or surfaced to control dust.
  4. Accessory, enclosed retail, rental service, or processing, manufacturing activity other than that allowed as a permitted use or conditional use within this Chapter, provided that:
    - a. Such use is allowed as a permitted use in a business district.
    - b. Such use does not constitute more than fifty percent (50%) of the gross floor area of the principal use.
    - c. Adequate off-street parking and off-street loading is provided in compliance with Chapter 20 of this Ordinance.
    - d. All signage is in compliance with Chapter 19 of this Ordinance.
  5. Storage, utilization or manufacturing of materials or products which could decompose by demolition.
  6. Crude oil, gasoline or other liquid storage tanks, bulk fuel sales and storage.
  7. Fertilizer and chemical sales and storage
  8. Above ground level items identified in Chapter 13, Subd. 5 subsections 4 & 5 above with a capacity of ten thousand (10,000) or more and in existence upon the date of adoption of this Ordinance shall secure a conditional use permit within twenty four (24) months of Ordinance adoption. The City Council may require the development of diking around said tanks which shall be suitable sealed and shall hold a leakage capacity equal to one hundred fifteen (115) percent of said tank capacity.
  9. Any existing storage tank that constitutes a public safety hazard as documented by the City Council shall discontinue operations within five (5) years following the effective date of this Ordinance.
  10. Any manufacturing, processing, cleaning, storage, testing of materials or goods similar to those listed in Subd. 5 which conform to the performance standards of this Chapter.

**SUBD. 6. PERFORMANCE STANDARDS.**

- A. Minimum lot size: One (1) acre (43,560 square feet)

- B. Minimum lot width: One hundred (100) feet
- C. Setbacks (measured from lot lines).
  - 1. Front yard: Forty (40) feet
  - 2. Side yard: Ten (10) feet
  - 3. Rear yard: Forty (40) feet
  - 4. One water-oriented accessory structure designed in accordance with this Ordinance may be setback a minimum distance of ten (10) feet from the ordinary high water level.
  - 5. All structures shall be setback a minimum of thirty (30) feet from the top of the bluff and in accordance with standards contained in Chapter 22 (General Provisions), Chapter 16 (Land Preservation) and Chapter 15 (Surface Water Management).

*Note: in the case of a corner lot, that yard with the shortest dimension on a public street shall be considered the front.*

- D. Maximum Building Height: Forty-five (45) feet or three (3) stories.
- E. Maximum Site Coverage: No structure or combination of structures shall exceed sixty (60) percent of the total lot area, providing:
  - 1. Non-shoreland overlay area: No structure or combination of structures shall exceed sixty (60) percent of the total lot area.
  - 2. Shoreland overlay area within the Hwy. 60 corridor (one block north and one block south of Hwy. 60): No structure or combination of structures shall exceed sixty (60) percent of the total lot area, providing:
    - a. Appropriate structures and practices are in place for the treatment of storm water runoff and/or prevention of storm water from directly entering a public water; and,
    - b. Wherein surface water management standards and erosion control measures identified in Chapters 15 and 16 of this code are achieved/observed/maintained.
  - 3. Within the shoreland overlay district structures or combinations of structures on lots not in conformance with sub-items a. and b. above shall not occupy more than twenty-five (25) percent of the lot area.

**CHAPTER 16. LAND PRESERVATION AND WOODLAND PROTECTIONS.**

**SUBD. 1. PURPOSE.**

The purpose of this Chapter is to insure that the natural environment is protected and to minimize any adverse effects development might have on the environment.

**SUBD. 2. SOIL EROSION AND SEDIMENTATION CONTROL.**

A. General Standards.

- 1. All development shall conform to the natural limitations presented by the

topography and soil in order to create the best potential for preventing soil erosion.

2. Structures and accessory facilities, except stairways and landings, as identified in Chapter 22 (General Provisions), Subd. 17 (Stairways, Lifts and Landings) shall not be placed within a bluff impact zone.
  3. Slopes over 18 percent in grade shall not be developed.
  4. Development on slopes with a grade between 12 and 18 percent shall be carefully reviewed to insure that adequate measures have been taken to prevent erosion, sedimentation, and structural damage.
  5. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
  6. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time and no exposure shall exceed 65 days unless extended by the Council.
  7. Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the disturbed area or new topsoil shall be brought in. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
  8. Public and private properties adjacent to the development site shall be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the City within five (5) days of receiving notification of such. If the violation is not remedied within the time period specified, the City may correct the problem and assess the costs incurred to the property owner.
- B. The following control measures shall be taken to control erosion during construction on exposed slopes:
1. No exposed slopes should be steeper in grade than five (5) feet horizontal to one (1) foot vertical.
  2. Exposed slopes steeper in grade than ten (10) feet horizontal to one (1) foot vertical should be **contoured** to minimize direct runoff water.
  3. At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channeled water should be diverted to a sedimentation basin (debris basin, silt basin, or silt trap) before being allowed to enter the natural drainage system.
  4. Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope,

appropriate measures shall be taken to prevent erosion. Such measures should consist of either an asphalt paved flow apron and drop chute laid down the slope of a flexible slope drain. At the base of the slope drain or flow apron a gravel energy dissipater should be installed to prevent erosion at the discharge end.

5. Exposed slopes shall be protected to whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seeding of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with stakes and netting, or should be worked into the soil to provide additional slope stability.
6. Control measures, other than those specifically stated above, may be used in place of the above control measures if it can be demonstrated that they will as effectively protect exposed slopes.

#### **SUBD. 4. WETLAND PROTECTION.**

The Federal Clean Water Act and the Minnesota Wetland Conservation Act are hereby incorporated in their entirety by reference.

#### **CHAPTER 17. PLANNED UNIT DEVELOPMENTS.**

##### **SUBD. 1. PURPOSE.**

A. The purpose of this Chapter is to provide for planned unit projects within the City of Madison Lake for larger tracts of land under single or unified ownership, developed with community or public sewer.

B. Planned Unit Development projects may allow:

1. A mixture land uses, housing types and densities within a comprehensive site design concept.
2. Departure from strict application of required setbacks, yard areas, lot sizes, minimum dwelling unit sizes, minimum requirements and other performance standards associated with traditional zoning, thereby maximizing the development potential of land while remaining sensitive to its unique and valuable natural characteristics.
3. Consolidation of areas for recreation and reductions in street lengths and other utility related expenses.
4. The clustering of units/project density, basing density on the number of units per acre rather than specific lot dimensions.
5. A combination of uses which are allowed in separate zoning districts such as:
  - a. Mixed residential uses allowing both densities and unit types to be varied within the project.

- b. Mixed commercial, industrial, residential or institutional land use with the integration of compatible land uses within the project.
- C. Planned unit development projects shall be developed in accordance with an overall design and an integrated development plan and otherwise in accordance with the City Subdivision Regulations. Such projects shall be consistent with the intent and purpose of this Ordinance and shall not adversely affect the property adjacent to the land included in the project.

## **SUBD. 2. REGULATIONS.**

- A. Planned unit developments are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land provided they are allowable per underlying district(s) standards.
- B. Uses within the PUD may include only those uses generally considered associated with the general land use category shown for the area on the City's Official Zoning Map.
- C. Specific allowed uses and performance standards for each PUD shall be delineated in a development plan as approved by the City Council. The PUD development plan shall identify all the proposed land uses and those uses shall become permitted uses within the PUD with the acceptance of the development plan. Any change in the uses presented in the development plan shall require the approval of an amendment to the PUD by the City Council in the manner prescribed by this Chapter.
- D. The PUD adheres to additional requirements, including but not limited to tree, water and woodland preservation, surface water, home occupation, parking, sign, and general district provisions as set forth within the appropriate Chapters of this Ordinance, as may be amended.
- E. All residential planned unit developments shall contain at least five (5) dwelling units or sites.
- F. The density of development within the PUD shall be the same as would be allowed in the underlying zoning district under typical development standards. If the property involved in the PUD includes land in more than one zoning district, the number of dwelling units or the square footage of commercial, industrial or institutional uses in the PUD shall be proportional to the amount that would be allowed separately on the parcels located in each of the underlying zoning districts.
- G. Projects shall be so designed as to provide adequate sewer and water facilities and public access; lots should be of adequate size to provide emergency and/or service vehicle public access. Buildings shall be spaced to allow emergency vehicles freedom to maneuver between buildings.
- H. An application for PUD and the development plan must be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved final plan shall be binding on all owners.

- I. The City shall consider the proposed PUD from the point of view of all standards and purposes of the City's Comprehensive Plan and this Ordinance to achieve a maximum coordination between the proposed development and the surrounding use, the conservation of woodlands and wetlands, the protection of the health, safety and welfare of the community and residents/tenants of the PUD. To those ends, the City shall consider the location of the buildings, compatibility, parking areas and other features with respect to the topography of the area and existing natural features such as streams and large trees; the efficiency, adequacy and safety of the proposed layout of internal streets and driveways; the adequacy and location of green areas; the adequacy, location and screening of parking areas; and such other matters as the City may find to have a material bearing upon the stated standards and objectives of the Comprehensive Plan and the zoning ordinance.

**SUBD. 4. COORDINATION WITH SUBDIVISION REGULATIONS.**

Subdivision review under the Subdivision regulations shall be carried out simultaneously with the review of the PUD. The plans required under this Chapter shall be submitted in a form which will satisfy the requirements of the existing Subdivision regulations.

**SUBD. 5. DEVELOPMENT AGREEMENT, GUARANTEE OF PERFORMANCE, PHASING.**

- A. Prior to final plan approval by the City Council, the Subdivider(s)/Developer(s) shall execute and submit to the Council an agreement for development of the PUD which contains adequate assurances that he/she will provide the following at his/her expense, binding on his/her heirs, personal representatives, and assigns, including, but not limited to:
  1. A summary of the Development Plan for the PUD.
  2. A listing or schedule of when and what improvements (subject to approval by the City Engineer, as recommended by the Planning Commission and subject to the approval of the City Council) shall be required, phasing (if any), construction timeline, completion date, etc.
  3. A certification by the City Engineer or City Clerk that all improvements, agreements, and documents meet the minimum requirements of all applicable ordinances.
  4. A provision containing all conditions, if any, imposed by the City Council upon approval of the final plan.
  5. A provision outlining the procedure or alternative to be utilized in the financing of required improvements.
  6. A provision requiring a performance bond or letter of credit to guarantee performance by the developer. The amount of this bond or letter of credit, and the specific elements of the development program that it is intended to guarantee shall be stipulated in a Development Agreement.

7. If the development shall occur in phases, the Development Agreement shall outline the various phases of development.

B. The City may review all building permits and certificates of occupancy issued for the PUD and examine the construction which has been actualized to determine Developer adherence to the approved Development Agreement prior to authorizing the next phase of development.

**SUBD. 6. ADDITIONAL STANDARDS APPLICABLE TO THE SHORELAND OVERLAY DISTRICT.**

In the shoreland overlay district each proposed new or expansion to an existing planned unit development must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation:

A. The project shall be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward.

<b><i>Shoreland(Lake)/Tier</i></b>	<b><i>Unsewered (ft)</i></b>	<b><i>Sewered (ft.)</i></b>
General Development Shoreland (Duck): first tier	20 0	20 0
General Development Shoreland (Duck): All other tiers	26 7	20 0
Recreational Development (Madison, Ballantyne): All tiers	26 7	26 7

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

C. Residential planned unit development density evaluation steps and design criteria are contained in sub-items 1-3 as follows (Allowable densities may be transferred from any tier to any other tier further from the waterbody, but shall not be transferred to any other tier closer):

1. The suitable area within each tier is divided by the single residential lot size standard for lakes which shall then be used to yield a base density of dwelling units or sites for each tier.
2. The data calculated in the above equation is then compared with the proposed locations and numbers of dwelling units or sites for the residential planned unit development.
3. If all performance standards in the underlying zoning district are achieved and the design criteria identified elsewhere in this Chapter (Chapter 17) are met,

the City may allow minimal dwelling unit or site density increases for residential planned unit developments provided they do not exceed the maximum allowable dwelling unit or site density increases for residential PUD identified in the following table:

Density Evaluation Tiers	Maximum Density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

D. Commercial PUD ‘base’ density evaluation:

- Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
- Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development  
Floor Area Ratios\*

Average Unit Floor Area (sf)	Sewered general development lakes; first tier on unsewered general development lakes.	Second and additional tiers on unsewered general development lakes; recreational development lakes
200	.040	.020
300	.048	.024
400	.056	.028
500	.065	.032
600	.072	.038
700	.082	.042
800	.091	.046
900	.099	.050
1000	.108	.054
1100	.116	.058
1200	.125	.064
1300	.133	.068
1400	.142	.072
1500	.150	.075

\* For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet.

3. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
4. Divide the total floor area by tier computed in Item (c) above by the average inside living area size determined in item (a) above. This yields a base number of dwelling units and sites for each tier.
5. The project may be eligible for additional density increases if the project meets all design standards in this Chapter and applicable underlying zoning classification(s). The City may allow minimal site density increases for commercial planned unit developments provided they do not exceed the maximum allowable dwelling unit or site density increases for residential PUD identified in the following table:

<b>Density Evaluation Tiers</b>	<b>Maximum Density increase within each tier (percent)</b>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

E. Maintenance and Design Criteria.

1. Before final approval of a planned unit development in the shoreland overlay district, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
2. Impervious surface coverage within any one tier is limited to a maximum of twenty-five (25) percent of the gross area of the tier.
3. Open space preservation. Deed restrictions, covenants, permanent easement, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments shall include all of the following protections:
  - a. Commercial uses prohibited (for residential PUD/s);
  - b. Vegetation and topographic alterations other than routine maintenance prohibited;
  - c. Construction of additional buildings or storage of vehicles and other materials prohibited; and
  - d. Uncontrolled beaching of watercraft prohibited.
4. Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments shall use an owners association with the following features:

- a. Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchases;
  - b. Each member shall pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
  - c. Assessments must be adjustable to accommodate changing conditions; and
  - d. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
5. Open Space Requirements. Planned unit developments within the shoreland overlay district shall contain open space meeting all of the following criteria:
- a. At least fifty (50) percent of the total project area must be preserved as open space.
  - b. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
  - c. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
  - d. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites and by the general public.
  - e. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
  - f. Open space shall not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.
  - g. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means; and
  - h. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUD's, at least 50 percent of the shore impact zone must be preserved in its natural state.
6. Centralization and design of facilities and structures within the shoreland overlay district are subject to the following:
- a. Non-public water supply and sewage treatment systems shall be centralized and designed and install to meet standards contained in Chapter 21 of this Ordinance.
  - b. Onsite sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system.
  - c. Dwelling units or sites shall be clustered into one or more groups and

located on suitable areas of the development. Said units or sites shall be designed and located to meet or exceed dimensional standards included in the shoreland overlay district including, but not limited to, setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water mark shall be increased in accordance with this Chapter for developments with density increases.

- d. Shore recreation facilities, including but not limited to, swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (not withstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment may be provided for use by occupants of dwelling units or sites located in other tiers.
  - e. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shore lands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
  - f. Accessory structures and facilities, except water oriented accessory structures, shall meet the required principal structure setback and shall be centralized.
  - g. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in appropriate underlying zoning classification and Chapter 22, Subd. 3(A) of this ordinance and are centralized.
- F. In the shoreland overlay district, the City may allow land uses and facilities to be converted to residential planned unit developments if the following standards are met, in addition to all other applicable standards of this Ordinance:
- 1. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards shall be identified.
  - 2. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.
  - 3. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

- a. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones.
  - b. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water.
  - c. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation off dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
4. Existing dwelling unit or dwelling site densities that exceed standards in this Chapter may be allowed to continue but must not be allowed to be increase, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems or by other means.

**SUBD. 7. ADMINISTRATIVE PROCEDURE.**

- A. Upon filing an application for PUD, the applicant of the proposed PUD is encouraged to meet with the City Clerk/Zoning Administrator and Planning Commission in an informal review session to provide an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area in which it is proposed and its conformity to the provisions of this Chapter. The informal review session is intended to prevent the applicant from incurring substantial expense in the preparation of plans, surveys and other data.
- B. The proponents of a Planned Unit Development shall submit a preliminary Subdivision plat and a development and site plans, along with an application for a Conditional Use Permit, to the City Planning Commission and City Council. Such preliminary plat and site plan shall conform to the provisions of this Ordinance and the City Subdivision regulations. Such site plan shall include:
  - 1. General Information:
    - a. The landowner's name and address and his interest in the subject property.
    - b. The applicant's name and address if different from the landowner.
    - c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, engineer and surveyor.
    - d. Evidence the landowner has significant control over the subject property.
    - e. Deed restrictions, covenants, permanent easements or other instruments that: properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Chapters 12, 15, 16, 22 and 23 of this ordinance.
  - 2. Present Status Information:

- a. The address and legal description of the subject property.
- b. The existing zoning classification, site development and present use of subject property and all lands within one thousand (1000) feet of the subject property.
- c. Property boundary lines and dimensions of the subject property.
- d. Graphic Reproductions of Existing Site Conditions including a minimum of (all graphics should be the same scale to allow for easy cross reference):
  - (1) Topographic contours at 10 foot intervals or less.
  - (2) Slope analysis.
  - (3) Location and extent of waterbodies, wetlands, streams and floodplains within the subject property and those within three hundred (300) feet of the subject property.
  - (4) Proposed sewage treatment and water supply systems (if public systems will not be provided).
  - (5) Existing drainage patterns.
  - (6) Soil Conditions.
- e. A written statement generally describing the proposed PUD and the market which it is intended to serve and how the proposed PUD is to be designed, arranged and operated. When requested and/or when appropriate: the number of residential dwelling units and expected population; the gross square footage of commercial and industrial floor space by type of activity (i.e. drug store, supermarket, salon); preliminary architectural plans including floor plan, elevations and exterior wall finishes of proposed building(s). When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial or a combination of the two.
- f. The proposed name of the development.
- g. Existing adjacent development.
- h. Proposed public or community sanitary sewer and water systems, including size, type and capacity.
- i. Proposed roadway, private or public, type and capacity of surfacing  
Roadways that are private in PUD's shall remain private and are not subject to public maintenance.
- j. Proposed site development and development schedule.
- k. Size and location of proposed and existing buildings on the subject site.
- l. Proposed landscaping.
- m. Site and lot dimensions.
- n. Allocation and disposition of park and open space.

- o. Type of use and density of each building, including a relief drawing of the general building design or theme intended for all buildings other than single and two-family units.
  - p. Location, type and sizing of signage.
  - q. A preliminary plat prepared in accordance with the Subdivision Chapter of the City Code.
  - r. A property owners association agreement (for residential PUD's) with mandatory membership, and in accordance with the requirements this Chapter and Chapter 22 of this Ordinance.
  - s. The City may excuse an applicant from submitting any specific item of information or document required which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.
  - t. The City may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect thereof.
3. Public hearing: Within thirty (30) days of receiving the preliminary Subdivision plat, development plan, site plan, and application for a Conditional Use Permit from the proponents of a Planned Unit Development the Planning Commission shall hold a public hearing on said proposal. Legal notice of said hearing shall consist of the property's legal description, a description of the request and a general description of the property's location. Said legal notice shall be published in the City's official newspaper a minimum of ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to the hearing to all land owners of record within three hundred fifty (350) feet of the boundary of the property in question, the Minnesota Department of Natural Resources and other applicable entities identified in Chapter 23, Subd. 10 and Chapter 25 of this Ordinance. Failure of property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.
  4. Within thirty (30) days of the public hearing, or such further time as may be agreed to by the applicant, the Planning Commission shall make a finding of fact and submit its recommendation to the City Council. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.
  5. Upon receiving the recommendation of the Planning Commission, but not longer than sixty(60) days after the completed application was received, unless an extension is provided for in accordance with State Statute 15, the City Council shall place the recommendation on the agenda and take action on said recommendation. Such recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
  6. Upon receiving the report and recommendation of the Planning

Commission, the City Council shall either:

- a. Approve or disapprove the request as recommended by the Planning Commission, or
  - b. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the Council's records, or
  - c. Refer the recommendation back to the Planning Commission for future consideration. This procedure shall be followed only one (1) time on a singular action.
7. If the Conditional Use Permit for the preliminary plat and site plan is approved, the preliminary plat and site plan shall be attached to and become a part of the Conditional Use Permit. Any modification to the preliminary plat or site plan will require a re- submission to and approval by the City Planning Commission and the City Council.
  8. If the Conditional Use Permit is approved, the final plat shall be submitted to the City in accordance with the City Subdivision Regulations and the provisions of this Ordinance.
  9. Within one (1) year after the approval of a final plat for a PUD, or such time as may be established by an approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within allotted schedule shall automatically render void the PUD permit and all approvals of the PUD plan unless an extension is granted by the City Council.

C. Final Plat.

1. The proponents of a PUD shall submit a final plan to the Planning Commission within one (1) year of the approval of the preliminary plat which shall depict and outline the proposed implementations of the preliminary plan/plat phase. The final plan shall incorporate all changes, modifications and revisions required by the City during approval/conditional approval of the preliminary plan/plat. Information from the general concept stage may be included for background and to provide a basis for the submitted Plan. The final plan shall include, but may not be limited to:
  - a. A final plat and information required by Chapter 25 of this ordinance and/or the City's Subdivision Ordinance.
  - b. Supplementary documents as requested by the City.
2. Within 60 days of receiving the request for final plan/plat approval the Planning Commission shall review the final plan request and forward its recommendation to the City Council for consideration at its next meeting. The City Council shall approve, deny or conditionally approve the request.
- 3.

**Subd. 8, Amendments to Approved PUD**

A. Major Changes to an Approved Preliminary PUD.

1. Major change. A proposed major change to an approved PUD requires the submission and reconsideration of a new application for approval. If the major change alters data or evidence submitted during the Conceptual Plan or Preliminary Plan/Plat stage, then the resubmission must begin at the Preliminary Plan/Plat stage. If only the Final Plat evidence or data is altered as a result of the major change, then the resubmission shall begin at the Final Plat stage
2. Public Hearing Required. If major changes are proposed, a new public hearing shall be required during resubmission of the Preliminary or Final plat.
3. All changes to the "original" Final Plat shall be recorded with the County Recorder as amendments to the Final Plat or reflected in the recording of a new "corrected" Final Plat.
4. Major Changes Defined. The following shall be considered major changes to a PUD:
  - a. Changes which alter the concept or intent of the Planned Unit Development;
  - b. Increase in density (increases in the number or size of structures and/or changes in the volume of lots);
  - c. Changes in the height of buildings;
  - d. Reductions of proposed open space and/or the alteration of open space, sensitive site features and/or park areas that alter the original intent and propose of such space;
  - e. Changes with eliminate, diminish or compromise the high quality of site planning, design, landscaping or building materials;
  - f. Changes in the development schedule;
  - g. Changes in the road standards;
  - h. Changes which create non-compliance with any special condition attached to the approval of the development plan;
  - i. Changes that significantly alter the location of buildings and/or parking areas;
  - j. Changes in the final governing agreements.

- B. Minor Change. Minor changes shall be any change not defined as a major change. A minor amendment may be made through review and approval by a simple majority Vote of the City Council following

review/recommendation by the Planning Commission. Minor changes to a previously recorded plat shall be with the County Recorder.

**CHAPTER 18. HOME OCCUPATIONS.**

**SUBD. 1. PURPOSE.**

The purpose of this Chapter is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. In addition, this Chapter is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily "more sensitive" home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

**SUBD. 2. REGULATIONS.**

All occupations conducted in the home shall comply with the provisions of this Chapter, the provisions of the district in which it is located and other Chapters of this Ordinance.

**SUBD. 3. PROCESS.**

Any home occupation as defined in this Ordinance shall require a "home occupation license". Such license shall be issued subject to the conditions of this Chapter and other applicable City Code provisions and state law. This license may be issued by the Zoning Administrator based upon proof of compliance with the provisions of this Chapter. A fee shall accompany application for the permitted home occupation license if so designated by City Council resolution.

If the Zoning Administrator denies a home occupation license to an applicant, the applicant may appeal the decision to the City Council which shall make the final decision. The license shall remain in full force and effect until such time as there has been a change in conditions or until such time as the provisions of this Chapter have been changed. At such time as the City has reason to believe that either event has taken place, a public hearing shall be held before the Planning Commission. The City Council shall make a final decision on whether or not the permit holder is entitled to the license.

**SUBD. 4. PERMITTED HOME OCCUPATION REGULATIONS.**

- A. Permitted home occupations include and are limited to: art studio, dressmaking, secretarial services, family day care, foster care, professional offices and teaching with musical, dancing and other instructions which consist of no more than one pupil at a time and similar uses. The following regulations shall apply:
  - 1. No person other than those who customarily reside on the premises and/or one (1) additional employee shall be in one's employ on the premises.
  - 2. All permitted home occupations shall be conducted entirely within the

principal building whenever possible and should not be conducted in an accessory building.

3. Permitted home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway.
4. The home occupation shall not involve any of the following: repair service or manufacturing which requires equipment other than found in a home; teaching which customarily consists of more than one pupil at a time; over-the-counter sale of merchandise produced off the premises, except for those brand name products that are not marketed and sold in a wholesale or retail outlet.

#### **SUBD. 5. SPECIAL HOME OCCUPATIONS.**

- A. Examples of Special Home Occupations include: barber and beauty services, day care, group nursery, bed and breakfasts as outlined in Subd. 5, D 4, photography studio, saw sharpening, small appliances and small engine repair and other occupations similar in nature. The following regulations shall apply:
  1. Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this Chapter shall require a "special home occupation license" which shall be applied for, reviewed and disposed of in accordance with the provisions of this Ordinance.
  2. Declaration of Conditions. The Planning Commission and the Council may impose such conditions of the granting of a "special home occupation license" as may be necessary to carry out the purpose and provisions of this Chapter.
  3. A "Special Home Occupation License" may be issued for a period of one (1) year after which the license may be reissued for periods of up to five (5) years each. Each application for license renewal shall, however, be processed in accordance with the procedural requirements of the initial special home occupation license.
  4. Special Home Occupation Requirements:
    - a. No person other than a resident shall conduct the home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for non-resident assistance and that this exception would not compromise the intent of this Ordinance.
    - b. The home occupation may involve any of the following: stock-in-trade incidental to the performance of the service, repair service or manufacturing which requires equipment other than customarily found in a home, the teaching with musical dancing and other instruction of more than one pupil at a time.
    - c. Special home occupations may be allowed to accommodate their parking demand through utilization of on-street parking.
    - d. Bed and Breakfasts may be permitted as a special home occupation provided that (1) Four (4) or fewer rooms are for rent for a period not to exceed fourteen (14) consecutive days during any ninety (90) day period.

- (2) Small functions of less than ten (10) people such as receptions or business meetings shall be permitted on site.
- 5. Massage Therapy may be permitted as a special home occupation provided that all requirements outlined in this Chapter and other City Ordinances are met.

**SUBD. 6. GENERAL PROVISIONS.**

- A. No home occupation shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
- B. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- C. Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.

- D. There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.
- E. The floor area devoted to the home occupation shall not exceed twenty-five (25) percent of the total ground area occupied by buildings on the lot.
- F. There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling, with the exception that one (1) non-illuminated sign measuring one and one-half (1½) square feet may be attached to the dwelling.
- G. Whenever within one (1) year after granting a license, the use as permitted by the license shall not have been initiated, then such license shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Council.

**SUBD. 7. NON-CONFORMING USE.**

Existing home occupations lawfully existing on the effective date of this Ordinance may continue as non-conforming uses. They shall however, be required to obtain licenses for their continued operation. Any existing home occupation that is discontinued for a period of more than one (1) year shall be brought into conformity with the provisions of this Ordinance prior to re-institution.

**SUBD. 8. INSPECTION.**

The City hereby reserves the right upon issuing any home license to inspect the premises in which the occupation is being conducted to ensure compliance and the provisions of this Chapter or any conditions additionally imposed.

**CHAPTER 19. SIGNS.**

**SUBD. 1. PURPOSE.**

The purpose of this Chapter is to protect, insure, maintain and regain the natural and scenic beauty and attractiveness of the roadside throughout Madison Lake. By the construction of public roads, the public has created views to which the public retains a right of view and it is the intent of these standards to prevent the taking of that right. Signs are recognized as accessory uses and are permitted in all districts subject to the regulations of this Ordinance.

**SUBD. 2. PROHIBITED SIGNS.**

- A. No sign shall be allowed that is a hazard to the public health, safety, convenience, welfare or that prevents ingress or egress from any door, window or fire escape that tends to accumulate debris as a fire hazard or that is attached to a standpipe or fire escape.
- B. Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. No sign shall be placed so as to destruct or interfere with traffic visibility or traffic control.

- C. Private signs are prohibited within the public right-of-way of any street or easement.
- D. Signs with rotating beams or flashing illumination are prohibited.
- E. Rotating signs are prohibited.
- F. Signs painted or attached to vehicles where the vehicle is parked on a property and not intended to be moved.
- G. Roof signs are prohibited.

**SUBD. 3 REGULATIONS.**

- A. All signs along state and federal highways shall conform to state and federal sign regulations. Billboards erected along US Highway 60 shall be spaced a minimum of two thousand five hundred (2,500) feet apart.
- B. All permanent off-site freestanding signs shall require Conditional Use Permits.
- C. Obsolete Signs: Any sign which no longer advertises a bona fide business conducted or a project sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which the sign may be found, within ten (10) days after written notice from the Zoning Administrator.
- D. Unsafe or Dangerous Signs: Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign is located within ten (10) days after written notification from the Zoning Administrator.

**SUBD. 4. EXEMPTIONS.**

- A. The following signs do not require a permit, however, they shall conform to the requirements of this Chapter.
  - 1. Signs for one and two-family residential dwellings identifying the occupant or street address, provided that such signs are less than one (1) square foot in area.
  - 2. Pedestrian vehicular traffic and parking directional signs in parking lots, provided such signs are less than eight (8) square feet in area and less than six (6) feet in height.
  - 3. Public signs, street signs, warning signs or signs of public companies for the purpose of safety.
  - 4. Signs denoting the architect, engineer, contractor or owners when placed upon a work site. Such signs shall be removed within ten (10) days after completion of construction.

5. Signs designating candidates seeking public political office, provided that such election sign shall not exceed eight (8) square feet in size. Such signs shall be located on private property, shall not be located so as to obstruct vehicular lines of sign and shall be removed in accordance with state guidelines after the election is held.
6. Flags, badges or insignia of any governmental agency.
7. Emergency signs required by any governmental agency.
8. Temporary real estate signs pertaining only to the sale, rental or development of a lot upon which it is displayed. Such signs shall not exceed six (6) square feet for residential property or twenty-four (24) square feet for other property. One (1) sign shall be permitted for each lot and must be removed within ten (10) days following the sale, lease or development of said property.
9. Banners placed on private property for advertising of a special sales event or grand opening. Such banners shall contain no advertising.
10. Memorial signs or tablets, names of buildings and date of erection when cut into or attached to any masonry surface or incombustible material, provided the sign does not exceed six (6) square feet in area.
11. Home occupation signs, non-illuminated, attached to the wall of a dwelling and not exceeding one and one-half (1 ½) square feet in area.
12. Directional Off-Premise signs with commercial zoning districts that advertise businesses that are located in the City of Madison Lake shall be allowed with one sign per intersection not to exceed 16 square feet.

**SUBD. 5. PERMITTED SIGNS.**

- A. The following signs are permitted in the A-1, R-1, R-2 , **R-3** Districts.
  1. Signs over show windows or doors of non-conforming businesses establishments announcing without display or elaboration only the names and occupation of the proprietor and not to exceed three (3) feet in height and twenty (20) feet in length.
  2. Bulletin boards for public, charitable or religious institutions not to exceed twenty (20) square feet in an area located on the premises.
  3. Religious uses, public institutions, non-residential and residential development signs not exceeding thirty-two (32) square feet in area. Such identification signs may be wall or ground mounted or combination thereof. A ground sign shall not exceed fifteen (15) feet in height. There may be a second sign if the use abuts two (2) or more streets.
  4. All signs shall be set back a minimum of five (5) feet from property lines and shall not be located within thirty (30) feet of an intersection.

**SUBD. 6. PERMITTED SIGNS.**

- A. The following signs are permitted in the B-1, B-2 and I-1 Districts.
1. Signs that are placed on the exterior walls of buildings shall not extend more than four (4) inches from a building's wall surface, shall not exceed two hundred (200) square feet in area for any one (1) premises, and shall not exceed thirty (30) feet in height above the average centerline grade of the street it fronts.
  2. Ground and pole signs which do not exceed **twenty (20)** feet in height above the average centerline street grade, shall meet all yard requirements for the district in which it is located, shall not exceed one hundred (100) square feet on one side nor two hundred (200) square feet on all sides for any one (1) premises.
  3. Window signs that are placed only inside of the commercial buildings, provided not more than fifty percent (50%) of the window is covered.
  4. Projecting signs which provide a minimum undersign clearance of at least ten (10) feet and which do not project more than twenty-four (24) inches over a sidewalk and shall not exceed twenty (20) square feet.
  5. Off-premises advertising signs (billboards) shall only be permitted in the B-1 or I-1 Districts as a conditional use. These signs shall not exceed two hundred (200) square feet in area. Off-premises advertising signs shall meet all setback requirements and shall not be located within one hundred (100) feet of any residential zone, church, school or designated recreation area.

**SUBD. 7. SIGNS WITHIN THE SHORELAND OVERLAY DISTRICT.**

- A. Signs within the Shoreland Overlay District shall be subject to signage provisions applicable to the underlying zoning classification.
- B. 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:
1. No advertising signs may be placed in or upon public waters, informational and/or safety signs may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
  2. 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 and shall not be located higher than ten feet above the ground, and must not exceed (thirty-two) 32 square feet in size. If illuminated by artificial lights, the

lights must be shielded or directed to prevent illumination out across public waters. This does not preclude use of navigational lights.

## **CHAPTER 20. OFF-STREET PARKING.**

### **SUBD. 1. PURPOSE.**

It is the purpose of this Chapter to provide for the regulation of and design standards for off-street parking facilities within the City, to minimize congestion of the public right-of-way and to maximize the safety and general welfare of the public.

### **SUBD. 2. SCOPE.**

The off-street parking requirements and off-street loading requirements of this Subdivision shall apply within all zoning districts, except the B-2, Central Business District.

### **SUBD. 3. CALCULATING SPACE.**

- A. Where calculations result in requiring a fractional space, any fraction less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall require one (1) space.
- B. Should a building or structure contain two (2) or more types of uses, each should be calculated separately for determining the total off-street parking spaces required.

### **SUBD. 4. SITE PLAN REQUIRED.**

- A. Except for single family dwellings, all applications for a building or an occupancy permit shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of all off-street parking and loading spaces in compliance with the requirements of this Chapter. The Site Plan shall include the following information:
  - 1. Zoning District.
  - 2. North point and scale.
  - 3. All adjacent rights-of-way.
  - 4. The ownership of the entire lot being developed.
  - 5. Dimensions of the lot and parking spaces.
  - 6. The owner's name, address and phone number.
  - 7. Vehicle entrance located on plan.
- B. Site Plan Criteria.
  - 1. Upon review by the Zoning Administrator the plan for off-street parking shall meet the following site design standards:
    - a. All areas devoted for parking space and driveways shall be surfaced with permanent materials (i.e. bituminous, concrete, crushed rock, recycled materials, bricks, etc. but not grass or sand/dirt). All parking areas shall be

designed to control surface runoff to adjacent properties either with curbing or grading techniques. No landscaped areas shall be used for the parking of vehicles.

- b. Any lighting used to illuminate off-street parking areas shall be directed away from abutting property and public right-of-way.
- c. No sign shall be so located as to restrict the sight, orderly operation and traffic movement within any parking area. Only signs necessary for the orderly operation of traffic movement or parking regulation shall be permitted in any parking area. Such signs shall not be considered part of the permitted advertising space.
- d. All parking lots shall be screened and landscaped from abutting residential uses or districts by a wall, fence or densely-planted compact hedge or tree cover not less than four (4) feet nor more than eight (8) feet in height.
- e. The parking area shall meet the minimum design standards, and number of stalls required under this Chapter.

**SUBD. 5. REDUCTION OF EXISTING PARKING AND LOADING SPACES.**

Parking or loading spaces existing upon the effective date of this Ordinance shall not subsequently be reduced below the requirements of this Chapter.

**SUBD. 6 CHANGE OF USE OR OCCUPANCY OF LAND OR BUILDING.**

No change of use or occupancy of land, or of use or occupancy of any building, shall be made until there is furnished sufficient parking and loading spaces as required by this Chapter.

**SUBD. 7. USE OF PARKING AND LOADING SPACE.**

- A. Required parking or loading spaces shall not be used for storage of goods or for storage of vehicles or trailers that are inoperable or for sale or rent.
- B. Off-street parking facilities accessory to residential uses shall be utilized solely for the parking of the passenger automobiles of the dwelling unit occupants.
- C. Motor vehicles bearing commercial licenses and/or commercially licensed trailers shall not be parked or stored in a platted residential district or public street except when loading, unloading or rendering a service.
- D. Under no circumstances shall required parking facilities accessory to residential structures be used for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business establishments.

**SUBD. 8. DESIGN AND MAINTENANCE.**

- A. Striping: All lots for five (5) or more vehicles shall have the organization of spaces painted on the surface according to the plan approved by the City.
- B. Circulation: Lots shall be so designed that internal circulation shall be

available without utilizing the public street.

- C. Maintenance: It shall be the joint and several responsibility of the lessee and/or owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking area, striping, landscaping and screening.
- D. Lighting: All lighting used to illuminate an off-street parking area shall be shaded or diffused so as to reflect the light away from the adjoining property and away from abutting traffic flow.

**SUBD. 9. STALL, AISLE, AND DRIVEWAY DESIGN.**

- A. Each parking space shall be not less than nine (9) feet wide and twenty (20) feet in length, exclusive of an adequately designed system of access driveways. Provided, however, that in school parking lots of more than three hundred (300) parking spaces, up to twenty (20%) of such spaces may be designated and clearly marked as compact car parking spaces. A compact car parking space shall not be less than eight (8) feet wide and eighteen(18) feet in length exclusive of the adequately designed system of access drives. No parking space may be designated as a compact parking space unless the parking space is clearly posted with signs which are reasonably visible even in winter months and which are approved by the Zoning Administrator.
- B. Except in the case of single-family, two-family, and townhouses, parking areas shall be designed so that circulation between parking aisles or driveways occurs within the designated parking lot and does not depend upon a public street or alley and such design does not require backing into the public street. (Width of driveway shall not exceed twenty-two (22') feet.
- C. Except in the cases of single-family, two-family and townhouses, parking areas shall comply with the following standards:

ANGLE OF PARKING (ALONG CURB)	STALL WIDTH	STALL DEPTH	MIN. DRIVEWAY WIDTH	TOTAL WIDTH
Zero degrees	9'	22'	12'	43'
30 degrees	9'	19'	12'	40'
45 degrees	9'	21'	13'	43'
60 degrees	9'	22'	18'	49'
90 degrees	9'	19'	22'	50'

- D. No curb cut access shall be located less than forty (40) feet from the intersection of two (2) or more street right-of-ways for residential uses, and sixty (60) feet for commercial and industrial areas. This distance shall be measured from the intersection of lot lines.
- E. Curb cut openings shall be a minimum of three (3) feet from the side property line.
- F. All property shall be entitled to at least one (1) curb cut. Single family uses shall be

limited to one (1) curb cut access per property.

- G. All parking spaces shall be served by access aisle or driveway connections to a public right-of-way.
- H. Private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Within Shoreland Overlay Districts documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the other local, state, and federal standards.
- I. Private roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- J. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this Chapter are met. For private facilities within the Shoreland Overlay Area the grading and filling provisions of this Ordinance must be met.

**SUBD. 10. NUMBER OF REQUIRED PARKING AND LOADING SPACES.**

The following minimum number of off-street parking and loading spaces shall be provided and maintained:

<b>USE</b>	<b>NUMBER OF PARKING SPACES REQUIRED</b>
Assembly Area Church	1 stall per 4 seats
Dwelling unit	2 per dwelling unit
Health club	1 per 100 gross square feet
Hotel/motel/Bed & Breakfast	1 per sleeping unit plus 1 per 500 square feet of common area
Industry/Warehouse	Three (3) off-street parking spaces, plus one (1) space per employee on the largest working shift
Medical office	1 per 500 gross square feet
Office	1 per 500 gross square feet
Restaurant/Bar	1 per 4 seats and 1 per every 2 employees on a major shift
Retail	1 per 300 gross square feet
Elementary and Junior High School	One (1) space per staff member, plus one (1) space per each two (2) classrooms.

Senior High School	One (1) space per staff member, plus one (1) space per five (5) students.
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**SUBD. 11. JOINT FACILITIES.**

- A. The City Council may, after receiving a recommendation from the Planning Commission, approve a Conditional Use Permit for one (1) or more businesses to provide the required off- street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business, if the following conditions are satisfactorily met:
1. The building or use for which the application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities.
  2. The applicant shall show that there is no substantial conflict in the operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
  3. The provisions of this Ordinance are considered and satisfactorily met.

**SUBD. 12. OFF-STREET LOADING FACILITIES.**

Loading space required under this Chapter shall be at least fifty (50) feet long and ten (10) feet wide. The regulations of this Chapter are not applicable in the "B-2" Central Business District. Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at least ten thousand (10,000) square feet and every lot used for office or research purposes on which there is a building or buildings having a total floor area of at least twenty thousand (20,000) square feet, shall be provided with an off-street loading space. An additional off-street loading space shall be required for lots used for commercial or industrial purposes where the floor area of all buildings exceeds one hundred thousand (100,000) square feet.

**CHAPTER 22. GENERAL DISTRICT PROVISIONS.**

**SUBD. 1. PURPOSE.**

The performance standards established in this Ordinance are designed to encourage a high standard of development and delineate requirements for Planned Unit Developments, mobile home parks, signs, parking and loading and sewage disposal. Before any zoning permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to these standards. Applicants shall provide data necessary to demonstrate such conformance. Said data may include but is not limited to: description of equipment to be used; hours of operation; method of refuse disposal; and, type and location of exterior storage. The purpose of this Chapter is to establish general development standards to assure compatible land uses to prevent blight and deterioration and to enhance the health, safety and general welfare of the City.

**SUBD. 2. DWELLING UNIT RESTRICTIONS.**

- A. No garage, tent or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently, except allowed interim use as set forth and regulated by this Ordinance.
- B. Basements may be used as living quarters or rooms as a portion of residential dwellings. Rental unit(s) in basements shall be subject to provisions of the appropriate zoning district.
- C. Tents, play houses or similar structures may be used for play or recreational purposes, but shall not be independent living quarters.
- D. No dwelling shall hereafter be erected or altered unless there is direct access to it from a public street.

**SUBD. 3. ACCESSORY BUILDINGS.**

**Decks, Patios, Balconies, and Ramps**

- A. The following shall not be considered as encroachments in required front yards:
  - 1. Uncovered ramps constructed for the purpose of providing handicap access, provided that the ramp has a railing no higher than thirty-six (36) inches and does not extend nearer than five (5) feet to the front lot line.
  - 2. Attached decks may extend eight feet into the required front yard setback provided that the deck is at least ten feet from the property line. The height of the deck shall not exceed the height of the front entrance of the principal building.
- B. The following shall not be considered encroachments in required side yards:
  - 1. Uncovered ramps constructed for the purpose of providing handicap access which do not extend nearer than three (3) feet to the side lot line.
- C. The following shall not be considered encroachments in required rear yards:

1. Attached decks not more than two (2) feet above grade (exclusive of any railing), or uncovered ramps constructed for the purpose of providing handicap access, provided that the deck or the ramp shall be set back at least ten (10) feet from the rear lot line.
2. Attached uncovered balconies or decks higher than two (2) feet above grade that are set back at least fifteen (15) feet from the rear lot line.

(Implemented from City of Mankato)

#### A. Attached Accessory Structures

1. In cases where an accessory building is attached to the principal structure, it shall be made structurally a part of the principal structure and shall comply in all respects with the requirements of this Ordinance applicable to the principal structure.
2. The same or similar quality exterior building material shall be used in the accessory building and the principal building.
3. Except as expressly allowed by conditional use permit, accessory buildings shall comply with the following height limitations and accessory buildings other than garages shall be limited to ten (10) feet in height on all single and two family and townhouse unit lots.
4. Accessory buildings, including decks and roof overhangs, may encroach into the required side and rear yard setbacks within the rear yard of a lot, except, however, that no such encroachment may occur on required:
  - a. Side yard setbacks abutting a street in the case of a corner lot or structures within a shoreland overlay district. In such cases, the following standards shall apply:
    - i. The accessory structure(s) shall not exceed thirty percent (30%) of the rear yard.
    - ii. All accessory buildings in the R-1, R-1S and R-2 Residential Districts shall be setback from all adjoining lots a distance of 5 feet shall be located at least ten (10) feet away from any other building or structure on the same lot and shall not be located within a utility easement or within the front yard.
    - iii. Garages having direct access onto an alley shall be setback twenty (20) feet from the property lot line.

#### B. Detached Accessory Structures

1. A detached accessory building including roof overhangs, shall not be closer than ten (10) feet to the principal structure.
2. Detached accessory buildings, including roof overhangs, must be located within the rear yard, with the exception of riparian lots in the R-1S District with the rear yard physically abutting the lake and a principal use on the same lot,

in which case they are allowed one

(1) front yard accessory storage building under the following conditions:

- a. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owners of property since enactment of this Ordinance have had no control; and
- b. The accessory building is a maximum of 120 sq. ft.
- c. The accessory building is not located within the front yard setback; accessory building may be located within the side yard setback, provided it meets the conditions in sub point 8 of this Chapter.
- d. The accessory building does not put the property above the impervious surface requirements or the nuisance storage requirements.

3. Within residential districts no accessory structures or any combination of accessory structures shall exceed one thousand (1,000) square feet in area. In addition, lot coverage requirements outlined within the respective districts shall be adhered to. This standard limits maximum aggregate sq. ft. to 1,000 sq. ft. regardless of lot size.

4. No lot shall have more than three (3) detached accessory structures.

5. The same or similar quality exterior building material shall be used in the accessory building and the principal building.

6. Except as expressly allowed by conditional use permit, accessory buildings shall comply with the following height limitations and accessory buildings other than garages shall be limited to ten (10) feet in height on all single and two family and townhouse unit lots.

7. Detached garage side walls shall not exceed ten feet and the pitch shall be no less than 3:12

8. Accessory buildings, including decks and roof overhangs, may encroach into the required side and rear yard setbacks within the rear yard of a lot, except, however, that no such encroachment may occur on required:

- a. Side yard setbacks abutting a street in the case of a corner lot or structures within a shoreland overlay district. In such cases, the following standards shall apply:
  - i. The accessory structure(s) shall not exceed thirty percent (30%) of the rear yard.
  - ii. All accessory buildings including roof overhangs in the R-1, R-1S and R-2 Residential Districts shall be setback from all adjoining lots a distance equal to the height of the building, shall be located at least ten (10) feet away from any other building or structure on the same lot and shall not be located within a utility easement or within the front yard required setback.

- iii. No detached accessory structure or roof overhang shall be erected or altered so as to encroach in the front yard setback of a lot.
  - iv. Garages including roof overhangs having direct access onto an alley shall be setback twenty (20) feet from the property lot line.
9. Water Access Lots located within the Residential District (Riparian with Principal Structure)- Each water access lot may have one water-oriented accessory structure not meeting the normal structure setback as defined in Subdivision 5 of this Division and this Subdivision of this Chapter, provided the water-oriented structure or facility:
- a. Shall not exceed ten (10) feet in height, exclusive of safety rails, and shall not occupy an area greater than one hundred twenty (120) square feet.
  - b. The structure or facility including roof overhang shall be setback from the ordinary high water level a minimum of ten (10) feet.
  - c. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
  - d. The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area. Detached decks shall not exceed eight (8) feet above grade at any point.
  - e. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.
  - f. With a conditional use permit, an alternative for water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area greater than one hundred twenty (120) square feet and up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
    - i. The structure or facility including roof overhang shall be setback from the ordinary high water level a minimum of ten (10) feet.
    - ii. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shore lands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
    - iii. The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area. Detached decks shall not exceed eight (8) feet above grade at any point.
    - iv. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment

facilities.

10. Public water setbacks, unless a deck is to be added to a structure existing on the date of the adoption of this ordinance, subject to the following conditions:
  - a. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
  - b. The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive; and,
  - c. The deck is constructed primarily of wood, and is not roofed and does not feature screens.
  - d. In all other cases, other than those noted within Subsection 2 above, accessory buildings including roof overhangs shall conform to setbacks which are imposed within the respective zoning district. In districts where gas stations are allowed, pump islands may be located within a required yard provided they are not less than fifteen (15) feet from any street right-of-way line.

#### **SUBD. 4. GENERAL BUILDING AND YARD REGULATIONS.**

- A. This Chapter identifies yard, building type and height requirements in each zoning district.
- B. Building Restrictions.
  1. Mobile homes, buildings, tents or other structures temporarily maintained by an individual or company on the premises associated with the work project and used exclusively to house labor or other personnel occupied in such work project shall be exempt from the requirements of this Ordinance. Such mobile homes, buildings, tents or other structures shall be removed within thirty (30) days from the completion of the work project.
- C. Building Type and Construction
  1. No galvanized or unfinished steel, galvalum or unfinished aluminum buildings (walls or roofs) (except those specifically intended to have a corrosive designed finish such as corten steel) shall be permitted in any zoning district except in association with farming operations or industrial uses.\*
  2. Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety and general welfare.

3. Exterior building finishes shall consist of durable finish-type materials of a high grade and quality

D. Building Height.

1. Building heights in excess of those standards contained in the district provisions may be permitted through a conditional use permit, provided that:
  - a. The site is capable of accommodating the increased intensity of use.
  - b. The use does not negatively impact traffic flow or capacity of surrounding public rights of way.
  - c. For each additional story over three (3) stories or for each additional ten (10) feet above forty (40) feet, front and side yard setback requirements shall be increased by five (5) percent.
  - d. Applicants proposing structures constructed exclusively for or hosting telecommunications equipment shall provide written verification of approval from the Federal Communications Commission and the Federal Aviation Administration to the extent required by those agencies.

E. Yards. Possible enter earlier requirements into section.

1. Air conditioners, central air outside condensing units, and window units, projecting not more than thirty-six (36) inches into the required yard.
2. Arbors and trellises in all required yards.
3. Architectural ornaments and projections not more than four (4) inches into a required yard.
4. Unenclosed awnings and canopies extending not more than two and one-half (2½) feet into front or side yards and not more than five (5) feet into rear yards. Such canopy shall be cantilevered from the principal or accessory structure and shall not contain separate ground supports.
5. Fences or walls.
6. Fire escapes may extend into the required side yard a distance not exceeding thirty-six (36) inches.
7. Flagpoles.
8. Unenclosed porches, landings, or steps; provided the area of the porch, landing, or step does not exceed sixty-four (64) square feet, and does not project more than eight (8) feet into the required front yard or three (3) feet into the required side yard.
9. Projecting eaves, gutters, bay windows, and cantilevered building extensions, provided the projection is more than thirty-six (36) inches above the ground grade and projects not more than two and one-half (2.5) feet into the required side yard and/or four (4) feet into there required front or rear yards.
10. Fireplaces, not more than two and one-half (2.5) feet into the required side yard and/or four (4) feet into there required front or rear yards

- a. Terraces, steps, uncovered porches, stoops, fire escapes or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than five (5) feet from any lot line.
  - b. In rear yards: recreational and laundry drying equipment, arbors, and trellises, detached outdoor living rooms, and air conditioning or heating equipment, provided they are at a distance of five (5) feet from the rear lot line.
2. Where adjacent structures have front yard setbacks different from those

required, the minimum front yard setback shall be the average setback of such adjacent structures. If only one adjacent lot is occupied by a structure, the minimum front yard shall be the average of the required setbacks and the setback of such adjacent structure. In no case shall the setback requirement exceed the minimum established for the respective zoning district.

**Through Lots.** There shall be provided a required front yard and a required rear yard on a through lot. The required setback from the rear property line for accessory structures shall be one-half (½) the required front yard setback.

**SUBD. 5. CONTROLLED ACCESSES TO PUBLIC WATERS.**

A. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within Subdivisions are permissible and must meet or exceed the following standards:

B.

1. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
2. If docking, mooring ,or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements t for riparian residential lots for each watercraft beyond six, consistent with the following table:

<b>Controlled Access Lot Frontage Requirements</b>	
<b>Ratio of Lake size to shore length (acres/mile)</b>	<b>Required increase in frontage (percent)</b>
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

3. The shall be jointly owned by all purchasers of lots in the Subdivision or by all purchasers of non-riparian lots in the Subdivision who are provided riparian access rights on the access lot; and
4. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities

include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographical and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as must as practical from view from the public water, assuming summer leaf-on conditions.

## **SUBD. 6. OUTDOOR STORAGE AND REFUSE.**

### **A. Outdoor storage: Residential, Commercial and Industrial Uses.**

#### **1. Residential Uses:**

- a. All outside storage of materials and equipment for residential uses (excluding farms) shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:
  - (1) Clothes line pole and wire.
  - (2) Recreational vehicles and equipment provided said vehicles are in operable condition and display current licenses and are stored on a hardsurfaced area.
  - (3) Construction and landscaping material currently being used on the premises.
  - (4) On and off street parking of currently registered and operable passenger vehicles and trucks stored on a hardsurfaced area.
  - (5) Lawn furniture or furniture used and constructed explicitly for outdoor use.
  - (6) Rear or side yard exterior storage on non-riparian lots or front yard storage on riparian lots of firewood for the purpose of consumption only by the person(s) on whose property it is stored.
- b. Items not specifically identified in Chapter 22, Subdivision 7(A)1a-f or permitted as residential accessory uses in the district shall require an interim use permit subject to the provisions of Chapter 23, Subdivision 11 of this Ordinance. Existing storage uses, except for commercial vehicle parking shall comply with this requirement within twelve (12) months of adoption of this Ordinance.

#### **2. Commercial/Industrial Uses:**

- a. Except as allowed by district use provisions, outside storage of equipment, materials and inventory as a principal or accessory use for commercial and industrial uses shall require an interim use permit subject to the provisions of Chapter 23, Subdivision 11 of this Ordinance. All non-residential outside storage shall conform to the following conditions:

#### **Refuse.**

- (1) The area occupied is not within a required front or required side yard.
- (2) The storage area is totally fenced, fully screened and landscaped according to a plan

approved by the Zoning Administrator.

- (3) If abutting a Residential District or a residential use, screening and landscaping is provided according to a plan approved by the Zoning Administrator.
- (4) The storage area is grassed or surfaced to control dust.
- (5) Any/all lighting shall be directed away from the public right-of-way and from neighboring residences.

1. All lots within all zoning districts shall be maintained in a neat and orderly manner. No rubbish, salvage materials, junk or miscellaneous refuse shall be openly stored or kept in the open, when the same is construed by the City Council to be a menace or nuisance to the public health, safety or general welfare of the City, or to have a depressing influence upon property values in the area.
2. Waste materials are to be picked up and disposed of in accordance with any and all city standards applicable to refuse/waste materials.
3. Refuse Ownership: Unless an authorized special collection agreement is made, the entity generating the waste shall at all times retain title and ownership of any and all waste materials, including but not limited to, excluded waste materials (i.e. industrial, infectious and/or hazardous waste). The entity retaining title and ownership of any/all waste materials, including excluded waste material shall remain responsible and liable for said waste material. The entity generating any/all refuse, including but not limited to, excluded waste materials, shall remain responsible at all times for properly disposing of the refuse.
4. Excluded waste materials must be disposed of in a safe and appropriate manner in accordance with local, state and federal law. Release of excluded waste materials to public or independent sewage treatment systems, the environment or the solid waste stream is strictly prohibited.
5. The Disposal Service shall, upon collection, immediately assume title to and liability for solid waste materials, recyclable and demolition debris.

#### **SUBD. 7. FENCING, SCREENING, AND LANDSCAPING.**

- A. No fence shall exceed four (4) feet in the front yard or six (6) feet in the rear yard in height as measured from the average point between the highest and lowest grade, except security fencing which shall not exceed eight (8) feet including barbed wire toppings. Security fencing is not permitted in R1, R2, and R3 Residential Zoned Districts.
- B. No fence, screen or structure which obstructs view shall be located within thirty (30) feet of any front lot line, and twenty five (25) feet of any corner formed by the intersection of street or trail right-of-ways as measured from the intersecting property lines.
- C. In all zoning districts, all usable open space as defined by this Ordinance shall

be planted and maintained in grass, sodding, shrubs or other suitable vegetation or treatment as specified unless devoted to drives, sidewalks or patios.

- D. All screening required by the provisions of this Ordinance shall consist of either:
  - 1. A fence constructed of PVC, masonry, brick, wood or steel which is compatible with surrounding structures and buildings. Any fence located on an individual property must be made of the same material, unless approved by the Zoning Administrator to be of like material.
- E. Except as provided in this Ordinance, fences shall be set back at least three (3) feet from the lot lines or, upon written mutual consent of the abutting property owner(s), they may be placed closer to or along the lot line. The property owner of the fence or screen must submit a copy of the written mutual consent letter from the abutting property owner(s) to the Zoning Administrator.
- F. All fences shall be maintained so as not to endanger life or property. All fences shall be maintained in a satisfactory and safe condition at all times. Any damaged or missing element of any fence or screen shall be repaired and/or replaced immediately with like material. If allowed by the property owner to become and remain in condition of disrepair, danger, or constitute a nuisance, the City shall commence proper proceedings for the abatement thereof, as allowed under the nuisance code.
- G. All residential pools and spas must follow Zoning Code Chapter 22, Subd. 13, Fencing Requirements.
- H. Unless universal, fences shall be constructed so that the finished side (or side without exposed support or posts) faces the neighboring property.
- I. Above ground fences shall not be electric.
- J. All fences or screens six (6) feet or less in height require a zoning permit before installation.
- K. All exterior landscaping must be completed within one (1) year after the date of issuance of a building permit requiring landscaping.

*Revised 06/07/2010*

Any lighting used to illuminate an off-street parking area, sign or structure shall be arranged so as to deflect light away **and glare** from any adjoining residential properties or uses from the public streets.

The Minnesota Department of Natural Resources shall be notified of the construction of a satellite receiving antenna zoning permit application within a shoreland overlay area.

**SUBD. 13. RESIDENTIAL POOLS AND SPAS.**

A. Definitions.

1. Residential swimming pools shall be defined as any constructed pool, permanent or portable, which is intended for non-commercial use as a swimming pool by the owner's family and their guests and which is over twenty-four (24) inches in sidewall height.
2. Spa shall be defined as a unit primarily designed for therapeutic use which is not drained, cleaned or refilled for each individual. It may be included but not limited to circulation, hot water, cold water mineral baths, air induction bubbles or any combination thereof. Industry terminology for a spa includes, but is not limited to, therapeutic pool, hydrotherapy pool, whirlpool, hot spa, etc.

B. Construction.

1. Utility Lines. Pools and spas shall not be located beneath utility lines or over underground utility lines of any type.
2. Required Setbacks. No person shall build, situate or install a pool or spa within ten (10) feet of any side or rear lot line, nor within six (6) feet of any principal structure nor within any required front yard.
3. Temporary Fence Required during Construction. While being constructed, the pool or spa must be fenced with a portable fence, such as snow fence, of not less than four (4) feet in height.

C. Permanent Fencing Required.

1. Minimum Height. All outdoor pools hereafter constructed shall be completely enclosed by a fence or wall of the non-climbing type so as to be impenetrable by toddlers, afford no external handholds and a minimum of four (4) feet in height.
2. Self-Closing. All outdoor fence openings or outdoor points of entry into the pool area shall be equipped with self-closing and self-latching devices. The openings between the bottom of the fence and the ground or other surface shall not be more than three (3) inches.
3. Cover. All outdoor spas shall have either a fence as described in C(1) and C(2) or a latchable cover. The cover shall be constructed of a material impenetrable by children.

D. Permits.

1. No person shall construct, alter or renovate a pool or spa without a zoning permit.

*Revised 08/05/2013*

**SUBD. 14. STAIRWAYS, LIFTS AND LANDINGS.**

- A. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts shall meet the following design requirements:
  - 1. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
  - 2. Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties, and planned unit developments.
  - 3. Canopies or roofs are not allowed on stairways, lifts, or landings.
  - 4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
  - 5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
- B. 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 sub-items 1-5 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1640.

**SUBD. 16. COMPLIANCE.**

All uses shall comply with all federal, state and local pollution and nuisance laws and regulations, including, but not limited to, glare, smoke, dust, odors and noise. The burden of proof for compliance of appropriate performance standards shall lie with the applicant.

**SUBD. 17. WIND ENERGY CONVERSION SYSTEMS (WECS).**

**A. Purpose and Intent.**

1. This ordinance is established to regulate the installation and operation of Wind Energy Conversion Systems (WECS) within the City of Madison Lake, not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plan Siting Act (Minn. Stat. § 116C.51 – 116C.697).

**B. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this division.

1. *Commercial WECS* means a WECS of 40 kilowatts or more in total name plate generating capacity.

2. *Fall zone* means the area defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.
3. *Feeder Line* means any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid; in the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the WECS.
4. *Nacelle* means the part of the WECS that contains the key components of the wind turbine, including the gearbox, yaw system, and the electrical generator.
5. *Non-commercial WECS* means a WECS of less than 40 kilowatts (KW) in total name plate generating capacity.
6. *Rotor diameter* means the diameter of the circle described by the moving rotor blades.
7. *Substations* means any electrical facility designed to convert electricity produced by a wind turbine to a voltage greater than 35,000 volts (35 kilovolts) for interconnection with high voltage transmission lines.
8. *Total height* means the highest point, above ground level, reached by a rotor tip or any other part of the WECS.
9. *Tower* means vertical structures that support the electrical generator, rotor blades, or meteorological equipment.
10. *Tower height* means the total height of the WECS exclusive of the rotor blades.
11. *Transmission line* means those electrical power lines that carry voltages of at least 69,000 volts (69 kilovolts) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
12. *WECS – Wind Energy Conversion System* means an electrical generating facility comprised of one or more wind turbines and accessory facilities including, but not limited to, power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or may be distributed into the electrical grid.
13. *Wind turbine* means any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils, or similar devices, to capture the wind.

**C. Application, process, building permits, fees and inspections.**

1. *Application.* Applications for approval to construct a WECS shall include the following information:

- (a) The name(s) of the project applicant.
- (b) The name(s) of the property owner.
- (c) The legal description and address of the project.

- (d) A description of the project including the type, name plate generating capacity, tower height, rotor diameter, and means of interconnecting with the electrical grid.
- (e) The proposed site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and shall be drawn to scale.
- (f) An engineer's certification.
- (g) Documentation of land ownership or legal control of the property.
- (h) The latitude and longitude of individual wind turbines.
- (i) A USGS topographical map, or map with similar date, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the proposed WECS.
- (j) The location of wetlands, lakes, scenic and natural areas within 1,000 feet of the proposed WECS.
- (k) An acoustical analysis.
- (l) A Federal Aviation Administration (FAA) Permit Application, if applicable.
- (m) The location of all known Communication Towers within two (2) miles of the proposed WECS.
- (n) A decommissioning plan.
- (o) A description of potential impacts on nearby WECS and wind resources on adjacent properties.

(2) *Process.* WECS applications will be processed under the procedures for applicable approvals contained within this Chapter.

(3) *Building permits.*

(a) It shall be unlawful for any person to erect, construct in place, place or re-erect, replace, or repair any tower without first making application to the building inspections department and securing a building permit therefore as required in this sub- section.

(b) The applicant shall provide, at the time of application, sufficient information to indicate that construction, installation, and maintenance of the WECS will not create a safety hazard or damage to the property of other persons.

(c) Only one non-commercial tower shall exist at any one time on any one property.

(d) Before issuance of a building permit, the following information shall be submitted by the applicant:

1. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration; and

2. A report from a State-licensed professional engineer that demonstrates the WECS compliance with structural and electrical standards.

3. A conditional use permit approved by the City.

4. Documentation from the utility provider of the WECS connection to the utility provider's grid connection system.

(e) Any city cost of testing or verification of compliance shall be borne by the applicant.

(4) *Fees.* The fee(s) to be paid shall be as prescribed by the City Council.

(5) *Inspections.* WECS may be inspected by an official of the building department or designated agent to determine compliance with original construction standards. Deviation from the original construction for which a permit is obtained constitutes a violation of this section. Notice of violations will be sent by registered mail to the owner of the WECS and the property owner upon which the WECS is located who will have thirty (30) days from the date notification is issued to make repairs. Upon completion of the repairs, the owner/applicant shall notify the building official that the repairs have been made.

**D. Conditionally Permitted and Prohibited WECS.**

(1) *Conditionally permitted WECS.* Commercial WECS are permitted in A-1 Agricultural districts, and I-1 Industrial zoning districts, except as noted in subpart (3) below, upon issuance of a conditional use permit.

(2) *Conditionally permitted WECS.* Non-commercial WECS are permitted in R-1 Single Family Residential Districts, R-1 Two-Family Residential Districts, R-3 Multiple-Family Residential Districts, B-1 Highway Commercial Business District, B-2 Central Business District, B-3 Recreational Business Districts, except as noted in subpart (3) below, upon issuance of a conditional use permit.

(3) *Prohibited WECS.* All WECS are prohibited in the environmental overlay districts and in shoreland overlay districts.

(4) *Prohibited WECS.* All roof-mounted WECS are prohibited in all zoning districts.

**E. Performance Standards.**

(1) *Safety Design Standards.*

(a) *Engineering Certification.* For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

(b) *Clearance.* WECS: Rotor blades must maintain at least fifteen (15) feet of clearance between their lowest point and the ground.

(c) *Rotor Safety.* Each WECS shall be equipped with both a manual and an automatic braking device capable of stopping the WECS operation in high winds (40 miles or greater).

(d) *Lightning Protection.* Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code.

(e) *Warnings.* For all WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage, stating the manufacturer's name, and listing an emergency phone number.

(2) *Standards.*

(a) Total Height.

1. Commercial WECS shall have a total height of no more than one hundred fifty (150) feet.

(b) Tower Configuration.

1. All towers that are part of a WECS, except meteorological towers, shall be installed with a tubular, monopole type tower and shall be self-supporting without the use of guy wires or other similar features.

(c) Setbacks.

	<b>Commercial WECS</b>	<b>Non-Commercial WECS</b>
Property lines	1.1 times the total height plus ten feet	1.1 times the total height plus ten feet
Neighboring Dwellings	1.25 times the total height	1.25 times the total height
Road Rights- of-Way	The lesser of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height	The lesser of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height
Other Rights- of-Way	The lesser of 1.1 times the total height plus ten feet or the distance of the fall zone, as certified by a professional engineer plus ten feet	The lesser of 1.1 times the total height plus ten feet or the distance of the fall zone, as certified by a professional engineer plus ten feet
Other Structures	The lesser of the fall zone, as certified by a professional engineer plus ten feet or 1.1 times the total height	The lesser of the fall zone, as certified by a professional engineer plus ten feet or 1.1 times the total height

(d) Color and Finish.

a. All wind turbines and towers that are part of a WECS shall be white, grey or another non-reflective, non- obtrusive color.

- b. Finishes shall be matte or non-reflective.
- (e) Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the Federal Aviation Administration (FAA) permits and regulations. No additional lighting, other than building security lighting, is permitted.
- (f) WECS sites. The design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the WECS to the natural setting and then existing environment.
- (g) Signs. The manufacturer's or owner's company name and/or logo may be placed on the nacelle of the WECS. No other signage, other than as required in this Division, shall be permitted.
- (h) Feeder Lines. All communications and feeder lines, equal or less than 34.5 kilovolts in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.
- (i) Waste Disposal. All solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
- (j) Maximum Vibration and Shadow Flicker.
  - a. No WECS shall produce vibrations through the ground that are humanly perceptible beyond the property on which it is located.
  - b. All WECS shall include a shadow flicker analysis study with the application submission.
- (k) Discontinuation and Decommissioning. A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the City outlining the steps and schedule for returning the WECS to service.
  - 1. All WECS and accessory buildings shall be removed in their entirety including all footings and foundations within ninety (90) days of the discontinuation of use.
  - 2. Each Commercial WECS shall submit a Decommissioning Plan outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon becoming a discontinued use. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities. The Decommissioning Plan shall be submitted as part of the conditional use permit application.
  - 3. The City may require financial surety in the form of a cash escrow, irrevocable letter of credit, or performance bond to ensure that decommissioning of the Commercial WECS is completed.

**F. Other Applicable Standards.**

- (1) Noise. All WECS shall comply with the MPCA and City of Madison Lake standards for noise.
- (2) Electrical Codes and Standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
- (3) Federal Aviation Administration (FAA). All WECS shall comply with FAA standards and permit requirements.
- (4) Building Code. All WECS shall comply with the Minnesota Building Code as adopted by the State of Minnesota and the City of Madison Lake.
- (5) Interference.
  - (a) The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by WECS.
  - (b) The applicant shall notify all communication tower operators within two (2) miles of the proposed WECS location upon application to the City for a permit to operate a WECS.
  - (c) No WECS shall be constructed so as to interfere with public safety telecommunications.

*Adopted 06/07/2010, Revised 12/21/2015*

#### City of Madison Lake Solar Energy Zoning Ordinance Definitions

**Building-Integrated Solar System.** An active solar system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or thermal solar systems that are contained within roofing materials, windows, skylights and awnings.

**Community Solar Energy System:** A solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system.

**Ground Mounted Panels.** Freestanding solar panels mounted to the ground by use of stabilizers or similar apparatus.

**Photovoltaic System.** An active solar energy system that converts solar energy directly into electricity.

**Roof or Building Mounted SES.** Solar energy system (panels) that are mounted to the roof or building using brackets, stands or other apparatus.

Roof Pitch. The final exterior slope of a building roof calculated by the rise over the run, typically, but not exclusively, expressed in twelfths such as 3/12, 9/12, 12/12.

**Solar Access.** A view of the sun, from any point on the collector surface that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

**Solar Collector.** A device, structure or a part of a device or structure that the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

**Solar Energy.** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

**Solar Energy System (SES).** An active solar energy system that collects or stores solar energy and transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal or chemical means.

**Solar Farm.** A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the primary land use for the parcel on which it is located.

**Solar Storage Battery.** A device that stores energy from the sun and makes it available in an electrical form.

**Solar Hot Water System.** A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Types of solar energy systems.

1. Rooftop solar energy systems: Accessory to the primary land use, designed to supply energy for the primary use.
  - a. These systems are permitted accessory uses in all districts in which buildings are permitted.
  - b. No city land use or site permit is required.
  - c. The owner or contractor shall receive a building or mechanical permit before installing a rooftop solar energy system and/or a solar storage battery designed for storing power generated from a rooftop solar energy system.
2. Ground-mount solar energy systems: Accessory to the primary land use, designed to supply energy for the primary use.
  - a. Ground-mount systems are permitted accessory uses in all districts in which buildings are permitted.
  - b. Ground-mount systems require a city land use or site permit and are subject to the accessory use standards for the district in which it is located, including setback, height and impervious surface coverage limits.
  - c. The height of a ground-mounted [system] shall not exceed ten feet.

- d. No ground-mounted solar energy system shall cover or encompass more than 10 percent of the total property area or lot size.
- 3. Community solar energy systems: Roof or ground-mount solar energy systems, may be either accessory or primary use, designed to supply energy for off-site uses on the distribution grid, but not for export to the wholesale market or connection to the electric transmission grid. These systems shall be subject to the following conditions:
  - a. Rooftop community solar energy systems are permitted in all districts in which buildings are permitted.
  - b. Ground-mount community solar energy systems are an accessory use in all districts.
  - c. Prohibitions: The city prohibits community solar energy systems within:
    - i. Shoreland districts as designated by the department of natural resources (DNR) and the Madison Lake Zoning Ordinance.
    - ii. Six hundred feet of areas designated or protected from development by federal, state or county agencies as wildlife habitat or wildlife management areas.
    - iii. Wetlands to the extent required by the Minnesota Wetland Conservation Act and the Madison Lake Zoning Ordinance.
    - iv. All floodplain districts.
      - d. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
      - e. All structures must meet the setback, height and coverage limitations for the district in which the system is located.
      - f. Ground-mount systems must meet all required standards for structures in the district in which the system is located.
      - g. Site plan required: The owner or operator shall submit to the city a detailed site plan for both existing and proposed conditions. These plans shall show the location of all areas where solar arrays would be placed, the existing and proposed structures, property lines, access points, fencing, landscaping, surface water drainage patterns, floodplains, wetlands, the ordinary high water mark for all water bodies, any other protected resources, topography, electric equipment and all other characteristics requested by the city.
      - h. Power and communication lines: Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. The city administrator or their designee may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines.
      - i. Decommissioning plan: The city requires the owner or operator to submit a decommissioning plan for ground-mounted systems to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission the solar panels in the event they are not in use for 12 consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet all city and county requirements. The city also may require the owner or operator to post a bond, letter of credit or establish an escrow account to ensure proper decommissioning.
- 4. Solar farms: Ground-mount solar energy arrays that are the primary use on the lot or of a property, designed for providing energy to off-site uses or export to the wholesale market. These types of systems that are not permitted or regulated the State of Minnesota Public Utilities Commission (PUC) shall be subject to the following conditions:
  - a. Solar farms are a permitted use in the agricultural (A-1) zone.
  - b. Shall be on properties of at least five acres in size.
  - c. Stormwater management and erosion and sediment control shall meet the requirements of the

city and best management practices.

d. Prohibitions. The city prohibits community solar farms within:

i. Shoreland districts as designated by the department of natural resources (DNR) and the Madison Lake Zoning Ordinance.

ii. Six Hundred feet of areas designated or protected from development by federal, state or county agencies as wildlife habitat or wildlife management areas.

iii. Wetlands to the extent required by the Minnesota Wetland Conservation Act and the Madison Lake Zoning Ordinance.

iv. All floodplain districts.

e. Foundations. The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels meets the accepted professional standards, given local soil and climate conditions.

f. Other standards and codes. All solar farms shall meet all applicable local, state and federal regulatory standards, including the State of Minnesota Building Code, as amended; and the National Electric Code, as amended.

g. Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. The county administrator or their designee may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape interfere with the ability to bury lines.

h. Interconnection. The owner or operator of the solar farm must complete an interconnection agreement with the electric utility in whose service territory the system is located.

i. Site plan required. The owner or operator of the solar farm must submit to the city a detailed site plan for both existing and proposed conditions. These plans shall show the location of all areas where solar arrays would be placed, the existing and proposed structures, property lines, access points to the site, fencing, landscaping, surface water drainage patterns, floodplains, wetlands, the ordinary high water mark for all water bodies, any other protected resources, topography, electric equipment and all other characteristics requested by the city.

j. The city allows the installation of small operations, security and equipment buildings on the site of solar farms as permitted accessory uses to the solar farm.

k. The owner or operator shall contain all unenclosed electrical conductors located above ground within structures that control access or they must be protected from entry by a six-foot-tall fence. All electrical connections to the utility system must meet or exceed the National Electrical Safety Code.

l. Solar farms that have panels that would cover more than 20 acres of land must meet the review and design standards of the public utilities commission (PUC) for solar farms.

m. Decommissioning plan. The city requires the owner or operator to submit a decommissioning plan for ground-mounted systems to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission the solar panels in the event they are not in use for 12 consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a soundly-based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet all city requirements and county requirements. The city also may require the owner or operator to post a bond, letter of credit or establish an escrow account to ensure property decommissioning.

5. Additional standards. In addition to the standards allowed above, all solar energy systems shall meet the following standards:

a. The owners or operators of electric solar energy systems that are connected to the electric distribution or transmission system, either directly or through the existing service of the primary use on the site, shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Off-grid systems are exempt from this requirement.

- b. Electric solar system components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.
- c. All solar energy systems shall meet the standards of the Minnesota and National Electric Code.
- d. All rooftop solar systems shall meet the standards of the Minnesota Building Code.
- e. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, screening on the north side of the solar array, reducing use of the reflector system or other remedies that limit glare.
- f. Building- or roof-mounted solar systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed, except that solar energy systems shall not be required to be screened.
- g. Commercial rooftop systems shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.
- h. Setbacks. All equipment and structures shall meet the setback and coverage limitations for the zoning district in which the system is located.
- i. Screening. When visible from adjacent residential properties and from residential properties across a public street or road, the owners or operators of community solar energy systems and solar farms shall install landscaping and screening around and on their sites to minimize the visual impact of the solar improvements to the adjacent and nearby residential properties. The owners or operators of community solar energy gardens and solar farms also shall install landscaping and screening on their sites to screen their solar development from the view of residences across a public street or road from their site. This screening shall be at least as wide (in length) as the width of the lot or property across the street or road that has the residence to be screened from the solar development. If the applicant can show the city that the proposed solar project improvements would not be visible from adjacent or nearby residences because of existing vegetation or topography, then the city may waive the screening requirement. If an adjacent property has characteristics that make it undevelopable, then the city also may waive the screening requirement for that part of the solar project site.
- i. The city allows the required screening and landscaping in the required setback area but not in a public right-of-way. All buffer screening and landscaping shall be of sufficient width and density to provide year-round screening of the solar development site.
- ii. The developer or applicant of a solar energy project shall submit to the city for approval a screening and landscape plan showing the following:
  - 1. At least two rows of staggered conifer trees that are at least eight feet tall at the time of planting and that will reach a minimum maturity height of 12 feet to screen the solar installation from the public right-of-way and from adjacent and nearby residences; or
  - 2. An alternative buffer and screening plan using a combination of trees, shrubs and/or berms that completely screens the solar installation from the public right-of-way and from adjacent and nearby residences; and
  - 3. An illustration or plans that show a view of the solar development from the public right-of-way, from any residence across the public street or road from the site and all the proposed screening and landscaping.