

BACKUS LAND USE AND SUBDIVISION ORDINANCE

Contents

TITLE.....	5
INTENT AND PURPOSE	5
2.1 Purpose.....	5
RULES AND DEFINITIONS.....	6
3.1 Rules	6
3.2 Definitions.....	6
GENERAL PROVISIONS.....	39
4.1 Application of this Ordinance.....	39
4.2 Environmental Documents and Concurrent Permits.....	39
4.3 Use of Pre-Existing Lots.....	39
4.4 Non-conforming Structures and Uses.....	40
4.5 Building Standards.....	42
4.6 Other Standards.....	43
ZONING DISTRICTS AND DISTRICT PROVISIONS	44
5.1 General Provisions	44
5.2 Residential Shoreland R-1	45
5.3 Residential-Urban R-2.....	51
5.4 Rural Residential R-R.....	52
5.5 Commercial Waterfront District (C-W).....	54
5.6 Commercial District (C-1).....	57
5.7 Industrial District (I-1).....	60

5.8 Public District P	63
PERFORMANCE STANDARDS - GENERAL	65
6.1 Signs.....	65
6.2 Nuisance Standards	68
6.3 Fences	72
6.4 Parking and Storage	72
6.5 Visual Standards - Screening.....	74
6.6 Sanitation Standards.....	75
6.7 Animal Husbandry	76
6.8 Tree Removal / Woodland Preservation / Soil Erosion Prevention.....	76
6.9 Parking and Loading.....	77
6.10 Drainage.....	78
6.11 Grading	79
6.12 Camping.....	82
6.13 Solar Energy Systems	83
SPECIAL PROVISIONS	84
7.1 Planned Unit Development	84
7.2 Campgrounds/Campsites.....	92
7.3 Extractive Uses and Restoration	96
7.4 Home Occupation	98
7.5 Telecommunication Towers	99
7.6 Landfills.....	103
7.7 Adult Use	104

7.8 Bed and Breakfasts	110
7.9 Reserved for Future Use	111
7.10 Manufactured and Pre-Built Housing Development.....	111
SUBDIVISION STANDARDS	113
8.1 General Provisions and Application of this Section	113
8.2 Sketch Plan, Preliminary and Final Plat Standards.....	113
8.3 Final Plat or Final Condominium Plat	115
8.4 Design Layout Standards - Minimum.....	116
8.5 Survey Standards	119
8.6 Street Improvement Standards.....	119
8.7 Sanitary Provision Standards	119
8.8 Water Supply Standards.....	120
8.9 Drainage/Grading Standards	120
8.10 Dedication to the Public – Standards	121
SECTION IX	122
IMPROVEMENTS	122
9.1.....	122
9.2.....	122
9.3.....	122
9.4.....	122
9.5.....	122
ADMINISTRATION	123
10.1 Zoning Administrator.....	123

10.2 Board of Adjustment.....	124
10.3 Planning and Zoning Commission.....	124
10.4 City Council.....	126
10.5 Conditional Use Permits	126
10.6 Variances.....	130
10.7 Interim Use Permits	132
10.8 Land Use/Zoning Permits	134
10.9 Subdivision	135
10.10 Fees	139
10.11 Financial Requirements.....	139
10.12 Required Decision Making Time Frames	139
10.13 Notifications to the Department of Natural Resources	140
ENFORCEMENT	141
11.1 Violations and Penalties.....	141
11.2 Liability of City Officials.....	141
11.3 Equitable Relief	141
SECTION XII.....	142
12.1 Separability	142
12.2 Supremacy.....	142
12.3 Effectuation.....	142
12.4 Amendment.....	142
12.5 Procedure	142
ORDINANCE DATES	143

**SECTION I
TITLE**

This Ordinance shall be referred to and cited as the Backus Land Use and Subdivision Ordinance

**SECTION II
INTENT AND PURPOSE**

This Ordinance is established pursuant to the authority granted by the Minnesota Statutes, in particular the Municipal Planning Act, Minnesota Statutes 1980 Sections 462.351 to 462.364, the Municipal Shoreland Act, Minnesota Statutes 1979 Section 379, and Policies in Minnesota Statutes, Section 105, 115 and 116. This Ordinance hereby repeals and replaces all previous Backus land use, zoning, and subdivision ordinances and previous amendments thereto.

2.1 Purpose

This is adopted for the purpose of:

- 1) Protecting the public health, safety, comfort, convenience and general welfare.
- 2) Inaugurating and effectuating the goals of the Comprehensive Plan.
- 3) Promoting order in development by dividing the area of the City into zones and regulating therein the location, construction, reconstruction, alteration and use of the structures and land.
- 4) Conserving the natural and scenic beauty and attractiveness of the City, for the health and welfare of the public.
- 5) Providing for adequate light, air, and access to property by regulating the use of the land and buildings and the bulk of structures in relation to surrounding properties.
- 6) Providing for the administration of the provisions of the ordinance and defining the authority and duties of the Administrator, Planning Commission, Board of Adjustment and City Council under this ordinance.
- 7) Providing standards and criteria for shoreland to preserve and enhance the quality of surface waters, conserve the economic and natural environment values of shoreland and provide for the wise use of water and related land resources of the City.

**SECTION III
RULES AND DEFINITIONS**

3.1 Rules

For the purpose of the Ordinance, the following rules shall apply to the interpretation of the language used herein:

- 1) The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- 2) The singular includes the plural and the plural the singular.
- 3) The present tense includes the past and future tenses and the future, the present.
- 4) The word “may” is permissive, the word “shall” is mandatory. Mandatory compliance with the Ordinance shall allow for variances thereto.
- 5) All distances expressed in feet shall be to the nearest tenth of a foot, horizontally or vertically.
- 6) In the event of a conflict, the most restrictive provision shall apply.

3.2 Definitions

Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of this chapter, shall have the meanings and inclusions subjoined to them:

ACCESSORY FACILITY OR STRUCTURE (Relating To Telecommunication Facilities): Any facility or structure serving or being used by or in conjunction with wireless telecommunication facilities or support structures, including but not limited to, utility or transmission equipment, storage sheds or cabinets.

ACCESSORY USE: A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

ADMINISTRATOR: The person appointed as Zoning Administrator by the City Council, as provided by this chapter.

ADULT ESTABLISHMENT:

- a) **Adult Use, Accessory:**
The offering of merchandise, whether for sale or rental or loan, characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. A business shall be classified as an accessory adult use if the merchandise for sale or rental occupies no more than ten percent (10%) of the floor area of the establishment in which it is

located or one hundred (100) square feet, whichever is less, or comprises no more than twenty percent (20%) of the gross receipts of the entire business operation.

b) **Adult Use Establishment:**

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

c) **Adult Use, Principal:**

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

ADULT USES:

a) **Use, Body Painting Studio: Adult**

An establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas" or the application of paint or other substance by a patron to the body of another person.

b) **Adult Use, Bookstore:**

A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape or motion picture film, if such building or portion of a building is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or

description of "specified sexual activities" or "specified anatomical areas".

c) Adult Use, Cabaret:

A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

d) Adult Use, Companionship/Conversation/Rap Establishment:

A companionship, conversation, rap establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

e) Adult Use, Hotel Or Motel:

A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

f) Adult Use, Massage Parlor, Health/Sport Club:

A massage parlor, health club or sport club which restricts minors by reason of age, and which provides services distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

g) Adult Use, Mini-Motion Picture Theater:

A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

h) Adult Use, Modeling Studio:

An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" which being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

i) Adult Use, Motion Picture Arcade:

Any place to which the public is permitted or invited wherein coin or slug operated, or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any

one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

j) **Adult Use, Motion Picture Theater:**

A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material, if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

k) **Adult Use, Novelty Business:**

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

l) **Adult Use, Sauna/Steam Room/Bathhouse Facility:**

A building or portion of a building used for providing a steam bath or heated bathing room used for the purpose of pleasure, bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxation or reducing agent, if such building or portion of a building restricts minors by reason of age, or if the service provided by the sauna/steam room/bathhouse facilities is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

m) **Distinguished Or Characterized By An Emphasis Upon:**

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

ADULT-USE CANNABIS FLOWER: "Adult use cannabis flower" means cannabis flower that is approved for sale by the State of Minnesota or is substantially similar to a product approved by the State of Minnesota. Adult-use cannabis flower does not include medical cannabis flower, hemp plant parts, or hemp-derived consumer products.

ADULT-USE CANNABIS CONCENTRATE: "Adult-use cannabis concentrate" means cannabis concentrate that is approved for sale by the State of Minnesota or is substantially similar to a product approved by the State of Minnesota. Adult-use cannabis concentrate does not include any artificially derived cannabinoid.

ADULT-USE CANNABIS PRODUCT: “Adult-use cannabis product” means a cannabis product that is approved for sale by the State of Minnesota or is substantially similar to a product approved by the State of Minnesota. Adult-use cannabis product includes edible cannabis products but does not include medical cannabinoid products or lower-potency hemp edibles.

ARTIFICIALLY DERIVED CANNABINOID: “Artificially derived cannabinoid” means a cannabinoid extracted from a cannabis plant, cannabis flower, hemp plant, or hemp plant parts with a chemical makeup that is changed after extraction to create a different cannabinoid or other chemical compound by applying a catalyst other than heat or light. Artificially derived cannabinoid includes but is not limited to any tetrahydrocannabinol created from cannabidiol but does not include cannabis concentrate, cannabis products, hemp concentrate, lower-potency hemp edibles, or hemp-derived consumer products.

AGRICULTURAL USE: The use of land for the growing and/or production of crops or livestock products for the production of income, including incidental retail sales of produce and animal products.

AIRPORT OR HELIPORT: Any land or structure, which is used or intended for use, for the landing and takeoff of aircraft, and any appurtenant land or structure used or intended for use for port buildings or other port structures or rights-of-way.

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

AMBIENT NOISE LEVEL: The background noise level prior to installing the wind energy conversion system.

ANIMAL HUSBANDRY: The care and breeding of domestic animals such as cattle, hogs, sheep, horses, poultry, dogs (more than two) or cats (four or more).

ANIMALS:

- a) Domestic pets: Fish, dogs, cats, birds and similar animals.
- b) Domestic farm animals: Cattle, hogs, horses, bees, sheep, goats, chickens and other commonly known farm animals.

ANTENNA: Any structure, device or system of electrical conductors, that transmit or receive electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omni- directional antennas, such as whips.

APARTMENT: A room or suite of rooms with cooking facilities available, which is occupied as a residence by a single family, and including buildings with three (3) or more dwelling units.

AUTO SALVAGE YARD: A lot or yard where four (4) or more unlicensed motor vehicles are stored while parts are removed, where crushing occurs, or where storage pending part removal and crushing may occur.

BASEMENT: A portion of a building located partly underground and having one-half (1/2) or less of its floor to ceiling height below the average grade of the adjoining ground.

BED AND BREAKFAST: An owner-occupied residence where, for compensation, lodging and certain meals are provided to overnight guests.

BLUFF: A topographic feature such as a hill, cliff or embankment, having all the following characteristics: a) part or all of the feature is in a shore land area; b) the slope rises at least twenty five feet (25') above the ordinary high water level of the water body; c) the grade of the slope from the toe of the bluff to a point twenty five feet (25') or more above the ordinary high water level averages thirty percent (30%) or greater; and d) the slope drains toward the water body.

BLUFF IMPACT ZONE: A bluff and land located within thirty feet (30') from the top of the bluff.

BOARD OF ADJUSTMENT: The Board, appointed by the City Council, to hear and decide appeals from actions of the Zoning Administrator, and variance requests.

BOARDING HOUSE: A building, other than a motel or hotel, where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three (3) or more persons, but not to exceed eight (8) persons.

BOAT HOUSE: A structure designed and used solely for the storage of boats or boating equipment.

BUFFER STRIP: Land area used to visibly separate one use from another, or to shield or block structures, noise, lights or other potential nuisances.

BUILDING: Any structure having a roof which may provide shelter or enclosure of persons, animals or chattel. When said structure is divided by party walls, without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING HEIGHT: The vertical distance from: a) the average elevation of the adjoining ground level; or b) the established grade adjacent to the building, whichever is lower, 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 on a round or other arch type roof, to the highest gable on a pitched or hip roof.

BUILDING LINE: A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

BUILDING PERMIT: Same as Zoning Permit.

BUSINESS: Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials, or where services are offered for compensation.

CAMPGROUND: A land use under single ownership consisting of designated campsites with appropriate facilities designed for temporary occupation by tents or recreational vehicles with management services and with site rentals.

CAMPSITE: A parcel within a resort or campground designated for the occupancy of one family or a periodic basis in a tent or recreational vehicle.

CANNABINOID: “Cannabinoid” means any of the chemical constituents of hemp plants or cannabis plants that are naturally occurring, biologically active, and act on the cannabinoid receptors of the brain. Cannabinoid includes but is not limited to tetrahydrocannabinol and cannabidiol.

CANNABINOID PRODUCT: “Cannabinoid product” means a cannabis product, a hemp-derived consumer product, or a lower-potency hemp edible.

CANNABIS CONCENTRATE: “Cannabis Concentrate” means:

- a) The extracts and resins of a cannabis plant or cannabis flower;
- b) The extracts or resins of a cannabis plant or cannabis flower that are refined to increase the presence of targeted cannabinoids; or
- c) A product that is produced by refining extracts or resins of a cannabis plant or cannabis flower and is intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product.

Cannabis concentrate does not include hemp concentrate, artificially derived cannabinoid, or hemp-derived consumer products.

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

CANNABIS FLOWER: “Cannabis flower” means the harvested flower, bud, leaves, and stems of a cannabis plant. Cannabis flower includes adult-use cannabis flower and medical cannabis flower. Cannabis flower does not include cannabis seed, hemp plant parts or hemp-derived consumer products.

CANNABIS/HEMP MANUFACTURER: A business licensed to conduct the activities to turn raw, dried cannabis and cannabis parts into other types of cannabis products, including but not limited to edibles, topicals, vaporizers, etc.

CANNABIS PLANT: “Cannabis plant” means all parts of the plant of genus Cannabis that is growing or has not been harvested and has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.

CANNABIS PRODUCT: “Cannabis product” means any of the following:

- a) Cannabis concentrate;
- b) A product infused with cannabinoids, including but not limited to tetrahydrocannabinol, extracted or derived from cannabis plants or cannabis flower; or
- c) Any other product that contains cannabis concentrate.

“Cannabis product” includes adult-use cannabis products, including but not limited to edible cannabis products and medical cannabinoid products. Cannabis product does not include cannabis flower, artificially derived cannabinoid, lower-potency hemp edibles, hemp-derived consumer products, or hemp-derived topical products.

CANNABIS RETAIL BUSINESS: A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, and lower-potency hemp edible retailers conducting sales of Cannabis directly to consumers.

CANNABIS TRANSPORTATION/DELIVERY: Cannabis Businesses licensed or endorsed by the State Office of Cannabis Management for delivery or transportation of Cannabis Products.

CANNABIS WHOLESALE: The operation to purchase from a business growing or manufacturing cannabis or cannabis products and sell to a cannabis business engaged in retail.

CARPORT: An automobile shelter having one or more sides open.

CELLAR: That portion of a building having more than one-half (1/2) of the floor to ceiling height below the average grade of the adjoining ground.

CHILD CARE, CENTER: Any facility, public or private, which for gain regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than twenty four (24) hours per day, in a place other than the person's own home. Daycare facilities include, but are not limited to, family daycare homes, group family daycare homes, daycare centers, day nurseries, nursery schools, development achievement centers, day treatment centers, adult

daycare centers and day services.

CHILD CARE, FAMILY HOME: A primary residence where, for the whole or part of the day, an owner of the residence, licensed as a child care provider, cares for five or more children who are eighteen (18) years of age or younger and who are not related to the owner, whether such facility is operated with or without compensation for such care.

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.

CITY CLERK: The duly appointed person responsible for the administration of the City affairs.

CITY SEWER OR WATER SYSTEM: A system of municipally maintained utilities approved by the State and serving more than one building or property.

CLUB OR LODGE: A nonprofit association of persons who are bona fide members paying annual dues, use of the premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises, providing adequate dining room space and kitchen facilities are available.

COLUMBARIUM (COLUMBARIA): An above-ground repository composed on niches designed for the purpose of interring the cremains of the deceased.

COLUMBARIUM INDIVIDUAL NICHE(S): An individual recess within a columbarium designated to contain the cremains of one deceased within a single cremation urn or container; or the cremains of two deceased within two cremation urns or containers.

COMMERCIAL KENNEL: Any premises where three (3) or more dogs, at any one time, over six (6) months of age, are owned, boarded, bred or offered for sale.

COMMERCIAL PLANNED UNIT DEVELOPMENTS: Commercial Planned Unit Developments are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service-oriented activities are Commercial Planned Unit Developments. Includes time-shared condominiums where part of a resort.

COMMERCIAL RECREATION: Bowling alley, cart track, jump center, golf, pool hall, vehicle racing for amusement, dance hall, skating, tavern, theater, firearms range and similar uses.

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

COMMERCIAL WIND ENERGY CONVERSION SYSTEM (CWECS): A wind energy conversion system with a total nameplate generating capacity no less than forty kilowatts (40 kW), but no greater than one hundred kilowatts (100 kW).

COMMISSION: The Planning Commission of the City.

COMMISSIONER: The Commissioner of the Department of Natural Resources.

COMMON INTEREST COMMUNITY (CIC) This category is the same as “Condominium”. A form of ownership within a multi-owner building or complex wherein the boundaries are defined by a Common Interest Community plat in accordance with Minnesota State Statutes, Chapter 515B, or amendments thereto. Commonly a “condominium.” Characterized by some individual unit ownership and common property owned by multiple owners or by an association or other entity on behalf of multiple owners.

COMPREHENSIVE PLAN: Unless otherwise stated, the General Plan for land use, transportation and community facilities prepared and maintained by the Planning Commission.

CONDITIONAL USE: The occupations, vocations, skills, arts, businesses, professions or uses specifically designated in each zoning use district, which for their respective conduct, exercise or performance in such designated use districts may require reasonable but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, thoroughfares, conditions, modifications or regulations in such use districts for the promotion or preservation of the general public welfare, health, convenience or safety therein and in the City, and therefore, may be permitted in such use district only by a conditional use permit.

CONDITIONAL USE PERMIT: A permit specially and individually granted by the City Council after review and recommendation by the commission for any conditional use so permitted in any use district.

CONDOMINIUM OWN: A form of ownership within a multi-owner building or complex wherein the boundaries are defined by a condominium plan in accordance with Minnesota Statutes 1980, Chapter 515 and Chapter 515A or subsequent revisions.

CONSTRUCTION OFFICE: The principal place of business used by a company or individual engaged in building or road construction, including on site fabrication of components, on site storage and maintenance of equipment.

CONTROLLED INTERSECTION: An intersection with two (2) or more stop signs or traffic signals.

CURB LEVEL: The grade elevation established by the Governing Body of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this chapter.

DECK: A horizontal, unenclosed platform with or without attached railing, seats, trellises or other features, attached or functionally related to a principal use or site.

DETENTION FACILITY: A permanent natural or manmade structure, including wetlands, for the temporary storage of runoff which contains a permanent or semipermanent pool of water.

DEWATERING: Removal of water for construction activities.

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

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

DWELLING UNIT: A structure or portion of a structure or other shelter designed as short or long term living quarters for one or more persons including rental or time share accommodations such as motel, hotel, resort rooms, and resort cabins. Any structure containing kitchen or bathroom facilities or plumbing shall be considered a dwelling unit.

DWELLING SINGLE FAMILY: A dwelling unit totally separated from any other dwelling unit.

DWELLING MULTI-FAMILY: Two or more dwelling units attached together by any point including duplexes, triplexes, townhouses and multi-level units regardless of type of ownership.

DWELLING WIDTH: The smallest horizontal dimension of the major portion of a dwelling.

EDIBLE CANNABIS PRODUCT: “Edible cannabis product” means any product that is intended to be eaten or consumed as a beverage by humans; contains a cannabinoid other than an artificially derived cannabinoid in combination with food ingredients; is not a drug; and is a type of product approved for sale by the State of Minnesota, or is substantially similar to a product approved by the State of Minnesota including but not limited to products that resemble nonalcoholic beverages, candy, and baked goods. Edible cannabis product does not include lower-potency hemp edibles.

ENGINEER: The Engineer duly appointed by the Council to perform technical services for the City of Backus.

ESSENTIAL SERVICES: Underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings.

EXTRACTIVE USE: The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals or peat not regulated under Minnesota Statutes Sections 93.44 to 93.51.

EXTERIOR STORAGE: Storage of goods, materials, equipment, manufactured products outside of a fully enclosed building.

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

FALL ZONE: The area, defined as the furthest distance from the wind energy conversion system base, in which the system will collapse in the event of a structural failure.

FAMILY: An individual, or two (2) or more persons each related by blood, marriage or adoption living together as a single housekeeping unit, or a group of not more than four (4) persons not so related, maintaining a common household.

FENCE: Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure.

FINAL PLAT: A drawing prepared by a Registered Land Surveyor depicting the subdivision of land and related information conforming to the requirements of Minnesota Statutes, Chapter 505.

FLOODPLAIN: The areas adjoining a water course, intermittent or permanently flowing, which have been or will be covered by the runoff waters of a storm with a 1% chance of occurrence any year (500 year storm).

FLOODWAY: The channel of the water course and those portions of the adjoining Floodplain which are reasonably required to carry and discharge the regional flood (500 year chance of occurrence).

FLOOR AREA: The sum of the gross horizontal areas of the several floors of a building, including interior balconies, mezzanines, basements and attached accessory buildings, excepting that area primarily devoted to window display, fitting rooms, stairs, escalators, unenclosed porches, detached accessory buildings utilized as dead storage, heating and utility rooms, inside off- street parking or loading space.

FORESTRY: The management, including growing or harvesting of a forest, woodland or plantation, including the construction, alteration or maintenance of woods, roads and landings, and related research and educational activities.

FOUNDATION: A concrete, concrete and concrete block, or treated wood portion of a structure which totally encloses the perimeter of the structure, supports the bearing loads of the super structure and penetrates the ground to provide frost protection.

FRONT YARD: A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the district in which such lot is located.

GARAGE, PRIVATE: A detached accessory building, or portion of the principal building, including a carport, which is used primarily for storing passenger vehicles, trailers or one truck of a rated capacity not in excess of ten thousand (10,000) pounds gross vehicle weight.

GARAGE, PUBLIC: A building, or portion of a building, except any herein defined as "private garage", or as a "repair garage", used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire in which any sale of gasoline, oil and accessories is only incidental to the principal use.

GARAGE, REPAIR: A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

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

GREEN SPACE: Privately owned property permanently dedicated by covenant to vegetative ground coverage with allowance for use as recreational facilities, tree coverage or water courses, water supply, sewage disposal and drives. Public property permanently dedicated to park, vegetative buffer, tree coverage or similar uses.

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

GUEST QUARTERS: A room or rooms located within a detached accessory 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.

HARDSHIP: 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 his property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if reasonable use for the property exists under the terms of the ordinance.

HEIGHT: The distance measured from ground level to the highest point on a tower or structure, including any antennas.

HEMP CONCENTRATE: “Hemp concentrate” means:

- a) The extracts and resins of a hemp plant or hemp plant parts;
- b) The extracts or resins of a hemp plant or hemp plant parts that are refined to increase the presence of targeted cannabinoids; or
- c) A product that is produced by refining extracts or resins of a hemp plant or hemp plant parts and is intended to be consumed by combustion or vaporization of the product and inhalation of smoke, aerosol, or vapor from the product.

“Hemp Concentrate” does not include artificially derived cannabinoids, lower-potency hemp edibles, hemp-derived consumer products, or hemp-derived topical products.

HEMP-DERIVED CONSUMER PRODUCT: “Hemp-derived consumer product” means a product intended for human or animal consumption, does not contain cannabis flower or cannabis concentrate, and:

- a) Contains or consists of hemp plant parts; or
- b) Contains hemp concentrate or artificially derived cannabinoids in combination with other ingredients.

“Hemp derived consumer product” does not include artificially derived cannabinoids, lower-potency hemp edibles, hemp-derived topical products, hemp fiber products, or hemp grain.

HEMP-DERIVED TOPICAL PRODUCT: “Hemp-derived topical product” means a product intended for human or animal consumption that contains hemp concentrate, is intended for application externally to a part of the body of a human or animal, and does not contain cannabis flower or cannabis concentrate.

HEMP GRAIN: “Hemp grain” means the harvested seeds of the hemp plant intended for consumption as food or part of a food product. Hemp grain includes oils pressed or extracted from harvested hemp seeds.

HEMP PLANT: “Hemp plant” means all parts of the plant of the genus Cannabis that is growing or has not been harvested and has a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.

HEMP PLANT PARTS: “Hemp plant parts” means any part of the harvested hemp plant, including the flower, bud, leaves, stems, and stalk, but does not include derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers that are separated from the plant. Hemp plant parts does not include hemp fiber products, hemp grain, or hemp seed.

HEMP SEED: “Hemp seed” means the viable seed of the plant of the genus Cannabis that is intended to be planted and is reasonably expected to grow into a hemp plant. Hemp seed does not include cannabis seed or hemp grain.

HOBBY: An activity or interest pursued outside of one’s regular work primarily for pleasure.

HOME OCCUPATION: The accessory use of a home for a business or commercial enterprise, engaged in by the person residing in that unit. The use must be incidental and secondary to the principal residential use of the dwelling unit and must not change the residential character of the dwelling unit or adversely affect the character of the surrounding neighborhood. "Home occupation" does not refer to a hobby.

HOTEL: A building having provision for nine (9) or more guests in which lodging is provided, with or without meals, for compensation, and which is open to transient or permanent guests, or both, and where no provision is made for cooking in any guestroom, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

HOUSE/BUILDING NUMBERS: A set of numbers or letters with a minimum height of four inches (4") that are visible from across the street or avenue that specifies the street address of the house or building.

HUB HEIGHT: When referring to a wind turbine, the distance measured from ground level to the center of the turbine hub of a wind energy conversion system.

HYDRIC OR HYDROPHILIC SOILS: Soils which have an affinity for water or swell and are not easily coagulated, such as colloids.

HYDROPHYTIC VEGETATION: Vegetation which has an affinity to thrive under saturated or nearly saturated conditions.

IMPERVIOUS SURFACE: The horizontal area of buildings, patios, walks, driveways, accessory structures, and other surfaces generally impervious to the penetration of storm water including gravel drives and parking areas.

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

INTERIM USE: A temporary use of property to which reasonable conditions may be attached and which will expire on a certain date or after a certain event, or until zoning regulations no longer permit it.

INTERIM USE PERMIT: A permit specially and individually granted by the City Council after review and recommendation by the commission for any interim use so permitted in any use district.

INTOXICATING CANNABINOID: “Intoxicating cannabinoid” means a cannabinoid, including an artificially derived cannabinoid, that when introduced into the human body impairs the central nervous system or impairs the human audio, visual, or mental processes. Intoxicating cannabinoid includes, but is not limited to, any tetrahydrocannabinol.

JUNKYARD: An area where used, wasted, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber products, bottles and used building materials. Storage of such material in conjunction with permitted manufacturing process when within an enclosed area or building shall not be included. Such use shall not include organic waste or material.

LAKE CLASSIFICATION: The formal classification by the DNR of each body of public waters within the City.

LANDINGS: A flat area of a stairway, and does not include boat landings.

LANDSCAPING: Plantings, such as trees, grass and shrubs.

LIFTS: A mechanical conveyance for access up and down a slope, and does not mean boat lift.

LOT: A parcel of land occupied or used or intended for occupancy or used by a use permitted in this chapter, abutting on a public street, and of sufficient size to provide the yards required by this chapter.

LOT AREA: The area of lot in a horizontal plane bounded by the lot lines.

LOT CORNER: A lot situated at the junction of and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment with a continuous street, the interior angle of which does not exceed one hundred thirty-five degrees (135°).

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

LOT, INTERIOR: A lot other than a corner lot.

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

LOT LINE, FRONT: That boundary of a lot which abuts an existing or dedicated public street and, in case of a corner lot, it shall be the shortest dimension on a public street, except that a corner lot in a nonresidential area shall be deemed to have frontage on both streets. A lot line abutting a controlled access highway from which there is not direct access to the lot shall not be deemed a front lot line for the purposes of building or structure

setback requirements.

LOT LINE, REAR: The boundary of a lot which is opposite the front lot line. In the case of a corner lot or other lot with more than one front lot line, the rear lot line shall be opposite the front lot line of the shortest dimension, or as otherwise determined by the Zoning Administrator after considering the layout of the lot in relation to surrounding lots. If the rear lot line is less than ten feet (10') in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet (10') in length within the lot, parallel to and at the maximum distance from the front lot line.

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

LOT, PRE-EXISTING: A lot which is one unit of a subdivision plat heretofore duly approved and filed or one unit of an auditor's subdivision, or registered land survey, or a lot created by metes and bounds that has been recorded in the office of the County Recorder prior to the effective date of this Ordinance.

LOT WIDTH: The shortest distance between lot lines measured at the midpoint of the building line and at the ordinary high-water level, if applicable.

LOWER-POTENCY HEMP EDIBLE: "Lower-potency hemp edible" means any product that:

- a) Is intended to be eaten or consumed as a beverage by humans;
- b) Contains hemp concentrate or an artificially derived cannabinoid, in combination with food ingredients;
- c) Is not a drug;
- d) Consists of servings that contain no more than five milligrams of delta-9 tetrahydrocannabinol, 25 milligrams of cannabidiol, 25 milligrams of cannabigerol, or any combination of those cannabinoids that does not exceed the identified amounts;
- e) Does not contain more than a combined total of 0.5 milligrams of all other cannabinoids per serving;
- f) Does not contain an artificially derived cannabinoid other than delta-9 tetrahydrocannabinol;
- g) Does not contain a cannabinoid derived from cannabis plants or cannabis flower; and

Is a type of product approved for sale by the State of Minnesota or is substantially similar to a product approved by the State of Minnesota including, but not limited to, products that resemble nonalcoholic beverages, candy, and baked goods.

MANUFACTURED HOME: A structure, transportable in one or more sections, which, when erected on site, is a minimum of 640 square feet, is built on a permanent foundation, contains the heating, plumbing and electrical systems within and meets the requirements of the building code adopted by the State of Minnesota.

MANUFACTURED HOME PARK (TRAILER PARK): Any premises on which are parked two (2) or more occupied manufactured homes, or any premises used or held out for the purpose of supplying to the public a parking space for two (2) or more such trailers; does not include sales lots on which automobiles or unoccupied trailers, new or used, are parked for purposes of inspection or sale.

MANUFACTURING, HEAVY: All 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. Such uses include, but are not limited to, the following: sawmill, papermills, boat manufacturing, refineries, commercial feedlots, acid, cement, explosives, flour, feed and grain milling or storage, meat packing, slaughterhouses, coal or tar asphalt distillation, rendering of fat, grease, lard or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of paris, tanneries, automobile parts, paper and paper products, glass, chemicals, crude oil and petroleum products, including storage, electric power generation facilities, vinegar works, junkyard, auto reduction yard, foundry, machine shop, forge, casting of metal products, rock, stone and cement products, and including all uses permitted in the I-1 Industrial District.

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, vibrations or other objectionable influences that extend beyond the lot on which the use is located. Generally, these are industries dependent upon raw materials refined elsewhere. Such uses include, but are not limited to, the following: lumberyards, machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair, bodywork and painting, contractors' shops and storage yard, food and nonalcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles, and used auto parts.

MEDICAL CANNABINOID PRODUCT:

- a) "Medical cannabinoid product" means a product that:
 - i. Consists of or contains cannabis concentrate or hemp concentrate or is infused with cannabinoids, including but not limited to artificially derived cannabinoids; and
 - ii. Is provided to a patient enrolled in the registry program; a registered designated caregiver; or a parent, legal guardian or spouse of an enrolled patient, by a cannabis retailer or medical cannabis retailer to treat or alleviate the symptoms of a qualifying medical condition.

- b) A medical cannabinoid product must be in the form of:
 - i. Liquid, including but not limited to oil;
 - ii. Pill;
 - iii. Liquid or oil for use with a vaporized delivery method;
 - iv. Water-soluble cannabinoid multiparticulate, including granules, power, and sprinkles;
 - v. Orally dissolvable product, including lozenges, gum, mints, buccal tablets, and sublingual tablets;
 - vi. Edible products in the form of gummies and chews;
 - vii. Topical formulation; or
 - viii. Any allowable form or delivery method approved by the State of Minnesota.

- c) Medical cannabinoid product does not include adult-use cannabis products or hemp-derived consumer products.

MEDICAL CANNABIS BUSINESS: “Medical Cannabis business” means an entity licensed by the State to engage in one or more of the following:

- a) The cultivation of cannabis plants for medical cannabis flower;
- b) The manufacture of medical cannabinoid products; and
- c) The retail sale of medical cannabis flower and medical cannabinoid products.

MEDICAL CANNABIS FLOWER: “Medical cannabis flower” means cannabis flower provided to a patient enrolled in the registry program; a registered designated caregiver; or a parent, legal guardian, or spouse of an enrolled patient by a cannabis retailer or medical cannabis business to treat or alleviate the symptoms of a qualifying medical condition. Medical cannabis flower does not include adult-use cannabis flower.

MEDICAL CANNABIS PARAPHERNALIA: “Medical cannabis paraphernalia” means a delivery device, related supply, or educational material used by a patient enrolled in the registry program to administer medical cannabis and medical cannabinoid products.

METEOROLOGICAL TOWER (MET): A tower and associated equipment used primarily to measure wind speed and directions, plus other pertinent data relevant to siting a wind energy conversion system.

METES AND BOUNDS: Descriptions of property and descriptions for lots other than lots in recorded subdivision plats.

MOTOR COURT, MOTEL HOTEL OR MOTEL: A building or group of buildings, other than a hotel, used primarily as a temporary residence of a motorist.

MOTOR FREIGHT TERMINAL: A building or area in which freight brought by motor truck is transferred and stored for movement in intrastate or interstate shipment by motor truck.

MOTOR FUEL STATION: A retail place of business engaged primarily in the sale of motor fuels, but also may be engaged in supplying goods and services generally required in the operation and maintenance of motor vehicles. These may include sales of petroleum products, sales and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services, and the performance of minor automotive maintenance and repair.

MOTOR FUEL STATION CONVENIENCE STORE: A store operated in conjunction with a major motor fuel station or truck stop for the purpose of offering for sale goods not essential to the motoring public.

MPCA: Minnesota Pollution Control Agency.

NONCOMMERCIAL WIND ENERGY CONVERSION SYSTEM (NCWECS): A wind energy conversion system no greater than forty kilowatts (40 kW) in total nameplate generating capacity.

NONCONFORMING STRUCTURE: Any structure which is existing upon the effective date hereof, which would not conform to the applicable zoning laws and restrictions if the structure were to be erected under the provisions of this chapter.

NONCONFORMING USE: The use of land, buildings or structures legally existing at the time of adoption of this chapter, which does not comply with all the regulations of this chapter, or any amendments hereto, governing the zoning district(s) in which such use is located.

NONINTOXICATING CANNABINOID: “Nonintoxicating cannabinoid” means a cannabinoid that when introduced into the human body does not impair the central nervous system and does not impair the human audio, visual, or mental processes. Nonintoxicating cannabinoid includes but is not limited to cannabidiol and cannabigerol but does not include any artificially derived cannabinoid.

NOXIOUS MATTER OR MATERIALS: Material capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic wellbeing of individuals.

NPDES: National Pollutant Discharge Elimination System.

NUDE OR NUDITY OR STATE OF NUDITY: Means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the showing of the female breast with less than fully opaque covering of any part of the areola.

NUISANCE: By authority and direction of Minnesota Statute, 1980, Section 412.221, Subdivision 23 and 24; and Section 429.031, Subdivision 8; and Section 145.22 and 145.23, nuisance is anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses, such as excessive smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact, and other interferences or offenses. See also performance standards herein.

NURSERY, DAY: A use where care is provided for pay for three (3) or more children under kindergarten age for periods of four (4) hours or more per day.

NURSERY, LANDSCAPE: A business growing and selling trees, flowering and decorative plants and shrubs, and which may be conducted within a building or without.

NURSING HOME: A private home for the care of children or the aged or infirm, or place of rest for those suffering bodily disorders. Such a home does not contain equipment for surgical care or for the treatment of disease or injury, nor does it include maternity care or care for mental illnesses or infirmities.

OPEN SALES LOT: Land devoted to the display of goods for sale, rent, lease or trade, where such goods are not enclosed within a building.

OPEN STORAGE: Storage of any material outside of a building.

ORDINARY HIGH-WATER LEVEL/MARK: The highest level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high-water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high-water level is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters and sloughs.

OUTDOOR BOILERS: A freestanding combustion unit located outside the home or structure to be heated that consists of a firebox surrounded by a reservoir.

PARKING SPACE: A suitably surfaced and permanently maintained area on privately owned property, either within or outside of a building of sufficient size to store one standard automobile.

PARTY WALL: A wall which divides two (2) independent structures.

PATIENT: "Patient" means a Minnesota resident who has been diagnosed with a qualifying medical condition by a health care practitioner and who has met all other requirements for patients to participate in the registry program.

PATIO. An uncovered, unscreened platform without attached railings or seats which is on grade at its highest point.

PERFORMANCE STANDARD: The criterion established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards; or glare or heat generated by or inherent in uses of land or buildings.

PERMITTED USE: A public or private use which, of itself, conforms with the purposes and objectives of a particular district which conforms with all requirements, regulations and performance standards (if any) of such districts.

PLACE OF PUBLIC ACCOMMODATION: “Place of public accommodation” means a: business, refreshment, entertainment, recreation, or transportation facility of any kind, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public and the exterior areas of same open and accessible to the public, including, but not limited to, parking lots, lawns, walkways, decks, patios, docks, etc.

The definition of a “place of public accommodation” specifically excludes the following:

- a) A private residence, including the individual’s curtilage or yard;
- b) A private property, not generally accessible by the public, unless the individual is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or
- c) On the premises of an establishment or event licensed to permit on-site consumption.

PLANNED UNIT DEVELOPMENT(P.U.D.): A land use 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 green space, density increases, and mix of structure types and land uses. These developments may be organized and operated as condominiums, time share condominiums, co-operatives, full free ownership, commercial enterprises, or any combination of these, or cluster subdivisions 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. Includes semi-public use. Does not include a duplex where specifically allowed in a zoning district on a single parcel of land.

PLANNING COMMISSION: A body duly appointed by the City Council to determine the development of the City and make recommendations to the City Council on comprehensive plans, zoning district boundaries, subdivision of land and capital improvements; and to consider applications for and to grant or deny Conditional Use Permits.

PORTABLE STORAGE UNIT: A storage unit designed, constructed or reconstructed so as to be capable of movement via towing, hauling or attachment to a vehicle from one site to another and designed to be used without a permanent foundation. Portable storage units shall include semi-trailers and similar units which have been modified to make them unable to be readily transported from one location to another. Storage buildings constructed on skids, properly licensed fish houses and other similar structures designed for common use as residential storage structures shall not be considered portable storage units for the purposes of this title.

PRELIMINARY PLAT OR PLAN. A plan prepared in accordance with the Subdivision Ordinance depicting the proposed subdivision of property by Final Plat or Final Floor Plan.

PRINCIPAL USE: The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted or conditional.

PROPAGULE: "Propagule" means seeds, clones, transplants, and any other propagative industrial hemp material.

PROPERTY LINE: The surveyed and legal boundaries of a parcel of property, which may also coincide with a right-of-way of a road, cartway and the like.

PROTECTIVE COVENANTS. Restrictions placed on the property by the owner and duly filed with the County Recorder. These may also be used in planned unit developments to establish homeowners associations, restrict shoreline development and provide for common facilities.

PUBLIC HEARING: A meeting where data on a particular topic is heard, and said time, date, location of meeting and topic has been advertised in the official newspaper of the City prior to hearing.

PUBLIC LAND: Land owned or operated by Municipal, school district, County, State or other governmental units.

PUBLIC PLACE: Public Place: "Public place" means a public park or trail, public streets or sidewalks, any enclosed indoor area used by the general public, including, but not limited to, theaters, restaurants, bars, food establishments, places licensed to sell intoxicating liquor, wine, or malt beverages, retail businesses, gyms, common areas in buildings, public shopping areas, auditoriums, arenas, or other places of public accommodation and the exterior areas of same open and accessible to the public, including, but not limited to, parking lots, lawns, walkways, decks, patios, docks, etc.

The definition of a "public place" specifically excludes the following:

- a) A private residence, including the individual's curtilage or yard;
- b) A private property, not generally accessible by the public, unless the individual is explicitly prohibited from consuming cannabis flower,

cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or

- c) On the premises of an establishment or event licensed to permit on-site consumption.

PUBLIC WATERS. Any waters as defined in Minnesota Statutes Sec. 105.37, Subd. 14 & 15. However no lake, pond or flowage of less than 10 acres in size in municipalities need be regulated for the purposes of the shoreland management rule. A body of water created by a private user where there was no previous shoreline may, at the discretion of the local government, be exempted from the shoreland management requirements except as affected by the main waterbody. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner.

PUBLICATION: Notice placed in the official City newspaper stating time, location and date of meeting and a description of the topic.

QUALIFYINGMEDICAL CONDITION: “Qualifying medical condition” means a diagnosis of any of the following conditions:

- a) Alzheimer’s disease;
- b) Autism spectrum disorder that meets the requirements of the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association;
- c) Cancer, if the underlying condition or treatment produces one or more of the following:
 - i. Severe or chronic pain;
 - ii. Nausea or severe vomiting; or
 - iii. Cachexia or severe wasting;
- d) Chronic motor or vocal tic disorder;
- e) Chronic pain;
- f) Glaucoma;
- g) Human immunodeficiency virus or acquired immune deficiency syndrome;
- h) Intractable pain as defined in Minn. Stat. § 152.125, Subd. 1 (c);
- i) Obstructive sleep apnea;
- j) Post-traumatic stress disorder;
- k) Tourette’s syndrome;
- l) Amyotrophic lateral sclerosis;
- m) Seizures, including those characteristic of epilepsy;
- n) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis;
- o) Inflammatory bowel disease, including Crohn’s disease;

- p) Irritable bowel syndrome;
- q) Obsessive-compulsive disorder;
- r) Sickle cell disease
- s) Terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:
 - i. Severe or chronic pain;
 - ii. Nausea or severe vomiting; or
 - iii. Cachexia or severe wasting; or
- t) Any other medical condition or its treatment approved by the State of Minnesota.

REAR YARD: A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.

RECREATION EQUIPMENT (In Residential Districts): Play apparatus, such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and recreational vehicles not exceeding twenty six feet (26') in length, picnic tables, lawn chairs, barbecue stands and similar equipment or structures but not including tree houses, swimming pools, playhouses exceeding twenty five (25) square feet of floor area, or sheds utilized for storage of equipment.

RECREATIONAL VEHICLE: Any type of structure or vehicle which can be readily adapted to or does provide facilities for a person to eat or sleep, which is mounted on wheels or has provisions for wheels, such as a motor home, travel trailer, camper or converted vehicle.

REGISTERED DESIGNATED CAREGIVER: “Registered designated caregiver” means an individual who:

- a) Is at least 18 years old;
- b) Is not disqualified for a criminal offense according to the rules adopted by Minn. Stat. § 342.15 Subd. 2;
- c) Has been approved by the Division of Medical Cannabis to assist a patient with obtaining medical cannabis flower and medical cannabinoid products from a cannabis retailer or medical cannabis retailing and with administering medical cannabis flower and medical cannabinoid products; and
- d) Is authorized by the Division of Medical Cannabis to assist a patient with the use of medical cannabis flower and medical cannabinoid products.

REGISTRY OR REGISTRY PROGRAM: “Registry” or “registry program” means the patient registry established by State Statute listing patients authorized to obtain medical cannabis flower, medical cannabinoid products, and medical cannabis paraphernalia from cannabis retailers and medical cannabis retailer and administer medical cannabis flower and medical cannabinoid products.

RESIDENTIAL FACILITY: Any facility, public or private, which for gain regularly provides one or more persons with a twenty four (24) hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the person's own home. "Residential facilities" include, but are not limited to, State institutions under the control of the Commissioner of Human Services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults or schools for handicapped children.

RESIDENTIAL PLANNED UNIT DEVELOPMENT: Residential Planned Unit Development means a use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, townhouses, cooperatives and full fee ownership residences would be considered as Residential Planned Unit Developments. Includes time share condominiums not part of a resort.

RESORT: A commercial business with a central management to provide necessary services, located in shoreland, and having dwelling units and/or campsites for rent or owned by time interval and with related facilities such as restaurants, bars, golf courses or other recreational amenities.

RETAIL SHOPPING: Stores and shops selling the personal services or goods over a counter. These include antiques, art and school supplies, auto accessories, bakeries, barbershops, beauty shops, bicycles, books and stationery, candy, cameras and photographic supplies, carpets and rugs, catering establishments, china and glassware, Christmas tree sales, clothes pressing, clothing and costume rental, custom dressmaking, department stores and junior department stores, drugs, dry goods, electrical and household appliances, sales and repair, florist, food, furniture, furrier shops, garden supplies (year round operation only), gifts, hardware, hats, hobby shops for retail of items to be assembled or used away from the premises, household appliances, hotel and apartment hotels, interior decorating, jewelry, including repair, laboratories, medical and dental research and testing, laundry and dry cleaning pickup, processing to be done elsewhere, laundromat, leather goods and luggage, locksmith shops, musical instruments, office supply equipment, optometrists, paint and wallpaper, phonograph records, photography studios, service station, restaurant (when no entertainment or dancing is provided), shoes, sporting goods, tailoring, theater (except open air drive-in), tobacco, toys, variety stores, wearing apparel and similar type uses.

RETENTION FACILITY: A permanent natural or manmade structure that provides for the storage of stormwater runoff by means of a permanent or semi-permanent pool of water.

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

RIPARIAN RIGHTS. The rights of a property owner owning a portion of the shoreline of a public water; including the right to a dock, to a boat access, to reasonable access to navigation, to withdraw limited water for irrigation and similar rights.

ROTOR DIAMETER: The diameter of the circle described by the moving rotor blades of the wind energy conversion system.

SEDIMENT CONTROL: Methods employed to prevent sediment from leaving the site.

SEMI PUBLIC USE. The use of land by private non-profit organizations to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization. Considered a P.U.D. under this Ordinance.

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

SETBACK: The minimum horizontal distance between a building and street or property line. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure at ground point.

SHELTER, FALLOUT OR BLAST: A structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout, blasts, air raids, storms or other emergencies.

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% of the normal structure setback.

SHORELAND: Land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the water for lesser distances and when approved by the Commissioner.

SHORELINE PROPERTY: A lot directly abutting a public water, generally located in the first lot tier adjoining the public water.

SIDE YARD: A yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

SIGNIFICANT CULTURAL SITE: Any archaeological or historic site, standing structure or any other property that: a) is listed on the National Register of Historic Places; b) is listed in the State Register of Historic Sites; c) is determined to meet the qualifications for listing on the National Register of Historic Places or the State Register of Historic Sites after review

by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society; or d) is determined by the City Council to be a significant local heritage preservation landmark.

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

SIGNS – OFFSITE: Any sign not located on the contiguously owned property with the use which is advertised.

SIGNS – ONSITE: Any sign located on the contiguously owned property with the use which is advertised.

SIGN – AREA: The area in square feet enclosed by the exterior perimeter of a sign not including the structural supports. Only the largest side of a double faced sign or a V-shaped sign with no greater than a thirty (30) degree angle between faces shall be considered.

SMALL WIRELESS FACILITY: The meaning given in Minnesota Statutes, section 237.162, subdivision 11, as amended from time to time.

SOLAR ENERGY SYSTEM: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating.

SOLAR ENERGY SYSTEM, GROUND MOUNTED: A solar energy system that is installed onto the ground directly or by means of brackets or poles.

SOLAR ENERGY SYSTEM, ROOF MOUNTED: A solar energy system mounted to the roof of a dwelling or other building.

STAIRWAYS: Any structure providing access up or down a slope.

STEEP SLOPE: Land where agricultural activity or development is not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports. Where specific information is not available, "steep slopes" are lands having average slopes over twelve percent (12%) or more, and that are not bluffs.

STORM WATER: Defined under Minnesota Rules 7077.0105, subparagraph 41[b], and includes precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage.

STORMWATER MANAGEMENT PLAN: The plan that a designer formulates to manage urban stormwater runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the site development grading plan; peak rates of runoff,

flow duration, runoff volumes for various return frequencies; locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is usually submitted to regulatory officials for their review for adoption.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story.

STREET: A public right-of-way not less than fifty feet (50') in width which affords a primary means of access of abutting property, and shall also include avenue, highway or road, excepting existing public rights-of-way of lesser width.

STREET SIDE GROUND FLOOR DWELLING UNITS: A dwelling unit contained within a larger building structure which is designed or used for purposes of permanent or temporary residency and located within the Central Business District B-1 whereby any part of the exterior wall of the dwelling unit is adjacent to any street, avenue or alley.

STRUCTURE: Any building, appurtenance including decks or other facility constructed, placed or erected by man including TV disc antennas and gas tanks, but excepts aerial or underground utility lines such as sewer, electric, telephone, telegraph, and gas lines; and except walks or steps on grade not more than four feet wide, stoops not exceeding thirty (30) square feet, fences, temporary furniture, planters, or decorative material and retaining walls 4' or lower and consisting of wood or decorative block. Fences shall be considered structures but subject only to Section 6.3.

SUBDIVISION. The division of real estate into two or more parcels.

SUBDIVISION BY PLAT. The subdivision into two or more parcels of any size by the authority of Minnesota Statutes, Chapter 505, with documents prepared by a Registered Land Surveyor and duly approved by the Planning Commission and Council.

SUBDIVISION BY CONDIMINIUM PLAT. The subdivision of a building or the subdivision of real estate into two or more spaces or parcels of any size by the authority of Minnesota Statutes, Chapter 515A, with documents prepared by a Registered Land Surveyor and duly approved by the Planning Commission and Council.

SUBDIVISION BY METES AND BOUNDS. Any division of real estate resulting in two or more parcels which are not platted, but divided by description prepared and signed by a Registered Land Surveyor. All subdivision by metes and bounds resulting in residential parcels less than twenty (20) acres or 500 feet in width; and commercial parcels less than five acres or 300 feet in width shall be approved by the Planning Commission.

SURFACE WATER OR WATERS: All streams, lakes, rivers, ponds, marshes, wetlands, reservoirs, springs, drainage systems, waterways, watercourses, and irrigation systems

whether natural or artificial public or private.

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. **Temporary Structure.** A seasonal agricultural products sale structure, a recreational vehicle, tent, houseboat, boat, used as a dwelling for more than a 5 day period per year. Any new dwelling constructed or placed after the date this ordinance and not on a permanent foundation, shall be considered a temporary structure.

SYNTHETIC CANNABINOID: “Synthetic cannabinoid” means a substance with a similar chemical structure and pharmacological activity to a cannabinoid but is not extracted or derived from cannabis plants, cannabis flower, hemp plants, or hemp plant parts and is instead created or produced by chemical or biochemical synthesis.

TELECOMMUNICATIONS FACILITIES: Cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of telecommunications located or installed on or adjacent to a tower or antenna support structure. The term does not include: a) a satellite earth station antenna two meters (2 m) in diameter or less located in an Industrial or Commercial District; b) a satellite earth station antenna one meter (1 m) or less in diameter, wherever located; and c) a tower.

TEMPORARY STRUCTURE. A structure of a temporary character or movable including, but not limited to, houseboats, recreational vehicles, tent structures, small portable structures, seasonal agricultural products sales structures, storage container or shacks that is placed on a property for more than 14 days. Any new dwelling constructed or placed after the effective date of this Ordinance and not on a permanent foundation shall be considered to be a temporary structure.

TOE OF BLUFF. The lower point of a fifty (50) foot segment with an average slope exceeding 18%.

TOP OF BLUFF. The higher point of a fifty (50) foot segment with an average slope exceeding 18%.

TOTAL HEIGHT: When referring to a wind turbine, the distance measured from ground level to the blade extended at its highest point.

TOWER: Any ground or roof mounted pole, spire, structure, or combination thereof, that is designed and constructed primarily for the purpose of supporting one or more antennas, electrical generator, rotor blades or meteorological equipment, including guy towers, monopole towers and self-supporting lattice towers, including any support thereto.

TOWER ACCESSORY STRUCTURE: A structure located at the base of a tower for housing base on transmitting equipment.

TOWER HEIGHT: The total height of a wind energy conversion system exclusive of the

rotor blades.

TOWNHOUSE DWELLING. A type of multi-family housing consisting of dwelling units attached by common party walls. Ownership may be defined by Plat or Condominium Plans.

TRUCK STOP: A motor fuel station devoted principally to the needs of tractor trailer units and trucks, and which shall include eating and/or sleeping facilities.

USE: The purpose of 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 or defined by the performance standards of this chapter.

VARIANCE. A legally permitted deviation as provided in M.S. 462.357 Subd. 6, from the provisions of this Ordinance as deemed necessary by the Board of Adjustment when the strict interpretation of the Ordinance would create undue hardship and be impractical because of circumstances, relating to lot size, shape, topography or other characteristics of the property, and when the deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance. Variances cannot create a land use not permitted in a zone.

VEGETATION REMOVAL, CLEAR CUTTING. The removal of more than 75% of a stand of trees and brush over ten feet in height on a lot or parcel of land up to forty (40) acres.

VEGETATION REMOVAL, OPEN CUTTING. The removal of up to 75% of a stand of trees and brush over ten feet in height on a lot or parcel of land up to forty (40) acres.

VEGETATION REMOVAL, SELECT CUTTING. Removal of dead, diseased or damaged trees or shrubs, removal of trees for placement of structures and drives, and further removal of only individual trees to uniformly thin up to 25% of a stand, leaving more than 75% of the healthy existing trees on a lot or parcel of land up to forty(40) acres. Complete brush removal is allowable including trees under ten feet in height.

VEGETATIVE BUFFER: A strip of well rooted, natural, chemically untreated vegetation, the width of which is set forth in this chapter, consisting of a mixture of grasses, shrubs and trees, immediately adjacent to the ordinary high-water level.

VETERINARY: Those uses concerned with the diagnosis, treatment and care of animals, including animal or pet hospitals.

WAREHOUSING: The storage of materials or equipment within an enclosed building as a principal use.

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 is located closer to public waters than the normal structure setback. Examples of such structures and facilities include

boat houses, gazebos, screen houses, fish cleaning houses and detached decks.

WETLANDS. Lands in transition between terrestrial and aquatic systems where the water table is at or near the surface or the land is covered by shallow water. "Wetlands" are characterized by hydric soils, saturated or inundated with surface water, have a frequency or duration of hydrophytic vegetation or support a prevalence of such vegetation under normal circumstances. Wetlands may be counted toward green space in a planned unit development.

WHOLESALE. The selling of goods, equipment and materials by bulk to another business that in turn sells to the final customer.

WIND ENERGY CONVERSION SYSTEM (WECS). Any device or facility, such as a wind charger, windmill or wind turbine, consisting of one or more wind turbines under common ownership or operating control, and may include power lines, transformers, substations, meteorological towers, cables/wires and other buildings accessory to such facility, whose main purpose is to convert wind energy into electrical energy to supply electricity to an off-site customer or on site to an individual system owner/property owner.

WIND TURBINE. Any piece of electrical generating equipment which captures and converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base and pad transformers, if any, and other related equipment.

WIRELESS COMMUNICATIONS. Any "personal wireless services", as defined by the Federal Communication Act of 1996, including FCC licensed commercial wireless telecommunications services, such as cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), global system of mobile communications (GSM), paging and similar services that currently exist or may be developed.

WIRELESS FACILITIES. The meaning given in Minnesota Statutes 237.162, subdivision 13, as amended from time to time.

WIRELESS SUPPORT STRUCTURE. The meaning given in Minnesota Statutes 237.162, subdivision 16, as amended from time to time.

YARD. A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest ground level to the sky, except as expressly permitted in this chapter. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

ZONING DISTRICT. An area or areas within the limits of the zoning jurisdiction for which the regulations and requirements governing use are uniform

ZONING MAP. The map of the City of Backus, amended from time to time, which defines the boundaries of the zoning districts.

ZONING PERMIT. A permit issued by the Zoning Administrator to allow the construction of a structure or to allow a land use when the provisions of this Ordinance have been met and when approval of any conditional use permits or variances have been granted and when the fees are paid. A zoning permit may have administrative conditions specific to the subject site when provided by the Ordinance.

1

¹ (Ord. 2025-1, Passed 3-3-2025)

SECTION IV GENERAL PROVISIONS

4.1 Application of this Ordinance

- 1) The provisions of this Ordinance shall be held to be the minimum requirements for the maintaining of the public health, safety, morals and welfare.
- 2) Where the provisions of this Ordinance are either more restrictive or less restrictive than applicable provisions of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive shall prevail.
- 3) Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this Ordinance and without a permit issued therefore, when required by this ordinance.
- 4) The provisions of this ordinance shall apply to the shoreland of the public waters identified in Sec. 5.1 (4) of this Ordinance.

4.2 Environmental Documents and Concurrent Permits

- 1) It shall be the property owner's responsibility to secure necessary concurrent permits such as Pollution Control Agency, State Waste Disposal Permits, Health Department Permits, Planned Unit Development Permits, Corps of Engineers Permits, Public Water Permits, and Water Appropriation Permits. Approval by the City does not imply approval by other agencies.
- 2) The proposer of any project exceeding the limits defined in the Environmental Quality Council's rules and regulations for Environmental review program or as requested by the Planning Commission, shall submit a draft Environmental Assessment Worksheet (EAW) for the City to review with other pertinent data.
- 3) The administration of an EAW or EIS shall be in accordance with the rules and regulations of the Minnesota Environmental Quality Board. The Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document. The Planning Commission shall review each document and make recommendations to the City Council whose decisions shall be final.

4.3 Use of Pre-Existing Lots

- 1) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
 - a) All structure and septic system setback distance requirements can be met;

- b) A Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080 and the Cass County SSTS regulations, can be installed or the lot is connected to a public sewer; and
 - c) The impervious surface cover does not exceed the requirements of the underlying zone.
- 2) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - a) The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
 - b) The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080 and the Cass County SSTS regulations;
 - c) Impervious surface coverage must not exceed the requirements of the underlying zone; and
 - d) Development of the lot must be consistent with the city development plans.
 - 3) A lot subject to Section 4.3(2) not meeting the requirements of Section 4.3(2) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
 - 4) Notwithstanding Section 4.3(2), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minnesota Rules, section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

4.4 Non-conforming Structures and Uses

Any structure or use legally existing upon the effective date of the adoption of this Ordinance and which does not conform to the provisions of the Ordinance may be continued subject to the following:

- 1) No such structure or use shall be expanded, enlarged or intensified except in conformity with the provisions of this Ordinance and Section 4.4(2), with consideration for variances thereto and consideration given for previously approved Planned Unit Developments.
- 2) A one-time addition to a non-conforming principal structure shall be permitted subject to the following:
 - a) The non-conformity is due solely to setbacks.
 - b) The addition is not within the shore impact zone.
 - c) The addition will not encroach further into any setback.

- d) The size of the addition shall not exceed fifty percent of the size of the structure it is being added to.
 - e) The total footprint of the structure, once the addition is completed, shall not exceed 2,500 square feet, including decks, porches, patios and other projections.
 - f) For reasons of structural integrity, a basement may be allowed under the addition only where a basement exists in the original structure.
 - g) Additional screening is provided to screen the addition as viewed from adjacent properties, public roads and the surface water.
 - h) A stormwater management plan is implemented that directs stormwater away from adjacent properties and surface waters.
 - i) The height of the addition shall not exceed the height of the existing structure.
 - j) Beyond minor alterations needed to accommodate the addition, no structural modifications shall be made to the original structure.
 - k) All other provisions of the Ordinance must be complied with.
- 3) If a non-conforming structure is damaged, by any cause, to an extent where the repair costs exceed 50% of its assessed value immediately prior to damage, the structure may be replaced with a structure of exact dimensions provided a permit is applied for within 180 days of when the property was damaged. Where no land use permit has been applied for within 180 days of when the property was damaged, then the structure or its replacement shall thereafter conform to this Ordinance.
 - 4) Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of this Code, may be continued, including through repair, replacement, restoration, maintenance or improvement so long as the structure or use is not expanded. An expanded replacement of a non-conforming structure may only be allowed if the replacement lessens the nonconformity. Replacement of a non-conforming structure will not be allowed where the nonconformity or occupancy has been discontinued for a period of one year or more. Any structural repairs or replacement of non-conforming structures shall require a land use permit.
 - 5) A lawful, non-conforming use may be changed to lessen the non-conformity of use. Once a non-conforming use has been changed, it shall not thereafter be altered to increase the non-conformity.
 - 6) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.
 - 7) Sewage treatment systems shall be upgraded to a conforming status in conformance with the following schedule:
 - a) Upon availability of a community sewer system to the property, connection to that system shall be made regardless of the conformance or non-conformance of the individual system.

- b) Upon issuance of any permit or variance for any improvement on, or use of, the property.
- c) Upon determination that leakage to the surface or lake or into an adjacent well is occurring, or determination that the system is discharging into the ground at an elevation less than 3 feet above the highest known watertable.
- d) Upon determination by Zoning Administrator that a system is inadequate for a change in occupation or use in the structure.
- e) Upon notice by the Zoning Administrator that the City's records indicate the system is non-conforming.

4.5 Building Standards

- 1) All structures and appurtenances shall be constructed in accordance with the Minnesota Building Code. The City does not examine plans, inspect structures for conformance with any State codes nor assume liability for the structural stability or quality of any structures.
- 2) The principal structure shall be placed on a permanent foundation, have a ground floor area of not less than 640 square feet of livable space, and the minimum dimension of the main body of the dwelling unit shall not be less than 20 feet.
- 3) Two Family structures (duplex) shall be placed on a permanent foundation, have a ground floor area of not less than 1,200 square feet of livable space, and the minimum dimension of the main body of the dwelling unit shall not be less than 20 feet in width.
- 4) Three, Four and above family structures shall be placed on a permanent foundation, have a floor area of not less than 600 square feet of livable space per unit, and the minimum dimension of the main body of the dwelling unit shall not be less than 20 feet in width.
- 5) Any new structure constructed or placed after the date of this Ordinance and not on a permanent foundation shall be considered a temporary structure.
- 6) All accessory sheds and garages shall include boxed eaves and a pitched roof if they are greater than two hundred (200) square feet in total floor area.
- 7) New manufactured homes and mobile homes shall be installed by a licensed installer and a copy of the installation compliance certificate shall be submitted to the City prior to occupancy of the dwelling.
- 8) Sewage treatment systems shall conform to Cass County SSTS Regulations and Minnesota Pollution Control Agency Standards, "Individual Sewage Treatment Systems Standards - Chapter 7080".
- 9) Sewage tanks being abandoned shall be removed or thoroughly pumped and filled with soil.

- 10) The plumbing and electrical facilities in all structures shall conform to the State Plumbing Code and the State Electrical Code respectively. The certification by the State Electrical inspector shall be visible in the electric box.
- 11) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the MPCA. Private wells must be located, constructed, maintained and sealed in accordance with or in a more thorough manner than the water well construction code of Minnesota Health Department. All wells must be constructed, maintained and/or sealed by a well driller licensed by the State of Minnesota.

4.6 Other Standards

- 1) The provisions of this Ordinance do not take precedent over other Federal, State or Local laws that may be more restrictive. In the case of a more restrictive standard applied by a governing body that has land use authority within the City, the non-local standard would apply, unless authorization from the more restrictive governing agency has been received. In the case where this Ordinance is the most restrictive standard, the provisions of the Ordinance shall apply.
- 2) The provisions of this Ordinance were prepared to be at least as restrictive as the "Statewide Standards for 'Management of Shoreland Areas'" effective July 3, 1989 (and/or most recent), except as specifically authorized by the DNR. The shoreland standards shall be the first City reference document and shall govern in case of oversight, exclusion, or question in this Ordinance and shall govern the City's administration of this Ordinance in shoreland matters where standards are set forth by the DNR.
- 3) Only those uses specifically listed in this Ordinance as being allowed as a permitted, conditional, interim, or accessory use may occur within the City. All other uses not expressly allowed by this Ordinance are prohibited, except that the City Council may allow a use not specifically listed upon submission of an application and a finding by the City Council that the proposed use is substantially similar to an allowed use as provided in this Ordinance. No use allowed within the City shall be established or expanded without first obtaining all required permits and complying with all applicable standards and regulations set out in this Ordinance and all other City ordinances.

SECTION V
ZONING DISTRICTS AND DISTRICT PROVISIONS

5.1 General Provisions

- 1) The City of Backus is hereby divided into zoning districts as shown on the official Zoning District map which may be subsequently amended by the procedures of Section 12.4.
- 2) The boundaries are generally on the center of the streets, on lot lines, on shorelines, on the center of streams or rivers, and following the contour of the land for the Open Zoning District.
- 3) The following Districts are hereby established:

Residential – Shoreland	R-1
Residential - Neighborhood	R-2
Rural Residential	R-R
Commercial Waterfront	C-W
Commercial	C-1
Industrial	I-1
Public	P

- 4) The lakes and streams in the City have been classified as follows:

General Development (GD)

Pine Mountain Lake

- 5) Some areas of the City are located in a flood plain. A flood hazard boundary map may be available at the Office of the City Clerk.

5.2 Residential Shoreland R-1

1) Purpose

The purpose of this district is to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, protect drinking water sources, and provide for the wise use of water and related land resources in the shoreland area. The primary use within this district is seasonal and year-round single family residential. Lot dimensions and density limitations are established according to the lake classification.

2) Permitted Uses

Dwellings, single family, see Section 4.5 Building Standards

Dwelling, guest cottage or quarters (up to 700 square feet and must meet duplex lot standards)

Decks

Patio

Parks and playgrounds

Vegetation removal, selective cutting

One unlighted identification sign, not exceeding four square feet

Grading in a shore or bluff impact zone or steep slope area (less than ten cubic yards)

Grading anywhere else in a shoreland area (less than fifty (50) cubic yards)

Temporary structures (see performance standards)

Accessory structures

Solar Energy System, Ground Mounted

Solar Energy System, Roof Mounted

Parks, nature and hiking trails.

Camping (see performance standards)

Home occupation (see special provisions)

3) Conditional Uses

Churches

Public buildings

Duplex

Planned Unit Developments, Residential

Grading in a shore or bluff impact zone or steep slope area (more than ten cubic yards)

Grading anywhere else in a shoreland area without an approved land use permit (more than fifty (50) cubic yards)

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

4) Establishment of Primary Use

All garages permitted without principle dwelling units shall have adequate buildable area for a principle dwelling unit, a sewer treatment system and a well. Applicants for garages without principle dwelling units shall submit a sewer design by a licensed designer for the future principle structure before obtaining a permit.

5) Lot Use and Density Requirements

Lake Classification	General Development With Public Sewer	General Development Without Public Sewer
Riparian lot width (single family) at ordinary high water line and building line (feet)	75	100
Riparian lot area – single family (square feet)	15,000	20,000
Non-riparian lot width (single family) at ordinary high-water line and building line (feet)	75	150

Non-riparian lot area – single (square feet)	15,000	40,000
Setback, right of way	20	20
Ordinary High-Water Level	75	75
Setback, top or toe of bluff	30	30
Setback, side (feet)	10	10
Setback, accessory structure (feet)	10	10
Setback, corner side (feet)	20	20
Setback, sign road right of way (feet)	1	1
Setback, unplatted cemetery (feet, minimum)	50	50
Setback, wetland	15	15
Setback, patio from ordinary high- water level	50	50
Maximum impervious coverage	25%	25%
Parking/driveway setback from side property line (feet, minimum)	5	5
Maximum building height (feet)	25	25
Building above highest known groundwater, lake level or flood of record (feet)	3	3
Riparian maximum density (square feet)	1 unit/13,000	1 unit/20,000
Non-riparian maximum density (square feet)	1 unit/15,000	1 unit/40,000
Maximum Density, PUD	10 units/A.C.	--
Lot width and shoreline with guest cottage, guest quarters, or duplex (feet, minimum)	180	180
Non-riparian lot width and shoreline with guest cottage, guest quarters, or duplex (feet, minimum)	180	265
Septic tank and/or pump chamber from ordinary high water mark (feet)	-----	50

Soil absorption system from ordinary high water mark (feet)		50
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*For Residential PUDs, see Section 7.1 (C)

All lots must front a minimum of thirty-three (33) on a public right of way.

6) Performance Standards

- a) High Water Elevations. Residential structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
 - i. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher.
 - ii. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long-duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

- b) Decks. Construction of new decks or replacements of existing decks that change the shape or increase the size of the deck shall require permits and comply with the following standards:
 - i. Decks adjacent to dwellings shall meet structure setbacks in Section 5.2.
 - ii. A 4-foot-wide walkway, for access purposes, may be added without a variance lakeward and located closer than the required structure setback from the ordinary high water level.
 - iii. Deck construction ground preparation shall comply with all grading and vegetation removal standards in Section 5.2 of this ordinance.
 - iv. Decks should be constructed to be pervious, allowing water to reach a pervious surface below the deck. Decks not meeting this requirement shall be considered impervious surfaces. Maintenance of existing decks that do not change the shape or increase the size of the deck shall not require a permit.

- c) Patios. Patios require permits and shall comply with the following standards:
 - i. Not be located in the shore impact zone;
 - ii. Be free standing;
 - iii. Have no railings;
 - iv. Be a maximum of 200 square feet in size outside shore impact zone;
 - v. Not be more than one foot below or above natural ground level; and;

- vi. Construction complies with all grading and vegetation removal standards in Section 5.2 of this ordinance;
 - vii. The maximum impervious surface limits for the lot shall not be exceeded.
- d) Fire Pits. Fire pits shall not require permits but shall comply with the following standards:
- i. Not allowed in shore impact zone.
 - ii. All ash is disposed of away from any public water;
 - iii. Runoff from the fire pit area shall not be allowed to enter public water;
- e) Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore recreation and lake access areas. Stairways and lifts require permits and must meet the following design requirements:
- i. Stairways and lifts must not exceed four feet in width on residential lots.
 - ii. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area.
 - iii. Canopies or roofs are not allowed on stairways, lifts, or landings.
 - iv. 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.
 - v. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - vi. Facilities such as ramps or mobility paths for handicapped access to shoreline areas may be allowed with a permit, provided that:
 - a. The Zoning Administrator determines there is no other reasonable way to achieve access, and;
 - b. The dimensional and performance standards of this section are met, and;
 - c. The requirements of Minnesota Rules, Chapter 1341.0403 are met.
- f) Water Oriented Accessory Structures. One water oriented accessory structure not meeting the structure setbacks in Section 5.2 of this ordinance may be placed with a permit on a riparian residential lot provided the following standards are met:
- i. The structure or facility must not exceed 12 feet in height and cannot occupy an area greater than 120 square feet.
 - ii. The setback of the structure or facility from the ordinary high water level must be at least 20 feet.
 - iii. The structure must be treated to reduce visibility as viewed from

- public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the Zoning Administrator, assuming summer, leaf-on conditions.
 - iv. Construction complies with all grading and vegetation removal standards in Section 5.2 of this ordinance.
 - v. The maximum impervious surface limits for the lot are not exceeded.
 - vi. The structure shall not be located within a bluff impact zone.
 - vii. The structure shall not be used for human habitation.
 - viii. The structure shall not include bathroom facilities.

- g) Significant Historic Sites. No structure may be placed on a significant historic site.

- h) Steep Slopes. The Zoning Administrator must evaluate soil erosion potential and development visibility from public waters before issuing a permit for construction of subsurface sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. All permits issued for work on steep slopes shall include an approved stormwater and erosion control plan pursuant to the standards in Section 6.11 of this ordinance. Conditions may also be attached to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on conditions.

- i) Guest Cottages and Guest Quarters. A guest cottage or guest quarter requires a permit on a lot meeting “duplex” lot area and width requirements in the shoreland residential district and shall comply with the following standards:
 - i. All required setbacks are met.
 - ii. The maximum impervious surface limits for the lot shall not be exceeded.
 - iii. The maximum building footprint for a guest cottage shall not exceed 700 square feet in size.
 - iv. A guest cottage shall not exceed 15 feet in structure height.
 - v. Guest quarters located in an accessory structure shall not exceed 700 square feet in size. Stairways and unfinished storage areas shall not be counted in this area.
 - vi. The building footprint for a new accessory structure containing a guest quarter shall not exceed 1200 square feet in size.
 - vii. Guest quarters require a permit in existing accessory structures.
 - viii. An accessory structure containing guest quarters cannot exceed 25 feet in building height.
 - ix. Only one guest cottage or guest quarter is allowed on a lot but not both.
 - x. It is located or designed to reduce visibility as viewed from public water and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
 - xi. Guest cottages and guest quarters are not allowed on

- nonconforming parcels.
 - xii. All permits issued for guest cottages and guest quarters shall require stormwater management which prevents runoff onto neighboring properties, roads and public waters through the use of bioretention, filter strips, berms, swales, rain gardens, and/or other similar conservation practices.
- j) Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.

5.3 Residential-Urban R-2

1) Purpose

To establish and maintain a residential district that allows the use of single- and multi-family structures.

2) Permitted Uses:

All permitted uses in the R-1 District except where otherwise noted

Duplex

Vegetation removal, open cutting

Grading up fifty (50) cubic yards without a current land use permit

3) Conditional Uses:

All conditional uses in the R-1 District

Triplex, quads, or greater

Dwelling, guest quarters on a single lot (meeting duplex standards)

Medical Facilities

Vegetation removal, clear cutting

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.

4) Establishment of Primary Use

All garages permitted without principle dwelling units shall have adequate buildable area for a principle dwelling unit, a sewer treatment system and a well.

Applicants for garages without principle dwelling units shall submit a sewer design by a licensed designer for the future principle structure before obtaining a permit.

5) Lot Use and Density Requirements

Lot width (feet)	75
Lot area (square feet)	10,000
Setback, right-of-way	20
Setback, side (feet)	10
Setback, cornerside (feet)	15
Setback, rear yard (feet)	10
Maximum impervious coverage (percentage)	40%
Setback, sign, road (feet)	1
Setback, unplatted cemetery (feet)	50
Setback, wetland	15
Parking/Driveway - setback from property line (feet)	1
Maximum building height (feet)	35
Building above highest known groundwater or flood of record (feet)	3
Maximum density - P.U.D.	10 units/A.C.
Lot width for duplex (feet)	100
Lot area for duplex (square feet)	15,000
Lot area for triplex, quad, or greater (square feet)	15,000 plus 3,000 for each additional dwelling unit.
Lot width for triplex, quad, or greater (feet)	100 plus 25 for each additional dwelling unit

All lots must be a minimum of thirty-three (33) feet on a public right of way.

5.4 Rural Residential R-R

1) Purpose

To establish and maintain a residential district land use district that is rural in character. This district does not include shorelands.

2) Permitted Uses:

All permitted uses in the R-1 District except where otherwise noted

Duplex

Vegetation removal, open cutting

Grading up fifty (50) cubic yards without a current land use permit

3) Conditional Uses:

All conditional uses in the R-1 District except where otherwise noted

Campgrounds

Dwelling, guest quarters on a single lot (must meet duplex standards)

Vegetation removal, clear cutting

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.

4) Establishment of Primary Use

All garages permitted without principle dwelling units shall have adequate buildable area for a principle dwelling unit, a sewer treatment system and a well. Applicants for garages without principle dwelling units shall submit a sewer design by a licensed designer for the future principle structure before obtaining a permit.

5) Lot Use and Density Requirements

Lot width (feet)	200
Lot area (acres)	2.5
Setback, right-of-way	35
Setback, side (feet)	10
Setback, cornerside (feet)	15
Setback, rear yard (feet)	10
Maximum impervious coverage (percentage)	20%

Setback, sign, road (feet)	1
Setback, unplatted cemetery (feet)	50
Parking/Driveway - setback from property line (feet)	1
Maximum building height (feet)	35
Building above highest known groundwater or flood of record (feet)	3
Maximum density - P.U.D.	10 units/A.C.

All lots must be a minimum of thirty-three (33) feet on a public right of way.

5.5 Commercial Waterfront District (C-W)

1) Purpose

To establish and maintain a commercial, recreational-oriented district within the shoreline area comprised of resorts, restaurants, marinas and similar water-oriented uses.

2) Permitted Uses

Weekly rentals or more than four leases per year of any existing dwelling.

Onsite signs

Recreational facilities for resort guests

Vegetation removal, select cutting

Grading in a shore or bluff impact zone or steep slope area (less than ten cubic yards)

Grading anywhere else in a shoreland area (less than fifty (50) cubic yards)

Solar Energy System, Roof Mounted

Solar Energy System, Ground Mounted

3) Conditional Uses

Commercial planned unit development (includes resorts, hotel/motel)¹

Semipublic use, considered a commercial P.U.D. under this section

Restaurants

Campgrounds

Grading in a shore or bluff impact zone or steep slope area (more than ten cubic yards)

Grading anywhere else in a shoreland area (more than fifty (50) cubic yards)

Recreational facilities open to general public

Other commercial facilities relating to recreational use of shoreland area

Vegetation removal, open cutting

Accessory uses related to conditional use principal structures

Other commercial uses determined by the City Council 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.

¹ A one-time expansion to existing commercial P.U.D.s involving up to six dwelling units or sites, unless the density determined under the P.U.D. Sec. 7.1 is presently exceeded, will be considered a permitted use. The number of units on the date of this ordinance shall be the base of computation.

4) Accessory Uses

Storage buildings, pools, decks and related recreational facilities

5) Lot Use and Density Requirements

For uses established after the date of this Ordinance:

Minimum parcel size	2.5 acres
Minimum lake front (if any)	200 feet

Lake Classification	General Development
Setback, waterfront - feet	75
Setback, side lot line - feet	20
Setback, right of way - feet	20
Distance between buildings - feet minimum	20

Parking/driveway setback from property line	10
Maximum impervious coverage	25%
Maximum building height - feet	25
Onsite sign setback, road - feet	1
Onsite sign setback, waterfront	1
Setback, unplatted cemetery - feet/minimum	50
Building floor above the highest known water table or lake level - feet	3
Density - square feet of lot tier per dwelling unit: for Planned Unit Development, Commercial	See Section 7.1
Septic tank and/or pump chamber from ordinary high-water mark - feet	50
¹ Maximum density - see Commercial P.U.D. standards.	

6) Performance Standards

- a) Visual screening is required in exterior side yard setback area. See visual screening standards.
- b) For conditional use permit applications, the submissions of 7.1(8), 7.1(9), and 7.1(10) may apply except the subdividing documents as determined by the Zoning Administrator.
- c) No impervious surface shall be placed within fifty (50) feet of the high-water mark except walks and steps on grade four feet or less in width.
- d) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
- e) Stairways, lifts, and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
 - i. Stairways and lifts must not exceed four (4) feet in width on

residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.

- ii. 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.
 - iii. Canopies or roofs are not allowed on stairways, lifts, or landings.
 - iv. 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 than ensures control of soil erosion.
 - v. Stairways, lifts, and landings may 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.
 - vi. 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.) and (5.) are complied with.
- f) Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.
- g) A significant historical site may not be modified, altered or built upon in a manner which affects the values of the site and without consultation with the Minnesota Historical Society.
- h) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or must be setback double the normal setback, water front, or must be substantially screened from the water.
- i) See Also: Sections 4.3, 4.4, 4.5, and 4.6

5.6 Commercial District (C-1)

1) Purpose

To create and maintain a district for commercial purposes, which can provide the goods and services for the residents and tourists of the community.

2) Permitted Uses

Dwellings on second floor or above

Onsite signs

Solar Energy System, Roof Mounted

Solar Energy System, Ground Mounted

Retail stores

Gas stations

Light repair shops

Professional buildings

Medical facility

Recreation Centers

State Licensed Care facility

Signs, Offsite

Theaters

Motels/Hotels

Restaurants/Bars

Public Buildings

Churches

Vegetation removal, open cutting

Commercial Kitchen

3) Conditional Uses

Interval ownership, weekly rentals, leaseback by owner or more than four leases per year of any dwelling.

Other commercial and residential uses determined by the City Council 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.

4) Lot Use and Density Requirements

Impervious surface coverage - maximum	100%
Setback, right of way - feet	0
Setback, driveway/parking from lot line - feet	0
Setback side - feet	0
Setback rear - feet	0
Setback rear, garage – feet	0
Maximum building height - feet	35

Minimum lot size - square feet	5,000
Minimum lot width – feet	25
Onsite sign setback - feet	---

Offsite sign setback - feet	---
Maximum density, hotel/motel units/acre	10

5) Accessory Uses

Accessory uses or accessory structures will be permitted except that the principal use must first be established.

6) Performance Standards

- a) Signing shall conform to sign setbacks and in accordance with 6.1.
- b) All sites shall provide adequate off-street parking in accordance with 6.10, or demonstrate that the parking requirement will not exceed that available in street on the lot frontage.
- c) Water supply and sanitary facilities shall meet the building standards requirements and solid waste storage facilities shall be adequate. Municipal water or sewage disposal shall be used, if available.
- d) Outside storage shall be screened in accordance to performance standards set forth in this ordinance.
- e) Lighting shall be installed in a manner that minimizes illumination to adjacent properties.

See also Sec. 4.3, 4.4, 4.5, and 4.6.

5.7 Industrial District (I-1)

1) Purpose

To create and maintain a district for industrial purposes which can provide the employment opportunities for the residents of the community and allow for the production and manufacture of goods and products.

2) Permitted Uses

Airports.

Automobile, airplane, and farm implement assembly.

Automobile parts, tires, and accessory sales.

Automobile repair garages, service stations and car washes

Automobile sales (new and used). Outside display and storage of automobiles is permitted.

Boat, motorcycle, and other recreational vehicle sales and service, not including wrecking or dismantling.

Building materials yards and contractors' yards.

Concrete mixing and concrete products manufacturing.

Essential service utility structures and facilities.

Farm implement sales, repair, and service.

Machine and welding shops.

Manufacturing industries consisting of the processing, treatment, and packaging of goods and foodstuffs.

Meat processing and slaughtering facility.

Outside storage of material and equipment

Recyclable material collection (temporary or permanent).

Commercial Storage Units

Vegetation, removal, open cutting

Onsite and offsite signs

Solar Energy Systems, Roof Mounted

3) Conditional Uses

Cannabis Cultivation

Cannabis/Hemp Manufacturer

Cannabis Wholesale

Cannabis Retail Sales

Cannabis Delivery/Transportation²

Other wholesale, light manufacturing, construction or service uses similar in character to those listed above.

4) Accessory uses

Accessory uses consistent with the principal uses of the property are permitted by Conditional Use Permit.

5) Lot Use and Density Requirements

Impervious surface coverage	75%
Setback, right of way	30 feet
Setback, side	10 feet
Setback, rear	10 feet
Setback, parking or driveway	10 feet
Setback, wetland	15 feet
Maximum building height	35 feet
Minimum lot size	20,000 square feet
Minimum lot width	100 feet
Sign set-back	1 foot

6) Performance Standards

- a) All structures shall be compatible with the neighboring structures.
- b) Signing shall conform to sign setbacks and in accordance with 6.2.
- c) All sites shall provide off-street parking in accordance with 6.10 or demonstrate that the parking requirement will not exceed that available in the street on the lot frontage.
- d) Water supply and sanitary facilities and solid waste storage facilities shall be adequate. Municipal water or sewage disposal shall be used if available.

² (Ord. 2025-01, passed 3-3-2025)

- e) Outside storage shall be screened in accordance to performance standards set forth in this ordinance.
- f) Lighting shall be installed in a manner that minimizes illumination to adjacent properties.

See also 4.3, 4.4, 4.5.

5.8 Public District P

1) Purpose

To establish and maintain a land use district for existing public use of land or for land properly suited for public facilities, parks and open spaces and other locations for public or semipublic use

2) Permitted Uses

Airport Hangars (accessory to existing airport)⁴

Public buildings

Public recreational facilities (including trails)

Public maintenance facilities

Vegetation removal, open cutting

Public green space

Memorial forests

3) Conditional Uses

Airports⁴

Schools

Vegetation removal, clear cutting

4) Accessory uses

Accessory uses consistent with the principal uses of the property are permitted by Conditional Use Permit.

⁴(Ord. 2025-03, passed 6-2-2025)

5) Lot Use and Density Requirements

Impervious surface coverage	25%
Setback, right of way	30 feet
Setback, side	10 feet
Setback, rear	10 feet
Setback, parking or driveway	10 feet
Setback, wetland	15 feet
Maximum building height	35 feet
Minimum lot size	20,000 square feet
Minimum lot width	100 feet
Sign set-back	1 foot

6) Performance Standards

- a) Signing shall conform to sign setbacks and in accordance with 6.2.
- b) All sites shall provide off-street parking in accordance with 6.10 or demonstrate that the parking requirement will not exceed that available in the street on the lot frontage.
- c) Water supply and sanitary facilities and solid waste storage facilities shall be adequate. Municipal water or sewage disposal shall be used if available.
- d) Outside storage shall be screened in accordance to performance standards set forth in this ordinance.
- e) Lighting shall be installed in a manner that minimizes illumination to adjacent properties.

See also 4.3, 4.4, 4.5.

SECTION VI
PERFORMANCE STANDARDS - GENERAL

6.1 Signs

1) Purpose

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

2) General.

- a) Non-maintained signs or signs for discontinued business will be removed after notification by the Zoning Administrator or after discontinuance of the business.
- b) Placement of signs shall consider protecting sight distance at intersections, driveways and curves.
- c) All flashing, revolving and intermittently lighted signs and all portable signs are prohibited, except as specifically allowed in this section.
- d) Digital time and temperature signs that are part of an overall sign design are allowed in commercial areas.
- e) Temporary signs pertaining only to the construction, sale or rental of the premises are allowable provided they do not exceed 9 square feet in any zone and are removed within 30 days of the completion of construction, sale or rental.
- f) Temporary signs, including banners, streamers and portable signs, are allowed for special events such as grand openings and promotions provided they are not in place longer than 14 days.
- g) A non-conforming sign may be refaced, removed and replaced for maintenance purposes, however it shall not be increased in size, the support system shall not be improved and the sign shall be removed in it's entirety upon the determination by the Zoning Administrator that the sign is in disrepair or the support system is failing.
- h) Residential and commercial signs may not contain elements commonly used by highway departments to alert, direct or caution traffic such as, but not limited to, octagonal stop signs or speed limit signs.
- i) Street identification signs, no hunting or trespassing signs and temporary signs endorsing a political candidate, party or issue during an election season are

allowed without a permit.

j) No signs, except for official traffic signs, shall be placed on or overhang public property, except where specific permission is granted by the Planning Commission.

k) All signs must be professionally constructed and painted.

3) Required Permits

All signs are considered structures and require a Zoning Permit, except signs placed by the City, County or State to relate the laws or ordinances, which are exempt, and signs exempted in 7.1(2).

4) Onsite Signs.

a) Residential Districts.

- i. Signs shall not be internally or externally lighted but may be reflective.
- ii. No sign shall be larger than 3 square feet, except for a permitted home occupation where 6 square feet is allowed,
- iii. Only one sign per parcel shall be allowed.
- iv. In addition to other signs exempted under this Ordinance, a temporary sign is allowed to be placed on private property within, and directly adjacent to, newly platted subdivision for 24 months following final plat approval, or until land use permits have been obtained on 50% of the parcels within the subdivision, whichever comes sooner. The property owner may request a 12-month extension for the temporary sign, to be granted at the discretion of the Planning Commission. Signs erected under this Section shall require a permit and shall not exceed 32 square feet in any zone.

b) Commercial Districts

- i. All signs on a property must be coordinated to create an overall appearance in regards to size and color.
- ii. Sign area is calculated as the total area of signage. For two-sided signs, each side shall be counted.
- iii. Up to 10% of any principle structure façade area which directly abuts and lies generally parallel the road right-of-way or publicly traveled roadway may be dedicated to signage.
 - a. The permitted sign area may be split up into several signs or used for one sign.
 - b. Any attached sign that protrudes from a structure 2 feet or less will be counted as part of the building façade signage.
 - c. For commercial buildings that are entirely set back more than 100 feet from the edge of the roadway, 15% of the façade area may be covered.
 - d. Façade area may be transferred from one side to another so long as the area used as signage never exceeds 10% of the

- side it is on.
- e. No credit is given for façade area not directly abutting and lying generally parallel the road right-of-way or publicly traveled roadway.
- iv. Each property is allowed one freestanding sign so long as the sign can meet setbacks and its placement does not obstruct lines of sight or pedestrian corridors.
 - a. Buildings located in a 40 mile per hour speed zone or higher are allowed up to 128 square feet of freestanding sign.
 - b. Buildings located in a less than 40 mile per hour speed zone are allowed up to 96 square feet of freestanding sign and, for multi-business buildings, are allowed an additional 10 square feet for each business after the first.
 - c. For corner lots, one freestanding sign conforming to these standards is allowed on each roadway.
 - d. Any attached sign that protrudes from a structure more than 2 feet will be considered a freestanding sign.
 - e. For parcels located in a 40 mile per hour speed zone or higher, no freestanding sign shall exceed 20 feet in height. For parcels located in a less than 40 mile per hour speed zone, no freestanding sign shall exceed 15 feet in height. For parcels in more than one zone, the more restrictive standard will apply.
- v. There shall be no signage on accessory structures.
- vi. Property owners seeking to display more signs than what are allowed in this section or seeking allowances outside of what is allowed in this section, may obtain permission to do so by conditional use permit. Such application for a conditional use permit shall include submittal of a sign concept plan for the entire parcel. In addition to conditional use permit criteria, the basis for approval or denial shall include an evaluation of:
 - a. necessity of the additional signage,
 - b. alternatives to additional signage,
 - c. continuity with signage on adjacent parcels,
 - d. aesthetic impacts, and
 - e. perceived effectiveness of proposed signage.
- vii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards.
 - a. No advertising signs or supporting facilities for signs may be placed upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or a permit issued by the county sheriff.
 - b. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment

and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

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

5) Offsite Signs

Off-site signs are prohibited in Residential and Commercial Waterfront zones, except for residential or commercial directory signs. Any existing off-site signs are considered legal non-conforming structures.

6.2 Nuisance Standards

1) Performance Standards

- a) Compliance required. Every use permitted by this ordinance shall be so established and maintained as to comply with the provisions of this section. The Council may require the complaining party to provide such tests or investigations by an independent testing organization satisfactory to the Council as are necessary to show non-compliance with these standards. The entire cost of such investigations and tests shall be paid for by the complaining party unless the results disclose non-compliance with these standards; in that event, the entire cost shall be borne by the owner or operator. This provision does not preclude the City from making any investigations and tests it finds appropriate to determine compliance with these standards.
- b) Noise shall be measured on any property line of the tract on which the source of the noise is located. Noise shall be so muffled as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. At the property line of the tract on which the source of noise is located, the sound pressure level of noise radiated shall not exceed the following limits measured for 10% (L10) and 50% (L50) of a one hour period, using a sound level meter having the characteristics as specified in the latest standards S1.4 of the American National Standards Institute, and using procedures approved by the Pollution Control Agency.

In addition, no persons shall make or cause to be made, any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any persons or precludes their enjoyment of property or affects their property value.

Adjoining property zone – Time

	Day 7:00 a.m.	until 10:00 p.m.	Night 10:00 p.m.	until 7:00 a.m.
	L-10	--- L-50	L-10	--- L-50
Decibels - Residential	60	55	50	45
Decibels - Commercial	65	60	65	60

- c) Odor. No use shall cause the discharge of toxic, noxious or odorous matter beyond the limits of the site where it is located in such concentrations as to be obnoxious or otherwise detrimental to the public health, safety, comfort or welfare or cause injury to property or business.
- d) Glare. Direct or reflected glare, such as from floodlights, spotlights or high temperature process, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line. Any lights used for exterior illumination shall be directed away from adjacent properties.
- e) Vibration. Vibration at any property line shall not be discernible to the human sense of feeling for 3 minutes or more duration in any one-hour period. Vibration of any kind shall not produce, at any time, an acceleration of more than one-tenth gravities or result in any combination of amplitudes and frequencies beyond the “safe” range of Table VII, United States Bureau of Mines Bulletin No. 442, “Seismic Effects of Quarry Blasting” on any structure. The methods and equations of that bulletin shall be used to compute all values for the enforcement of this provision.
- f) Smoke. Smoke shall be measured at the point of emission by the Standards of the United States Bureau of Mines in Circular No. 7718. Smoke not darker or more opaque than No. 1 on that chart may be emitted except that smoke not darker or more opaque than No. 3 on the chart may be emitted for a period not longer than four (4) minutes in any thirty (30) minutes. These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with an equivalent opacity. Open burning shall require a DNR burning permit.
- g) Dust. Solid or liquid particles shall not be emitted at any point in concentrations exceeding three-tenths grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air.
- h) Fumes or Gases. Fumes or gases shall not be emitted at any point in concentrations that are noxious, toxic or corrosive. The values given in Table I

(Industrial Hygiene Standards - Maximum Allowable Concentration for eight-hour day, five days per week), Table III (Odor Thresholds), Table IV (Concentrations of Substances Causing Pain in the Eyes), and Table V (Exposure to Substances Causing Damage to Vegetation) in the latest revision of Chapter 5 “Physiological Effects” that contains such tables, in the “Air Pollution Abatement Manual” published by the Manufacturing Chemists; Association, Inc., Washington, D.C., are hereby established as guides for the determination of permissible concentration and amounts. The City may require detailed plans for the elimination of fumes or gases before the issuance of a building permit.

- i) Fire Hazards. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire prevention equipment and by such safety devices as are normally used in the handling of such materials. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.
- j) Wastes.
 - i. All waste generated shall be disposed of in a manner consistent with all Minnesota Pollution Control Agency rules.
 - ii. Any accumulation of waste generated on any premises not stored in containers which comply with Minnesota Pollution Control Agency rules, or any accumulation of mixed solid waste generated on any premises which has remained thereon for more than two weeks, or any accumulation of infectious, nuclear, pathological, or hazardous waste which is not stored or disposed in a manner consistent with Minnesota Pollution Control Agency rules, is a nuisance and may be abated and the cost of abatement may be addressed against the property where the nuisance is found.
 - iii. The accumulation, storage, processing, and disposal of waste on any premises, which is not generated on that premises, is prohibited, except as specifically provided in this Ordinance.
- k) Air Pollution. Every activity shall conform to State regulations relating to air quality standards and air pollution control.
- l) Erosion and Drainage.
 - i. No land shall be developed, and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of sediment on adjacent properties.
 - ii. All storm sewer inlets and drainage ways that are functioning during construction shall be protected so

that sediment laden water does not enter the conveyance system without first being filtered or otherwise treated to remove sediment.

- iii. All on-site storm water conveyance systems must be designed and constructed to withstand the design volume of storm water with appropriate stabilization to prevent scour and erosion. Erosion controls must be provided at the outlets of all storm sewer pipes or drainage ways.
 - iv. All temporary and permanent erosion and sediment control practices shall be maintained and repaired to assure the continued performance of their intended function.
 - v. All disturbed ground left inactive for seven or more days shall be stabilized by seeding or sodding or by mulching or covering or other equivalent control measure.
 - vi. All temporary erosion control devices, including silt fence, gravel, hay bales or other measures shall be removed from the construction site and properly disposed of or recycled. This removal and disposal must occur within 60 days of the establishment of permanent vegetative cover on the disturbed area.
- m) Radioactivity of Electrical Disturbance. No activity shall emit dangerous radioactivity at any point or any electrical disturbance adversely effecting the operation of any equipment at any point other than that of the creator of such disturbance.
- n) Aerial application of Herbicides/Pesticides. The City shall be notified ten (10) days in advance of any application of herbicides or pesticides by aerial spraying.
- o) Abandoned Buildings. No person shall allow a building, mobile home/manufactured house, or other structure to be abandoned, deteriorated or a safety hazard. All abandoned, deteriorated or unsafe structures shall be removed. If the owner fails to remove the structure, the City shall do so and assess the cost against the property through the County taxation method.
- p) Nuisance Parking and Storage³. The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private

³ Amended 4/12/2022

property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (f) otherwise adversely affects property values and neighborhood patterns.

6.3 Fences

- 1) Fences not exceeding seventy- two inches in height may be constructed on a property line except within the waterfront setback area of R-1, or C-W District. Under no circumstances shall a fence be constructed closer than ten (10) feet from the surface of a public road.
- 2) Fences not meeting the requirements of 6.3(1) shall require a Conditional Use Permit.
- 3) Fences may abut but not sit directly on lot lines of adjacent parcels. The “good side” of the fence shall face abutting properties, meaning that the posts shall face in toward the property on which the fence sits and the finished face of the fence shall face abutting properties. If the fence is within two feet of a property line, the adjoining property owner abutting the fence is allowed to finish the side of the fence facing their property.
- 4) Maintenance. Fences shall be maintained to retain their aesthetic quality, screening abilities, and function. Missing boards, rusting wire and posts, and peeling paint shall be taken care of at the owner’s expense as they occur.
- 5) Fences shall not be erected where they create a visual safety hazard in the opinion of the zoning administrator.
- 6) Fences shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth.

6.4 Parking and Storage

- 1) Exterior Storage.
 - a) There shall be no exterior storage allowed on lots that do not contain a principle or accessory structure, except where the property owner also owns adjoining property that contains a principle or accessory structure. Provisions of 6.4 (1B) and 6.4 (1C) are still applicable.
 - b) Where there is a principle or accessory structure, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying, recreational equipment, construction landscaping materials and equipment

currently being used for construction of the premises, woodpiles, other equipment currently (within a period of 30 days) being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking except as otherwise regulated herein. Additional standards apply based on the zoning classification of the parcel.

- c) Abandoned motor vehicles shall be stored within a structure or completely screened from view.
- d) Parking and storage of non-permanent structures, materials and vehicles will not be allowed on residentially zoned property. Nuisance parking and storage is defined in Section 6.2 (p). Unlawful parking and storage is described as:
 - i. A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than 72 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.
 - ii. A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.
 - iii. A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:
 - (a) No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.
 - (b) Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area.
 - (c) Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.
 - (d) No more than a cumulative total of four all-terrain vehicles, off-highway vehicles, utility-terrain vehicles, snowmobiles, and/or dirt bikes, per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

(e) Storage Containers. The use of semitrailers, shipping containers, and other similar structures or containers for storage on a lot for more than 30 days in any one-year period is prohibited. This prohibition shall not apply to construction storage trailers used on site during a construction project provided all required permits are obtained for the project, the project remains in compliance, and the trailer is removed from the lot upon completion of the project. Any storage containers, as defined in this section, located on property prior to the date this ordinance becomes effective are not prohibited by this section, provided, however, a property owner may not replace or add additional storage containers after the passage of this ordinance.

2) Bulk Storage:

a) All uses associated with the bulk storage in excess of 2,000 gallons of oil, gasoline, liquid propane, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshall, the Minnesota Pollution Control Agency and Minnesota Department of Agriculture Office and when in excess of normal domestic requirements shall have documents from those offices stating that the use is in compliance. No storage facility shall be constructed or placed where spillage from the facility would drain to a drainage way or public waters without providing complete diking.

6.5 Visual Standards - Screening

- 1) No use shall create, maintain or continue any activity or structure which has a strong negative visual impact or offends the morals or violates the standards of the City.
- 2) Where any business or industry is adjacent to property zoned residential or any use cannot meet the visual standards of the City, screening shall be provided by the business or offending use.
- 3) Screening required shall be in addition to normal landscaping and planting and consist of a visual obstruction completely containing and screening the activity on the commercial or offending use property, assuming off-leaf conditions.
- 4) Screening may consist of dense evergreen plantings eight (8) feet or more in height with 100% visual obstruction, wood walls with 100% obstruction, a building wall consisting of aesthetically pleasing materials (with no signing) or similar structures. All structural elements shall meet required setbacks.

6.6 Sanitation Standards

- 1) Solid Waste: All solid waste shall be disposed of in accordance with the standards of Cass County.
- 2) Domestic Sewage:
 - a) All structures shall discharge into a municipal sanitary system if available.
 - b) All structures shall have an individual or common sewage disposal system meeting the requirements as provided in 4.5(8).
 - c) All non-conforming systems shall be brought into conformance as provided in 4.4(7).
 - d) Sewage tanks being abandoned shall be thoroughly pumped and filled with soil.
 - e) Septage shall be disposed of in accordance with the requirements of Cass County.
- 3) Agriculture or Animal Wastes. Within the shoreland area, 1000 feet from a lake or 300 feet from a watercourse, no waste products from agriculture or animal husbandry operations shall be deposited by man at any greater rate than the plant and soil system can absorb the nutrients; nor shall any wastes be allowed to accumulate where surface waters flow directly to public waters or watercourses. No livestock shall be allowed to water directly in a stream or public water.
- 4) Water Supply:
 - a) All structures shall be connected to a municipal water supply if made available.
 - b) All domestic and agricultural wells shall conform to the Minnesota Department of Health Standards for wells.
 - c) All water systems shall meet the requirements of the Minnesota Department of Health Standards for water systems.
 - d) All wells being abandoned shall be sealed according to Minnesota Department of Health Standards and reported to Minnesota Department of Health and the City.
- 5) Hazardous Wastes
No person shall store, deposit, bury, place or abandon any wastes within the City which are considered by the MPCA to constitute wastes hazardous to

human health.

6.7 Animal Husbandry

- 1) Pets. Pets shall be properly cared for, shall not be allowed to create problems for neighbors or the City, or become a nuisance, and shall have sanitary standards maintained consistent with 6.6(3).
- 2) Livestock.
 - a) No feedlots are allowed.
 - b) Livestock may be raised as provided in Zoning Districts with proper permits provided that the standards of each District are not compromised.
 - c) Livestock shall be properly cared for, shall not create problems for neighbors or the City and shall have sanitary standards maintained consistent with 6.6(3).
- 3) Wild Animals.
 - a) The keeping of wild animals as pets - including but not limited to primates and large carnivores - is not allowed.
 - b) Wildlife rehabilitation uses shall require a Conditional Use Permit and must meet the minimum standards established by the State of Minnesota Department of Natural Resources Rules Chapter 6244.

6.8 Tree Removal / Woodland Preservation / Soil Erosion Prevention

- 1) Diseased trees shall be removed immediately and disposed of as firewood or by other burning. Branches shall also be burned.
- 2) Vegetation removal, clear cutting, if allowed, must be complete, including removal of all debris. Soil erosion must be prevented and replanting is encouraged.
- 3) Vegetation removal, select or open cutting, if allowed, must be complete including removal of all debris. Replanting is encouraged.
- 4) Open or clear cutting shall not be allowed in a shore or bluff impact zone.
- 5) Natural areas designated by conditions on Conditional Use Permits for screening or woodland preservation purposes shall be left natural except for removal of diseased trees. Replanting or thickening with native species is encouraged.
- 6) Any area disturbed during any grading operation shall have the native topsoil replaced and be seeded.
- 7) Vegetation alterations necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt

from the above standards except (1), (4), and (5).

6.9 Parking and Loading

- 1) On-site parking or garage space shall be provided in all zones, except as specifically exempted, with adequate drive access to prevent the need to back onto collector streets or County highways. On-site parking spaces shall not be used for storage.
- 2) Parking sites shall be a minimum of twenty (20) feet long and nine (9) feet wide except in commercial and commercial waterfront districts where nine and one-half (9.5) feet wide is required.
- 3) Parking shall be provided at the following ratios:

Two (2) stalls per dwelling unit

One and one-half (1.5) stalls per dwelling unit, multi-family over twenty (20) units per complex, or Motel/Hotel units

One (1) stall per three hundred (300) square feet of office space
One (1) stall per three hundred (300) square feet of retail space

One (1) stall per three (3) seats for restaurants.

- 4) On-site parking shall not be closer than five (5) feet from a lot line, unless otherwise provided in the specific District.
- 5) All parking shall be paved or provided with all-weather surface and be adequately drained to a pervious surface designed to allow entrapment of silts and nutrients prior to discharge to a public water.
- 6) More than five (5) parking stalls contiguously located and any commercial parking adjacent to residential shall be landscaped and screened according to a plan approved by the Planning Commission.
- 7) Loading-General:
 - a) All required loading berths shall be off-street and shall be located on the same lot as the principal use served. Loading shall not occupy front yard space. Berths shall not be used for storage.
- 8) Loading Berth Size and Surface:

- a) Loading berth shall be fifteen (15) feet in width and fifty (50) feet long with fourteen (14) feet of vertical clearance. Berths shall have all weather surface and be well drained.

6.10 Drainage

- 1) General.
 - a) When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
 - b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible, and facilities and methods used to retain sediment on the site.
 - c) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds must be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
- 2) Drainage Plan(s). All subdivisions shall contain provisions for adequate surface or subsurface runoff of storm water and snow melt directed to natural drainageways. A storm frequency of a 5-year, 24-hour storm period shall be provided for with no structural flooding or ponding.
- 3) Natural Drainage. All development shall provide for the continuance of natural drainageways, and structures shall be so constructed as to be 1 foot above the water level in the drainageway created by a storm of a 100-year return period or a 1% chance of occurrence.
- 4) Drainage Structures. All drainage structures provided shall be sufficient in size to pass a 5-year, 24 hour storm to a natural drainageway and to pass a 100-year, 24-hour storm along a drainageway.
- 5) Drainage Storage Areas. The use of natural or manmade stormwater storage areas is encouraged. These areas should be vegetated and designed to naturally lower after a storm.
- 6) Filling. No filling of areas inundated by the 100-year, 24-hour storm along drainageways shall be allowed, except by Conditional Use Permit.
- 7) Impervious Areas. All parking areas, heavy areas, storage areas and impervious areas

shall be designed to allow entrapment of silts and nutrients prior to discharge to a natural drainage way or public water.

- 8) Public Waters. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming or surface debris before discharge.
- 9) Erosion. Erosion control measures shall be provided in all areas disturbed during any grading or construction. All areas disturbed shall be covered with topsoils and seeded. Areas subject to concentrated runoff or steeper than 3:1 shall be sodded, planted with appropriate deep-rooted vegetation, or protected with an appropriate mulch cover as directed by the City Engineer.

6.11 Grading

- 1) General. The following activities must be authorized by permit, except for excavation for permitted structures, drives, sewer systems and parking areas:
 - a) Grading and filling in the shore or bluff impact zone,
 - b) Any alterations of the natural topography when the slope of the land is toward a public water or watercourse involving the movement of more than 10 cubic yards of material in a bluff or shore impact zone or more than 50 cubic yards of material anywhere else within a shoreland area.
- 2) Conditions. The following conditions shall apply:
 - a) The smallest amount of bare ground is exposed for as short a time as feasible.
 - b) Four inches of topsoil is placed, temporary ground cover such as mulch is used and permanent ground cover such as sod is planted.
 - c) Methods to prevent erosion and trap sediment are employed.
 - d) Fill is stabilized to acceptable engineering standards and must not create an unstable slope.
 - e) Plans to place fill or excavated material on steep slopes must be reviewed by a qualified professional for continued slope stability and must not create finished slopes of 30% or greater.
 - f) Fill or excavated material must not be placed in bluff impact zones.
 - g) Fill placed in a public water below the ordinary high water line requires a DNR Waters Permit and a Corps of Engineers Permit.
 - h) Excavation in the bed of public waters requires a DNR Waters Permit and a Corps of Engineers Permit.

- i) Only clean fill consisting of sand, gravel or rock will be allowed where contact with water is anticipated. Mineral soil may be allowed elsewhere.
 - j) Alterations to topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
- 3) Wetlands. Grading or filling in any protected wetland is prohibited unless authorized by Federal, State, County and Local permitting agencies.
- 4) Public Waters. Connections to public waters of boat slips, canals, lagoons, harbors and similar inland excavations are prohibited.
- 5) Roads, Driveways, and Parking Areas. Public and private roads, driveways and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from public waters.
- a) Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zone, when other reasonable and feasible placement alternative exist. If no alternatives exist, they may be placed within these areas, and shall be designed to minimize adverse impacts.
 - b) Private watercraft access ramps, approach roads and access-related parking areas are prohibited on lakes with public access or more than one privately-owned but public access. On lakes with no public access, private watercraft access ramps, approach roads and access-related parking areas may be placed by permit within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met.
- 6) Ice Ridges. If ice ridges occur annually, the property owner may restore the shoreline every year. Removal or grading of an ice ridge must not disturb emergent aquatic vegetation, unless authorized by an aquatic plant management permit from the DNR's Division of Fisheries. Restoration shall be permitted only where:
- a) The ice ridge resulted from ice action within the last year.
 - b) The total length of shoreline zone to be affected does not exceed 50 feet.
 - c) All ice ridge material that is composed of muck, clay, or organic sediment is deposited and stabilized at an upland site above the ordinary high water level of any public water.
 - d) All ice ridge material that is composed of sand or gravel is removed or graded to conform to the original cross-section and alignment of the lakebed, with a finished surface at or below the ordinary high water level.
 - e) No additional excavation or placement of fill material occurs on the site.
 - f) All exposed areas are immediately stabilized as needed to prevent erosion and

sedimentation.

- 7) Riprap. The City of Backus encourages the use of riprap only as a last resort to control shoreline erosion. Other methods should be used, including the planting of native, deep rooted vegetation. If riprap has been found to be the only tool available, riprap installation shall have the following standards:
 - a) Gradation. A well-graded mixture of rock sizes should be used instead of one uniform size.
 - b) Quality of stone. Riprap must be durable so that freeze/thaw cycles do not decompose it in a shore time; most igneous stones such as granite have suitable durability.
 - c) Riprap depth. The thickness of riprap layers should be at least 2 times the maximum stone diameter.
 - d) Vegetation.
 - i. Existing vegetation on the shoreline and in the water should be maintained without disturbance.
 - ii. All bare soil on the slope above the riprap should be stabilized with seed and mulch, or sod.
 - iii. Wooded, deep rooted vegetation should be planted among the riprap to help stabilize and create wildlife habitat.
 - e) Filter material. Filter material is usually required between riprap and the underlying soil surface to prevent soil from moving through the riprap; a filter cloth material or a layer of gravel is usually used for the filter.
 - f) Leaching Protection. Leaching can be controlled by installing a riprap gradation small enough to act as a filter against the channel base material, or a protective filter can be installed between the riprap and the base material.
 - g) Riprap Limits. The riprap should extend for a maximum flow depth, or to a point where vegetation will be satisfactory to control erosion.
 - h) Curves. Riprap should extend to five times the bottom width upstream and downstream of the beginning and ending of the curve as well as the entire curved section.
 - i) Riprap Size. The size of riprap to be installed depends on site-specific conditions.
 - j) Riprap Prohibitions. Slopes on which riprap is used to stabilize shorelines shall be no steeper than 2:1.
 - k) Maintenance. Inspections should be made of all sites immediately after the first rainfall following installation of riprap. This is particularly important in areas where riprap that is displaced during the storm would impact culverts. Thereafter, riprapped sites should be checked following large storms, especially

those which are near or exceed the storm frequency used in the design. Displaced riprap should be removed from its downstream location and new riprap placed according to the specifications above.

6.12 Camping

- 1) General.
 - a) All recreational vehicles must be designed to operate on state roads without a special permit and must have a current license.
 - b) No camping unit may be permanently placed or skirted.
 - c) All camping units must be able to be moved readily.
 - d) Camping units must meet dwelling setback requirements.
 - e) Prior to placing a camping unit, the occupant must have the permission of the property owner. The permission must be written when the property owner is not available on site.
- 2) Properties with principle structures.
 - a) There shall be a maximum of four units allowed at any one time.
 - b) No individual camping unit may be placed for use longer than 14 days within any 60 days.
 - c) One camping unit may be allowed in outside storage. That unit may be stored year-round.
- 3) Properties without principle structures.
 - a) There shall be a maximum of four units allowed at any one time.
 - b) Each individual camping unit is allowed for 14 days in any one calendar year without a permit.
 - c) A permit is required for camping units established for more than 14 days in any one calendar year. The maximum time an individual unit can be established is nine months in any one calendar year.
 - d) One permit per parcel per calendar year is allowed.
 - e) A permit for a camping unit requires installation of a permanent sewage treatment system.
- 4) Properties where a principle structure is being constructed.

- a) Camping units are allowed in conjunction with a land use permit for construction of a principle structure.
- b) Camping units are allowed up to 12 months during construction, with extension for an additional 12 months in conjunction with extension of a zoning permit.

6.13 Solar Energy Systems

- 1) Height. Solar energy systems must meet the following height requirements:
 - a) Roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district.
 - b) Ground-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.
- 2) Solar Location and Setbacks. Solar energy system must meet the structure setback for the zoning district on which the system is located.
- 3) Roof-Mounted Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
- 4) Ground-Mounted Solar Energy Systems. Ground-mounted systems shall not exceed half the building footprint of the principal structure and may not extend into the side-yard or rear setback when oriented at minimum design tilt.
- 5) Visibility. Solar energy systems shall be designed to blend into the architecture of the building or be screened from routine view from public right-of-ways other than alleys.

**SECTION VII
SPECIAL PROVISIONS**

7.1 Planned Unit Development

- 1) General. Planned Unit Development requires the assistance of professional planning and usually involves the approval of multiple agencies or other governmental bodies. Where circumstances are favorable, Planned Unit Developments (P.U.D.s) provide more latitude in land use than normal development to allow for planning, clustering facilities, consolidating green space and internal recreational amenities. Commercial - Residential - Planned Unit Developments, while recognized, are not considered in this Ordinance except as compatible with the commercial and residential zoning requirements.

- 2) The City must consider the following criteria in the examination of a parcel for suitability as a P.U.D.:
 - a) Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
 - b) Physical and aesthetic impacts of increased density;
 - c) Suitability of lands for the planned unit development approach;
 - d) Level of current development in the area; and
 - e) Amounts and types of ownership of undeveloped lands;
 - f) Size of the parcel and amount (if any) of shoreline.

- 3) Minimum Requirements - New Developments:
 - a) P.U.D.s are not allowed in the (I-1) and (P) Zoning Districts;
 - b) Public Sewer and Water;

c)

	R-1	R-2	CW	C
Minimum Land Area Required	40,000 sq. ft.	40,000 sq. ft.	2.5 acres	30,000 sq. ft.
Minimum Lake Frontage	150 ft.		200 ft.	
Minimum Setback Waterfront	100 ft.		100 ft.	
Minimum internal lot size for dwelling, single family per unit	3,200 sq. ft.	3,200 sq. ft.	3,200 sq. ft.	
Setback, side exterior	20 ft.	20 ft.	20 ft.	20 ft.
Setback, front and side interior except multi-family structure	10 ft.	10 ft.	10 ft.	10 ft.
Setback, parking/driveway from property line	10 ft. minimum	10 ft. minimum	10 ft. minimum	10 ft. minimum
Setback, road, rear	30 ft.	30 ft.	30 ft.	30 ft.
Maximum impervious coverage	25%	30%	25% / 30% *	50%
* First tier of CW may be 30%				
Green space in common ownership	50%	25%	50%	25%
Maximum building height	25 ft.	25 ft.	25 ft.	25 ft.
Maximum floors	3	3	3	3
Building above highest known water table or lake level or flood level	3 ft.	3 ft.	3 ft.	

4) Shoreland dwelling unit or site density evaluation.

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards:

- a) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	<u>Unsewered</u>	<u>Sewered</u>
General development lakes - first tier	200 feet	200 feet
General development lakes - second & additional tiers	267 feet	200 feet

- b) The suitable area within each tier is next calculated, excluding all wetlands, bluffs, or land below the ordinary high-water level of public waters. This area is then subjected to the planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.
- c) Planned unit development density evaluation steps and design criteria. The density evaluation steps and design criteria for planned unit developments are as follows:

- i. For residential planned unit developments, the suitable area within each tier is divided by the density standard for lakes, which shall then be used to yield a base density of dwelling units or sites for each tier. The City may allow some dwelling unit or site density increases for planned unit developments above the densities determined in the evaluation if all dimensional standards for the zoning district are met or exceeded. Maximum density increases may only be allowed if all design criteria in (4)C3 and (5) B (below) are also met or exceeded.

- (a) Increases in dwelling unit or site densities must not exceed the maximums in the following table. Allowable densities may be transferred from any tier to any other tier further from the shoreland water body or watercourse but must not be transferred to any other tier closer.
- (b) Maximum Allowable Dwelling Unit or Site Density Increases for Planned Unit Developments

<u>Density Evaluation Tiers Within Each Tier</u>	<u>Maximum Density Increase</u>
First	50%
Second	100%

Riparian rights may be extended to two tiers of density credit.

- ii. Commercial planned unit development density evaluation steps and design criteria.

The density evaluation steps and design criteria for commercial planned unit developments are:

- (a) 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.
- (b) Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development

Floor Area Ratios * Public Waters Classes

Average Unit Floor Area (sq. ft.)	Sewered General Development Lakes; First Tier on Unsewered General Development Lakes	Second and Additional Tiers on Unsewered General 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
1,000	.108	.054
1,100	.116	.058
1,200	.125	.064
1,300	.133	.068
1,400	.142	.072
1,500	.150	.075
<p>* 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. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home or, if unknown, the ratio listed for 1,000 square feet.</p>		

- (c) Multiply the useable 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.
- (d) Divide the area computed in subitem (3) by the average determined in subitem (1). This yields a base number of dwelling units and sites for each tier.
- (e) Determine whether the project is eligible for any additional density increases. To be eligible, projects must meet all of the design criteria standards in item (4)c iii and (5) b, and exceed one or more of them. The local unit of government may decide how much, if any, increase in density to allow for each tier, but must not exceed the maximum allowable density increases listed in the following table:

Maximum Allowable Dwelling Unit or Site Density Increases for Commercial Planned Unit Developments

<u>Tier</u>	<u>Maximum density increase within each tier</u>
First	50%
Second	100%
Third	200%
Fourth	200%
Fifth	200%

- (f) Allowable densities may be transferred from any tier to any other tier further from the shoreland, lake, or river, but must be transferred to any other tier closer.

iii. The design criteria are:

- (a) All planned unit developments must contain at least 3 dwelling units or sites except commercial P.U.D.s which shall contain at least 2 dwelling units or sites.
- (b) Planned unit developments must contain green space meeting all of the following criteria:
 - i. At least the required percent of the total project area must be preserved as green space.
 - ii. Dwelling units or sites, road right-of-ways, or land covered by road surfaces, parking areas, or structures are developed areas and should not be included in the

computation of minimum green space.

- iii. Green space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
 - iv. Green space may include outdoor recreational facilities for use by owners of the dwelling units or sites, or the public.
 - v. The shore impact zone, based on normal structure setbacks, must be included as green space. At least 50% of the shore impact zone area of existing developments or at least 70% of the shore impact zone area of new developments must be preserved in their natural or existing state.
 - vi. Green space in residential P.U.D.s must not include commercial facilities or uses, but may contain water-oriented facilities. Commercial P.U.D.s may include outdoor recreational facilities for use by guests or the general public.
 - vii. The appearance of green 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.
 - viii. Green space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
- 5) Centralization and design of facilities and structures must be done according to the following standards:
- a) Planned Unit Developments must be connected to publicly owned water supply and sewer systems.

- b) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high-water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high-water level must be increased for developments with density increases. Maximum density increases may only be allowed if structure setbacks from the ordinary high-water level are increased to at least 50% greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.
 - c) 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.
 - d) 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 shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.
- 6) Erosion control and stormwater management for planned unit developments must:
- a) Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
 - b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff.

- 7) Administration and any maintenance requirements. Prior to final approval of any planned unit developments, the City will require adequate provisions developed for preservation and maintenance in perpetuity of green spaces and for the continued existence and functioning of the development as a community.
 - a) Green space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of green space. The instruments must include all of the following protection:
 - b) Commercial uses prohibited in a residential P.U.D.;
 - c) Vegetation and topographic alterations other than routine maintenance prohibited;
 - d) Construction of additional buildings or storage of vehicles and other materials prohibited; and
 - e) Uncontrolled beaching prohibited.
- 8) Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all planned unit developments must use an owner's association with the following features:
 - a) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.
 - b) Each member must 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.
 - d) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- 9) New multi-family dwellings of 4 units or larger shall be designed by an architect, shall be compatible in color, character, and mass with surrounding land use.
- 10) New multi-family building shall have one hour fire rated party floors and party walls and be designed to a forty-five (45) decibel rating. The architect shall verify to this requirement.
- 11) The minimum requirements for the subdivision of structures or parcels existing as resorts or multi-family structures at the time of this Ordinance shall be 7.1(2)

except as allowed by variance therefrom. No increase in overall parcel density shall be considered. Provision for future locations for replacement of non-conforming structures upon destruction of the existing structure shall be provided.

12) General Requirements - All P.U.D.s

- a) A winterized, internal, central water system
- b) P.U.D. parcels must directly abut on a public road
- c) Vegetation removal, select cutting
- d) Paved, internal, private access roads on common property
- e) Maintenance of all facilities by the association
- f) Paved parking for 2 vehicles per unit
- g) Screened or inside storage areas
- h) Subdivision by plat or condominium plan
- i) Recreation facilities as required by the Planning Commission
- j) Screening and landscaping as required by the Planning Commission

13) Submission and Administration - Sec. 10.5 (See Conditional Use Permit)

7.2 Campgrounds/Campsites

- 1) General - Campgrounds/RV parks shall be considered a form of planned unit development and administered thereunder as Conditional Uses in the zone where said use is allowed, except no density increases will be considered.
- 2) Minimum parcel size - No campground or recreational vehicle park shall be allowed on a parcel of less than 20 acres.
- 3) Dwelling site requirements - The dwelling sites must conform to the Minnesota Department of Health Standards and the following:
 - a) Campsites or recreational vehicle sites shall have a minimum of 3,000 square feet designated for each family unit, with a minimum of 40 feet, center to center.
 - b) A strip of land with a minimum width of 40 feet shall be reserved for a service road adjacent to each of the designated sites.
 - c) Parking shall be off the road.

- d) Recreational facilities as determined by P.U.D.
 - e) A water system capable of providing 100 gallons per site, per day, at 200 psi at the most remote fixture for RV sites, or within 400 feet of each campsite for non RV sites.
 - f) Conforming onsite sewage collection and disposal system sized for 100 gallons per campsite per day.
 - g) Solid waste facilities consisting of one 30 gallon can for each 4 campsites or one dumpster for each 20 sites, constructed to prevent overturning or cover removal by animals, and screened.
 - h) Fire pit for each campsite.
 - i) Campsites for recreational vehicles shall have sewer connection, water connection and electric connection, or recreational vehicles shall be self-contained and a wastewater disposal station for the first and each 100 such vehicles at least 50 feet from the nearest campsite shall be provided.
 - j) Drinking water and restroom facilities with showers shall be provided, all within 400 feet of every site not served with full facilities.
 - k) Grass or other complete ground cover shall be maintained except in parking areas and roads.
 - l) Evidence shall be provided, prior to final approval, that the licenses and approval process of Minnesota Department of Health has been adhered to.
 - m) All sites shall be well drained.
 - n) Sufficient storm shelter shall be provided to accommodate all occupants of the campground.
- 4) The submission requirements for a campground shall be the same as P.U.D.s, except as determined not applicable by the Zoning Administrator.
- 5) Event Camping
- a) Application of Provisions. This section imposes regulatory requirements on certain activities which are held on streets, public property and private property which are defined as "public assemblages." The requirements imposed by this section do not alter, supersede or nullify any requirements contained in other statutes, ordinances or regulations which may also regulate these same activities. These requirements shall be applied in a content-neutral manner and without discrimination as to race, religion, sex, national origin, political affiliation or other unlawful discriminatory classification. This section shall not apply to the following events:
 - i. Events or assemblies occurring inside permanently established,

fully enclosed places of assembly such as a place of worship, public auditorium, theater, recreation hall, gym, or other enclosed structure designed primarily for housing and assembly of people, provided that the maximum number of persons expected to attend or in actual attendance does not exceed the maximum capacity of the enclosed place of assembly.

- ii. Events or assemblies in conjunction with school events on school property, church events on church property if designed for that use, or government sponsored public hearings.
- iii. Events or assemblies at golf facilities, resorts, or other licensed recreational sites during normal day-to-day operations when the event involves spectators in a number equal to or less than can be served by existing facilities.

b) Application.

- i. Any person applying for an event camping license shall complete a interim use application approved by the Planning Commission.
 - ii. An application for an interim use permit shall be in writing, addressed to the Planning Commission and filed with the Zoning Clerk at least sixty (60) days prior to the date upon which the camping event shall occur. The Planning Commission shall act upon the application within thirty (30) days after its submission.
 - iii. Application shall be made by the owner of record of real estate situated in the City of Backus upon which the event camping is to take place or lessee thereof or duly authorized agent or attorney of the owner or lessee.
 - iv. Such application shall include the following information:
 - (a) A statement of the name, age and residence address of the applicant.
 - (b) If the applicant is a corporation, the name of the corporation and the names and addresses of its directors.
 - (c) A statement containing the name, address and record owner(s) of the property(ies) where the event camping shall occur and the nature and interest of the applicant therein.
 - (d) The proposed dates and hours of such public camping event.
 - (e) The expected minimum number of persons intended to use the property(ies) at one (1) time and collectively.
 - (f) The number of automobiles, motorcycles and other vehicles intended to use the property(ies) at one (1) time and collectively.
 - (g) The estimated number of campsites.
 - (h) A general explanation of the activity to be carried on and the admission fee to be charged, if any.
 - (i) Any other information deemed necessary by the Planning Commission.
- 6) Notice to abutting owners. The Planning Commission shall send special notice by mail to all owners of abutting property within three hundred and fifty (350) feet of

the site of the event and the parking area of the time and place of the public hearing regarding said special entertainment. The applicant shall bear the cost of the mail.

- 7) Payment of due taxes; zoning requirements met. Any person applying for an interim use permit shall show that all taxes due to date have been paid and all zoning requirements met for the premises on which the entertainment is to be held and for the property to be used as associated parking facilities.
- 8) Additional provisions applicable to all permits. Any person holding a permit under this chapter and every place of event camping shall comply with the following provisions. Violation of any of these provisions shall be unlawful.
 - i. The event shall not last longer than five consecutive days and four nights.
 - ii. No light on any part of premises licensed hereunder or on any place of the event shall be permitted to shine beyond the property line of the premises with an intensity sufficient to disturb the peace, health, safety or comfort of any adjacent residents or the general public.
 - iii. No soot, cinders, smoke, fumes, gases or disagreeable or unusual odors shall be permitted to emanate from the premises so as to be detrimental to any person or to the public or which either annoys, disturbs, injures, endangers or which may disturb, injure or endanger the health, safety and welfare of any person or the public.
 - iv. The applicant shall supply adequate and appropriate toilets at both the site of the event that meet the requirements of the Minnesota Department of Health.
 - v. All trash and rubbish shall be collected and removed from both public and private property within twenty-four (24) hours after the conclusion of the event.
 - vi. At no time shall music be played by mechanical device or live performance which annoys, disturbs, injures, endangers or which might annoy, disturb or endanger any person or the public in their health, comfort, safety, repose and peace.
 - vii. No loud, unnecessary or unusual noise shall be permitted to be made or caused to be made or continued at any time which either annoys, disturbs, injures or endangers the comfort, repose, health, peace and safety of other persons or the public.
 - viii. The applicant shall supply a bond, letter of credit, or other financial security satisfactory to the Council at the time the license is issued to provide protection for possible damage to other owner's property or public property in the vicinity of the entertainment or the parking area. Said bond shall not be released until ten (10) days after the event.
 - ix. The applicant shall provide insurance satisfactory to the Council at the time of the license is issued for all County Sheriff's Department employees assigned to the event to cover medical care, any future loss of pay due to injury related to the event and protection against any

- court suit or liability for false arrest or other civil or criminal action related to the event.
- x. The applicant shall provide sufficient security that is approved by the Cass County Sheriff's Department.
 - xi. The applicant shall be responsible for compliance with all state, federal, and local laws relating to health, safety, and welfare of the public at the event.
- 9) Notice of denial. If the Planning Commission of the City of Backus shall deny an application for a permit under this chapter, it or the City Clerk of the City of Backus shall notify said applicant of the disapproval of said application and shall include therewith a statement for the reasons for disapproval. The notice of denial shall be sent by first-class mail.
- 10) Permits not transferable. No permit issued under the provisions of this chapter shall be transferred or assigned to any person or used by any person other than the person to whom it was issued, nor shall such permit be used on any location other than the location stated in such permit.
- 11) Revocation of permit. If, after the permit is issued, the Planning Commission determines that any of the items set forth in this section is not adhered to and accomplished within a reasonable time prior to the date or dates of the event or if the Planning Commission determines that any of the provisions of any section of this chapter has been or is being violated, then the permit shall become null and void.
- 12) Penalties for offenses. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be punished, for each violation, by a fine of not more than five hundred dollars (\$500.) or by imprisonment of not more than thirty (30) days. The continuation of a violation of any provision of this Article shall constitute, for each day the violation is continued, a separate and distinct violation hereunder.

7.3 Extractive Uses and Restoration

- 1) In all districts where permitted, mining shall be permitted only by C.U.P. Such permit shall include as a condition: a site plan, a completion plan and a haul route plan with provision for road restoration as provided in the following.
- 2) All excavation and extraction shall conform to the following:
 - a) Distance from property lines. No quarrying operation shall be carried on or any stockpile place closer than 50 feet from any property line, unless a greater distance is specified by the C.U.P. where such is deemed necessary for the protection of adjacent property, provided that this distance requirement may be reduced to 25 feet only with written consent of the owners of the affected adjacent non-residence property.

- b) Distance from public right of way. In the event that the site of the mining or quarrying operation is adjacent to the right of way of any public street or road; no part of such operation shall take place closer than 50 feet to the nearest line of such right of way.
 - c) Fencing. Fencing shall be erected and maintained around the entire site or excavated portions thereof and shall be of a type specified in the C.U. P.
 - d) Equipment. All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise and vibration. Power drives or power producing machinery, not including vehicles, shall not be housed or operated less than 1,000 feet from a residential use district.
 - e) Processing. Crushing, washing and refining or other similar processing may be authorized by C.U.P. as an accessory use; provided, however, that such accessory processing shall not be in conflict with the use regulations of the district in which the operation is located. Processing shall not be permitted in the residential districts. All processing equipment shall be located at least 1,000 feet from any residence and 200 feet from the OHW of any lake or stream.
- 3) Rehabilitation. To guarantee the restoration, rehabilitation, and reclamation of mined-out areas, every applicant granted an extraction/mining permit as herein provided shall furnish a performance bond running to the City in an amount to be determined by the City Engineer acceptable to the Planning Commission as a guarantee that such applicant, in restoring, reclaiming and rehabilitating such land and haul road shall, within a reasonable time and to the satisfaction of the City meet the following minimum requirements:
- a) Surface rehabilitation. All excavation shall be made either to a water producing depth, with a water depth of not less than five (5) feet or the surface of such area which is not permanently submerged shall be graded or backfilled to contour and shape the peaks and depressions thereof, so as to produce a gently drained surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area. Four (4) inches of black topsoil shall be placed on all areas, except beaches, that will remain above water level. Haul roads will be restored to their condition prior to the beginning of the extraction operation,
 - b) Vegetation. Vegetation shall be restored by appropriate seeds of grasses or planting of shrubs or trees in all parts of said mining area where such area is not to be submerged under water as herein above provided.
 - c) Banks of excavation not backfilled. The banks of all excavation not backfilled shall be sloped not steeper than three (3) feet horizontal to one (1) foot vertical and vegetation on said bank shall be permanently established.
- 4) Application; contents; procedure. An application for such operation shall provide the following information in addition to that required by the CUP process:
- a) Name of the person or corporation conducting the actual removal operation;

- b) Size of the area from which the removal is to be made;
- c) Type of resources or materials to be removed;
- d) Proposed method of removal and whether or not blasting or other use of explosives will be required;
- e) Description of equipment to be used;
- f) Method of rehabilitation and reclamation of the pit area;
- g) Identification of haul roads.

7.4 Home Occupation

- 1) All Home Occupations shall comply with the following general provisions and standards:
 - a) Machine shops, body shops, repair of internal combustion engines (other than small engine repair), welding, manufacturing, or any other objectionable use as determined by the City Council shall not be permitted as a Home Occupation.
 - b) No manufacturing business shall be allowed.
 - c) The Home Occupation shall be clearly incidental and subordinate to the residential use of the dwelling.
 - d) Exterior alterations or modifications that change the residential character or appearance of the dwelling, any accessory buildings, or the property itself shall be prohibited.
 - e) The Home Occupation shall meet all applicable Fire and Building Codes.
 - f) Exterior display or storage of equipment or materials is prohibited.
 - g) Signage is permitted as allowed in Chapter 6 (Signs), for the zoning district in which the Home Occupation is located.
 - h) 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.
 - i) No equipment shall be used in the Home Occupation which will create electrical interference to surrounding properties.
 - j) Shipment and delivery of products, merchandise, or supplies shall be limited to between 8:00 a.m. and 6:00 p.m. and shall occur only in single rear axle straight-trucks or smaller vehicles normally used to serve residential neighborhoods.

- k) No Home Occupation shall be conducted between the hours of nine o'clock (9:00) PM and seven o'clock (7:00) AM unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities. The City Council shall have the authority to further restrict the hours of operation as necessary to meet the purpose of this section.
- l) On the premises, retail sales shall be prohibited except for the retail sales of products or goods produced or fabricated on the premises as a result of the Home Occupation, except for the occasional sale of items that are primarily sold mail order or sold over the Internet or incidental to the products or goods produced or fabricated on the premises.

7.5 Telecommunication Towers

- 1) **Permits Required.** It shall be unlawful for any person, firm or corporation to erect, construct in place, place or re-erect any tower, unless it shall replace a like tower, without first making application to the City and securing a permit. A change in construction, dimension, lighting design or design type shall also require a permit. The placement of antennae on previously approved towers may be administratively approved by the City.
- 2) **Tower and Antenna Design Requirements.** Proposed or modified towers and antennas shall meet the following design requirements:
 - a) Towers and antennas shall blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities.
 - b) No tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.
 - c) Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to applicable state structural building standards.
 - d) Towers and their antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
 - e) Metal towers shall be constructed of, or treated with, corrosive resistant material.
- 3) **Tower Setbacks.** Towers and all accessory structures or buildings shall conform to the following minimum setback requirements:
 - a) Towers shall be set back from all property lines and existing structures an amount equal to the height of the structure.

- b) Guy wires for towers shall be located no closer than twenty-five (25) feet to any property line and shall meet the setback of the underlying land use district with respect to the public road right of way.
 - c) Suitable protective anti-climbing fencing, with a minimum height of six (6) feet shall be provided around any tower and guy wires.
- 4) Tower Location. Towers less than two hundred (200) feet in height shall be located a minimum of one-half mile from the end of an airport clear zone as measured from the center point of the base of a free-standing tower. Towers that are 200 feet or more in height shall be located a distance of at least three miles from any public or private airport.
- 5) Co-Location Requirements. All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:
- a) Documentation of the area to be served including maps demonstrating the size of communication cells and a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.
 - b) Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:
 - i. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.
 - ii. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.
 - iii. Existing or approved towers and buildings within the search radius that are sixty (60) feet or over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - iv. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
 - c) Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 99 feet in height, or for at least one additional user if the tower is between 35 and 99 feet in

height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept mounting at varying heights.

- d) An agreement stating that the site will be designed for not less than three users with applicant and property owner commitment to co-location, whereby, any prohibition of additional users on a tower will be considered a violation of the permit and city policy. The agreement shall also include a statement that any unused or abandoned tower shall be removed by the property owner and/or applicant. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.
- 6) Antennas Mounted on Existing Buildings or Towers. The placement of telecommunication antennas including wireless telecommunication antennas on existing buildings, towers or structures, shall meet the requirements of the underlying land use district and this section. A site plan and building plan must be submitted to the City as part of the land use permitting process. Where a tower is non-conforming due to the requirements of this section additional telecommunication antennas may be permitted to be placed on the tower after being reviewed by the Zoning Administrator.
- 7) Accessory Utility Buildings. All buildings and structures accessory to a tower shall:
- a) Be architecturally designed to blend in with the surrounding environment and shall meet the height and setback limitations as established for each land use district.
 - b) Have ground mounted equipment screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- 8) Tower Lighting. A tower shall not be illuminated by artificial means and shall not have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission or state agency. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
- 9) Abandoned or Unused Towers. Abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within the 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.
- 10) Public Safety Telecommunications Interference. Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All applications shall include adequate information that will be reviewed by the Planning & Zoning Commission before a permit may be

issued. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the City at least ten (10) calendar days in advance of any changes and allow the City to monitor interference levels during the testing process.

- 11) Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- 12) Non-conforming Towers. In order to avoid requiring new towers and to minimize the number of towers needed to serve the city, the following provisions shall apply to non-conforming towers. Telecommunication towers in existence at the time of this Ordinance may be permitted to increase tower height after being issued a conditional use permit. The Planning & Zoning Commission shall consider the following criteria as part of the conditional use permit process:
 - a) Tower safety concerns including tower collapse, falling ice, and airplane traffic.
 - b) Land use character and history of tower(s).
 - c) Comparative visual impact to the surrounding lands of the proposed tower height increase.
 - d) Disturbance or conflict with agricultural uses on the property.
 - e) Other factors which tend to reduce conflicts or are incompatible with the character and need of the area.
- 13) Screening and Landscaping Requirement. A screening and landscaping plan designed to screen the base of the tower, accessory utility buildings, utility structures, and security fencing shall be submitted. The plan shall show the location, size, quantity, and type of landscaping materials. Landscape materials shall be capable of screening all year and must be six (6) feet in height by the end of the second growing season. Gravel or other durable surface or other weed prevention measures shall be applied within the fenced area to prevent the growth of weeds. A maintenance plan for landscaped materials shall also be submitted.
- 14) Additional Submittal Requirements. In addition to the information required elsewhere, applications shall include the following information:
 - a) A report from a licensed professional engineer that describes the commercial wireless telecommunication service tower's capacity, including the number and type of antennas that it can accommodate.
 - b) A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
 - c) The location of all public and private airports within a three (3) mile radius of the tower site.

- d) Applicant must obtain FAA approval and/or provide documentation that FAA approval is not needed.
 - e) Applicant must obtain FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed.
 - f) An intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems, only if that is the basis for not co-locating
 - g) The applicant must submit proof of Liability and Worker's Compensation.
 - h) For towers over five hundred (500) feet, an Environmental Assessment Worksheet (EAW) is required, and the applicant shall be responsible to provide the city with all information required to complete the EAW prior to the issuance of a permit from the city.
 - i) The owner of the tower shall provide the city with an acceptable financial guarantee in an amount equal to one and one-half (1&1/2) times the cost to remove the tower and related infrastructure, including footings and other underground improvements to a depth of thirty-six (36) inches below existing grade, and to restore the site. Failure to remove the structure shall be cause for the City to remove the tower and associated equipment at the expense of the property owners.
- 15) Towers Not Requiring a Permit. Permits are not required for the following:
- a) A satellite earth station antenna four (4) feet in diameter or less, located in an industrial or commercial district, meeting required setbacks.
 - b) A satellite earth station antenna three (3) feet or less in diameter, meeting the required setbacks.
 - c) A tower less than fifty (50) ft. as measured from the ground.

7.6 Landfills

- 1) No landfills are allowed in the City of Backus due to the close proximity to the lakes and streams.
- 2) Cass County has the responsibility for this service.
- 3) Disposal of trees, stumps, rock, brush and other natural products by burying is allowed on construction sites as determined by the permit.

7.7 Adult Use

1) Purpose and Intent

- a) Findings. It is the purpose of this Ordinance to regulate Adult Oriented Businesses to promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:
 - i. Prevent additional criminal activity within the City;
 - ii. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
 - iii. To locate Adult Oriented Businesses away from residential areas, schools, churches, and parks and playgrounds;
 - iv. Prevent concentration of Adult Oriented Businesses within certain areas of the City.
- b) The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation of restriction on the content of any communicative material, including Adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to Adult oriented materials protect by the First Amendment, or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

2) Application

- a) Except as specifically provided in this Ordinance, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purposed nor in any manner which is not in conformity with this Ordinance.
- b) No Adult Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by and ordinance of the City of Backus, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

- 3) Location. During the term of this Ordinance, no Adult Oriented Businesses shall be located less than 500 feet from any residential zoning district boundary or site used for residential purposes, nor less than 500 feet from any church site, from any school site, from any day care facility, or from any park which is adjacent to property zoned residential. In addition, no Adult Oriented Business may be located within 300 feet of another Adult Oriented Business. For purposes of this Ordinance, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, day care site, park site, or another Adult Oriented Business site to the nearest boundary of the proposed Adult Oriented Business site.

4) Hours of Operation. No Adult Oriented Business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.

5) Operation

a) Off-site Viewing. An establishment operating as an Adult Oriented Business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.

b) Entrances. All entrances to the business, with the exception of emergency fire exits which are not useable by patrons to enter the business, shall be visible from a public right-of-way.

c) Layout. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes or any other material.

d) Illumination. Illumination of the premises' exterior shall be adequate to observe the location and activities of all person on the exterior premises.

e) Signs. Signs for Adult Oriented Businesses shall comply with the sign restrictions addressed in Section 6, and in addition signs for Adult Oriented Businesses shall not contain representational depiction of an adult nature of graphic descriptions of the adult theme of the operation.

6) Consumption or Sale of Alcoholic Beverages. Adult Oriented Business shall not be located on the same parcel as, on a parcel adjacent to or within 500 feet of an establishment that serves alcoholic beverages. Sale of alcoholic beverages on a parcel containing an adult use is prohibited. Consumption of alcoholic beverages on a parcel containing an adult use is prohibited.

7) Licenses

a) Licenses Required. All establishments, including any business operating at the time this Ordinance becomes effective, operating or intending to operate Adult Oriented Business, shall apply for and obtain a license from the City of Backus. A person is in violation of the City Code if he or she operates an Adult Oriented Business without a valid license issued by the City.

b) Applications. An application for a license must be made on a form provided by the City.

i. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a

- designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- ii. The applicant must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with the appropriate state, county, and local law and codes by the health official, fire marshal, and building official.
 - iii. Application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers, dates of birth of the owners, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information detailing the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, furnishing, or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.
 - iv. If the application is made on behalf of the corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment, including the purchase or acquisition of any items of personal property for use in said operation.
 - v. All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

c) Application/Applicant Disqualification.

- i. The license fee required by this ordinance has not been paid.
 - ii. An applicant has been convicted of a crime involving any of the following offenses:
 - iii. Any sex crimes as defined by Minn. Stat. 609.29 through 609.352 inclusive, or as defined by any ordinance or statute in conformity therewith;
 - iv. Any obscenity crime as defined by Minn. Stat. 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith, for which:
 - a. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.
 - b. less than five years have elapsed since date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or
 - c. less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 hour period.
 - v. The fact that a conviction is being appealed from shall have no effect on disqualification of the applicant or applicant's spouse.
- d) Requalification. An applicant who has been convicted of an offense listed in Section 5.31, Subdivision 3(b), may qualify for an Adult Oriented Business license only when the time period required by Section 5.31, Subdivision 3(b) has elapsed.
- e) Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Oriented Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult Oriented Business so that it may be easily read at any time.
- f) Council Action. The City Council shall act to approve or disapprove the license application within the timeframes found in Minnesota Statutes, provided that the application contains all of the information required by this ordinance. If the application is deficient, the Council shall act on the application within the timeframes found in Minnesota Statutes. The City Clerk shall notify the applicant of the deficiencies in the application.
- g) Appeals. Within 90 days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or City Clerk of the Municipality.
- h) Investigation and Issuance. The City Council shall direct the County Sheriff to

investigate all facts set forth in the application. An advance fee of \$500 shall be submitted with the application to defray the City's costs and expenses with the background investigation. After the background investigation has been completed and all information required by the application has been submitted to the City, the City Council shall determine whether to grant or deny the license application.

i) License Fees. Fees shall be established by City Council resolution on the fee structure.

8) Inspection.

a) Access. An applicant or licensee shall permit health officials, county sheriffs office, fire department, zoning administrator and building inspection division, to inspect the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law and City Code, at any time it is occupied or open for business.

b) Refusal to Permit Inspections. A person who operates an Adult Oriented Business or his agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, county sheriffs department, fire department, zoning administrator or building inspection division at anytime it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in Section 5.36.

c) Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for uses as a permanent or temporary habitation.

9) Expiration and Renewal.

a) Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 5.31, Subdivision 1. Application for renewal must be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will be unaffected.

b) Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

10) Suspension.

a) Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

i. Violated or is not in compliance with any provision of this Ordinance.

- ii. Engaged in the use of alcoholic beverages while on the Adult Oriented Business premises.
 - iii. Refused to allow an inspection of the Adult Oriented Business Premises as authorized by this chapter.
 - iv. Knowingly permitted gambling by any person on the Adult Oriented Business premises.
 - v. Demonstrated inability to operate or manage an Adult Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
- b) Notice. A suspension by the City shall be preceded by written notice to the licensee and before a hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensee's business premises with the person in charge thereof.

11) Revocation.

- a) Suspended Licenses. The City may revoke a license if a cause of suspension in Section 5.36 occurs and the license has been suspended within the preceding 12 months.

- b) Causes of Revocation. The City shall revoke a license if it determines that:

- i. A licensee gave false or misleading information in the material submitted to the City during the application process;
- ii. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- iii. A licensee or an employee has knowingly allowed prostitution on the premises;
- iv. A licensee or an employee knowingly operated the Adult Oriented Business during a period of time when the licensee's license was suspended;
- v. A licensee has been convicted of an offense listed in Section 5.31, Subdivision 3(b), for which the time period required in Section 5.31, Subdivision 3(b), has not elapsed;
- vi. On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 5.31, Subdivision 3(b), for which a conviction has been obtained, and the person or person were employees of the Adult Oriented Business at the time the offenses were committed.
- vii. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
- viii. A licensee has allowed the sale and/or consumption of alcoholic beverages at the Adult Oriented Business for which a license has been issued herein.

- c) Appeals. The fact that conviction is being appealed shall have no effect on the

revocation of the license.

- d) **Granting a License After Revocation.** When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business license for one year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under Section 5.37, Subdivision 2(e), an applicant may not be granted another license until the appropriate number of years required under Section 8 have elapsed.
 - e) **Notice.** A revocation by the City shall be proceeded by written notice to the licensee and a public hearing. The notice shall give at least 10 day's notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.
- 12) **Transfer of License.** A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Oriented Business under the authority of a license at any place other than the address designated in the application.

7.8 Bed and Breakfasts

In districts where permitted or allowed by conditional use, a bed and breakfast inn shall comply with the following standards:

- 1) The bed and breakfast inn shall be part of an owner-occupied residential structure and shall be owner-operated.
- 2) The use shall comply with applicable Federal, State, County and City rules and regulations.
- 3) The exterior appearance of the structure shall not be altered from its single-family character.
- 4) All guestrooms, and access to guestrooms, shall be located within the principal residential structure.
- 5) The total number of units shall be limited to four (4), not including owner.
- 6) The property must meet all density requirements of the ordinance as a single family dwelling.
- 7) Guests are limited to a length of stay of no more than 14 consecutive days.
- 8) No food preparation or cooking facilities shall be conducted within any of the guestrooms.

- 9) All requirements of the zoning district must be followed, variances will not be granted for the operation of a bed and breakfast, and they will not be allowed on non-conforming lots.
- 10) Owner shall provide licensure information to the City before operation shall begin.
- 11) No property may be leased or rented to a number of individuals greater than the structure's bedroom and septic capacity.

7.9 Reserved for Future Use

7.10 Manufactured and Pre-Built Housing Development

- 1) General. Manufactured housing development shall be considered a form of P.U.D. and administered as a Conditional Use in the zoning district where said use is allowed. Development of this type creates a heavy demand and reliance on municipal type facilities including roads, sewer, water and fire protection. In addition these developments are often the most dense in a community requiring heavier streets, more public recreation facilities and nearby shopping.
- 2) Minimum Standards.
 - a) A Minnesota Department of Health Permit shall be required.
 - b) Parcel size shall be a minimum of 20 acres.
 - c) At least two (2) acres shall be set aside for parks & recreation.
 - d) Minimum individual lot dimensions shall be 60' x 140'.
 - e) At least 20% of the land shall be in common ownership not used for individual lots.
 - f) The common roadway area, where private, shall be a minimum of 40-foot wide with a 24-foot wide bituminous surfaced road.
 - g) There shall be a minimum of 2 and a maximum of three parking spaces for each unit.
 - h) Each unit shall meet the minimum building standards set forth in Section 4.5.
 - i) All units must be skirted, unless placed on an enclosed foundation.
 - j) Landscaping shall be required as per the direction of the Planning Commission.
 - k) When served by public utilities, there shall be individualized sewer, water and electrical connection for each site.
 - l) Solid waste storage and removal shall be centralized within the development and shall be the responsibility of the owner of the development.

- m) Each unit must meet the requirements of the state building code, HUD standards and MN. Statute 327.21 -327.35; and shall be no older than five (5) years at time of installation and have the required state seal attached.
- n) Sufficient storm shelter shall be provided to accommodate all residents of the development.

**SECTION VIII
SUBDIVISION STANDARDS**

8.1 General Provisions and Application of this Section

Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered upon a parcel of land or in a condominium space which is not in conformance with this Ordinance.

- 1) The provisions of this Ordinance shall be applicable to any subdivision of property within the City, after the effective date of this Ordinance.
- 2) The Planning Commission and Council shall approve subdivision by Plat or Condominium Plat.
- 3) Subdivision by metes and bounds shall be approved by the Planning Commission if the resulting parcels are less than 20 acres and 500' of width for residential lots or 5 acres and 300' if width for commercial lots and shall be limited to no more than one split of a parcel into two parcels in a three-year period of time. An additional parcel for right-of-way or commonly owned driveway access may also be allowed.
- 4) The proposed legal description for subdivision of land by metes and bounds shall be prepared and certified by a Registered Land Surveyor. Approval by the Planning Commission shall be indicated by the signature of the Planning Commission Chairman, upon approval of the Commission, and attached to said legal description. The County Recorder or Registrar of Deeds may accept each such Certificate for filing and recording upon compliance with these provisions.

8.2 Sketch Plan, Preliminary and Final Plat Standards

- 1) A sketch plan shall contain the following data:
 - a) Existing conditions, including:
 - i. Approximate exterior boundary drawn to a scale of not less than 1" = 100' with the scale and northerly direction shown thereon.
 - ii. Indication of floodplains, wetlands, slopes over 12%, bluffs, tree cover and ordinary high water mark.
 - iii. Use of adjoining properties including street locations, structure locations, and property lines.
 - iv. Significant historical sites.
 - b) Proposed Design
 - i. Proposed roads and walkways
 - ii. Proposed lots with building setbacks and bluff impact zones.
 - iii. Proposed Green space.
 - iv. Proposed City sewer and water system connections or sewage treatment systems and well locations.
- 2) A Preliminary Plat, Preliminary Condominium Plat shall contain the following data:

(except as waived in advance by the Planning Commission); along with other reasonable information required by the Commission needed to make a proper evaluation of the proposal.

3) Existing Conditions

- a) Boundary lines with lengths and bearings drawn to exact scale of no less than 1"=100' taken from a boundary survey by a Registered Land Surveyor with the legal description of the property, total acreage, name of the fee owner, developer, and surveyor. North arrow and scale.
- b) Topography consisting of two-foot contour intervals, or at the discretion of the Planning Commission during the sketch plan review, 2) 10-foot contour intervals taken from the USGS mapping with additional field determined spot elevations added to define drainage ways, 100-year floodplains, wetlands, slopes, and the Ordinary High Water Mark. Near shore aquatic conditions, including depths, types of bottom, sediments, and aquatic vegetation.
- c) Tree cover limits, specimen tree locations.
- d) Soils as determined by hand borings on a random basis, to determine depth to ground water at lower elevations and suitability for sewage treatment systems.
- e) Location of adjoining streets, wetlands, structures, and property lines within 200' of subject parcel, including acreage of any property owned by the developer not included in the preliminary plat.
- f) Significant historical sites.
- g) Date of boundary survey, topography, and proposed plat.

4) Proposed Design

- a) Layout of proposed streets, walkways, driveways, blocks, lots, buildings if known, drawn to same scale as existing data.
- b) Dimensions scaled to nearest 5 feet of all lot lines, street widths, easement widths and lakeshore lengths.
- c) Buildable areas of proposed lots.
- d) Structure setback lines from streets, lot lines and Ordinary High Water Mark and a designation of the buildable area on the parcel.
- e) Proposed Green Space with area shown.
- f) Proposed public dedication areas other than streets or walkways with the area shown.

- g) Proposed City sewer or water system connections and extensions existing and proposed with grades shown.
 - h) Potential locations and estimated depth to water table for all proposed onsite sewage disposal systems, two per lot.
 - i) Information regarding adequacy of domestic water supply,
 - j) Proposed storm drainage system and erosion control, both during and after construction activities.
 - k) Proposed street standards and profiles.
 - l) Potential principal structure and accessory structure locations and elevations.
 - m) Extent of anticipated vegetation and topographic alterations.
 - n) Proposed covenants.
 - o) Name of subdivision and proposed street names, which shall not duplicate or be alike another plat previously recorded.
 - p) Stages of development proposed.
- 5) Evidence of Authority to subdivide the parcel consisting of fee ownership or written concurrence of fee owners.
 - 6) All unpaid assessments shall be paid at the time the final plat, final condominium plat, or metes and bounds lot split is filed.

8.3 Final Plat or Final Condominium Plat

A Final Plat or Final Condominium Plat shall contain all elements required by this Ordinance and Minnesota Statutes 505, 515A or 515B respectively, and the State Plat Manual including but not limited to the following:

- 1) Conformance with approved Preliminary Plat or agreed upon portion thereof.
- 2) Design standards in conformance with the City of Backus Zoning and Subdivision Ordinance.
- 3) Preparation by a Registered Land Surveyor. Signatures of Mayor, Clerk, County Auditor, County Treasurer and all parties with legal interest in the fee ownership of the land.
- 4) Dedication to the public of easements, right-of-ways, walkways and land to become public.

- 5) Drainage and utility easements over natural drainageways and significant wetlands.
- 7) Reservation of private streets in Outlots.
- 8) Covenants: Covenants shall be filed concurrently with the plat and shall be required to create an association of homeowners if a privately maintained cluster sewer or water system is proposed for subdivision.
 - a) The Association shall consist of all benefited lot owners.
 - b) The Association shall be responsible for all costs of maintenance and replacement.
 - c) The costs shall be uniformly divided by lots served.
 - d) The costs shall be lienable against the lots by the Association if payment is not forthcoming.
 - e) The status of the facility shall be clearly stated as subject to perpetual private maintenance.
 - f) Provisions shall be made for emergency access or emergency maintenance by the City with subsequent reimbursement by the Association.
- 9) Concurrent documents
 - a) Title Opinion, less than 60 days old, acceptable to the City Attorney and showing conformance with those parties represented by signature on the plat as holding interest in the property being divided.
 - b) Financial security acceptable to the City Attorney in the amount of 125% of the cost estimated by the City Engineer for the uncompleted required improvements.
 - c) Development contract acceptable to the City Attorney, if required.
- 10) All unpaid assessments shall be paid at the time the final plat, final condominium plat, or metes and bounds lot split is filed.

8.4 Design Layout Standards - Minimum

The following design standards shall be considered minimum acceptable requirements in the review of the proposed subdivision by the Zoning Administrator, City Attorney, City Engineer, Planning Commission and Council, except as waived by variance approved by the Board of Adjustment.

- 1) The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration required. Land subject to flooding, land below the ordinary high-water mark, wetlands, areas with high water table, bluffs, lands with

slopes exceeding 12% or land containing other significant constraint(s) upon future intended usage, shall not be considered in the minimum size of a lot. The suitability analysis for each lot shall also consider soil and rock formations with severe limitations for development, severe erosion potential, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sights, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

- 2) All non-conforming structures and uses shall be brought into conformity during the subdivision process, except as specifically waived by motion of the Planning Commission.
- 3) Each lot shall be adjacent to public sewer or shall have a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment sewage systems.
- 4) Provisions for water based recreation where near shore aquatic conditions are unsuitable for direct access.
- 5) Lot areas and dimensions shall conform to the requirements of the Zoning Ordinance, without variance.
- 6) Lot layouts shall be compatible with the existing layout of adjoining properties and/or shall not constrain the future development of adjacent properties if those properties were to be developed as per the Backus Zoning and Subdivision Ordinance.
- 7) Side lot lines shall be substantially at right angles to straight road lines or radial to curved road lines, radial to lake or stream shores, and shall not contain bends or jogs unless topographic conditions necessitate a different arrangement. Existing structures shall not be construed to be a topographic condition.
- 8) Each lot shall have a minimum of 33 feet of frontage on a designated right of way. Commonly owned property or Green Space used for access in a Planned Unit Development shall have a minimum of 33 feet of frontage on a public right of way.
- 9) Proposed streets shall conform to the adopted road plan of the City of Backus, County and State highway plans and existing boundary conditions.
 - a) Streets shall be related to the topography so as to produce useable lots and reasonable gradients not in excess of 10% for collector roads and 12% for minor roads.
 - b) Public access shall be given to adjacent properties unless the topography clearly indicated future connection is not feasible.
 - c) When parcels abutting arterial or collector roads are subdivided, no new access

points shall be created unless an equal number of access points are removed, unless access points are created not less than 500 feet apart in which case there shall be no limit on the number of accessed allowed.

- d) Half streets or connections of half streets to partial streets without providing for the full required right-of-way will not be permitted.
- e) Streets will be designed as collectors or local streets in accordance with the City of Backus Road Plan.
- f) The number of streets that terminate without a through connection shall be minimized and the street connected to a cul-de-sac (turnaround) shall not exceed 1200 feet in length.
- g) Access shall be given to all adjacent properties when required by the Planning Commission. All streets intended to be extended to adjoining property, shall be provided with a temporary cul-de-sac with the sides on a temporary easement, which will revert to the adjoining lot owner when released by the City. Landlocked areas shall not be created.
- h) Right of Way shall be dedicated to the public:

Cul-de-sac (turnaround)	68' radius
Arterials	100' or as determined by Cass Co
Collectors	66'
Local Streets	66'

Additional Right of Way may be required to promote public safety and convenience if special conditions require such as intersections, sight lines on corners or excessive cut or fill sections.

- i) Intersections
 - i. Street centerlines shall intersect at not less than 75 degrees.
 - ii. Street jogs shall be no less than 200' from centerline to centerline.
 - iii. Gradients at intersections and for 50' approaching on each side of an intersection shall not exceed 2%. The approach shall contain no grades greater than 7% for 200' on each side of the intersection.
- 10) Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones.
- 11) Street names shall conform to the pattern of the City, continue an existing name on the same alignment and generally promote and direction in the community. Street names shall be coordinated with the Cass County Surveyor's Office.
- 12) Easements shall be provided for public utilities or drainage where required by the Planning Commission and shall be following widths, minimum:
 - Watermain..... 20 feet

Sanitary Sewer	40 feet
Storm Sewer	20 feet
Electrical, telephone or cable television.....	10 feet
Drainageway	10 feet

13) Lots requiring variances to allow their use for the intended purposes or requiring holding tanks for sewage shall not be allowed.

8.5 Survey Standards

Survey Standards shall be those required by Minnesota Statutes 505 including the placement of all monuments including block corners, lot corners, curve points and lake survey line points on lot lines. All US, State, County and other official bench marks, monuments or triangulation points in or adjacent to the proposed subdivision shall be preserved in position unless relocation is approved by the controlling agency.

8.6 Street Improvement Standards

All streets within the subdivision shall be constructed by the subdivider or otherwise provided for by agreement in a Development Contract between the subdivider and the City Council with all expenses borne by the subdivider. Local streets and collector streets shall be constructed according with the established minimum standards and shall be approved by the City Engineer.

8.7 Sanitary Provision Standards

No land shall be subdivided for building purposes unless two adequate sites are available on the newly created lot for a conforming onsite sewage treatment system, or the subdivider constructs a cluster system serving the lots to be owned and maintained by a property owner’s association or the lot is provided with sanitary service by a municipal sewer system at the expense of the subdivider.

- 1) A municipal sewer system shall be extended to the lot at the subdivider’s expense by agreement in a Development Contract between the subdivider and the City Council if the existing system is adjacent to the parcel being subdivided or reasonably close in the opinion of the City Engineer and Planning Commission or if the density of the proposed development necessitates a municipal sewer connection. The sewer shall also be extended to the exterior boundary of the subdivision at locations designated by the City Engineer.
- 2) Onsite systems or cluster onsite systems shall conform to Minnesota Pollution Control Agency Standards, Individual Sewage Treatment Systems Standard, Chapter 7080, and provide for two (2) treatment sites for drainfields.
- 3) Municipal sewage facilities shall be designed by a Registered Engineer, approved by the City Engineer, approved by the Minnesota Pollution Control Agency, and installed according to “Standard Utilities Specifications”, City Engineer’s Association of Minnesota.

8.8 Water Supply Standards

The subdivider shall be responsible to provide the proposed subdivision with adequate spacing between building sites, onsite sewage disposal sites, and potential well locations to allow the well installations in conformance with the City of Backus Zoning Ordinance requirements or the subdivider shall provide the lot with a cluster water supply system to be owned and operated by a property owner's association or the subdivider shall provide municipal water service to the lot.

- 1) A municipal water system shall be extended to the lot at the expense of the subdivider by agreement in the Development Contract between the subdivider and the Council if the existing municipal system is adjacent to the parcel being subdivided or reasonably close in the opinion of the City Engineer and Planning Commission or if the density of the proposed development necessitates a municipal water connection. The watermain shall also be extended to the exterior boundary at locations designated by the City Engineer.
- 2) Onsite wells or cluster water systems shall conform to the Minnesota Department of Health Rules and Regulations MHD 210-230 "Water Well Construction Code", and the cluster system shall receive the approval of the City Engineer.
- 3) Municipal water facilities shall be designed by a Registered Engineer, approved by the City Engineer, approved by the Minnesota Department of Health and installed according to "Standard Utilities Specifications" City Engineer's Association of Minnesota.

8.9 Drainage/Grading Standards

The subdivider shall consider the retention of natural stormwater/snowmelt drainage patterns in the design of his proposed subdivision. The subdivider shall be responsible to provide adequate drainage facilities for his development and upstream properties.

- 1) All natural drainageways draining properties upstream from the subject property shall be identified and preserved, and no structures shall be less than one (1) foot above the water level in the drainageway created by a storm of a 100-year, 24-hour rain event. No filling of areas inundated by the 100-year, 24-hour rain event shall be allowed.
- 2) Additional runoff for a 100-year, 24-hour rain event from all streets and building sites at build-out shall be accounted for and maintained within the development.
- 3) Natural or manmade storage areas shall be utilized where needed and shall be designated by drainage and utility easement by the subdivider. All storage areas shall be vegetated and designed to lower naturally after a storm.
- 4) All drainage structures or improvements provided shall be sufficient in size to pass a 100-year, 24-hour storm event through the natural drainageway.
- 5) All areas disturbed by grading, street construction or structure installation shall be covered with a minimum of 3-inches natural topsoil and seeded. Drainageways over

2% in gradient shall, at a minimum, be sodded.

- 6) All parking areas, heavy use areas, storage areas and impervious area shall be diverted to a basin designed to allow entrapment of silts and nutrients prior to discharge to a natural drainageway.
- 7) There shall be no discharge of untreated stormwater to a water body.
- 8) Erosion control measures shall be provided as needed to prevent and/or contain erosion.

8.10 Dedication to the Public – Standards

- 1) In accordance with the provisions of Section 462.358 of the Minnesota Statutes, or amendments thereto, the subdivider shall dedicate, to the public, lands for highway right of ways, street right of ways, utility easements, wetland easements and similar lands required for perpetual and public improvements.
- 2) In addition, for every new subdivision of land involving three or more lots which are to be developed for residential purposes, the Planning Commission, with the concurrence of the City Council, shall require a payment to the City, in lieu of a land dedication for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, wetlands or open space, of a sum not to exceed ten percent (10%), of the fair market value of the land to be subdivided. The fair market value of the land to be subdivided shall be the value as determined by the Cass County Assessor at the time of Final Plat approval by the City Council. The amount of the payment shall be set by the Planning Commission, with the concurrence of the City Council, after taking into consideration the open space, park, recreational or common areas and facilities which the applicant proposes to reserve for public use within the subdivision. Funds received by the City, in lieu of land dedication, shall be placed in a special fund in accordance with Section 462.358, Subdivision 2b, of the Minnesota Statutes.
- 3) All dedications shall be included in the dedicated portion of the plat, included in the development contract, or received by the City in Warranty Deed prior to the approval of the final plat, without further restrictions or reservations.

SECTION IX

IMPROVEMENTS

9.1

Prior to the submission of a Final Plat application and prior to approval of a metes and bounds subdivision, the subdivider shall provide for the construction of the required improvements at their expense and shall have the work completed or shall enter a Development Contract and give bond or other financial assurance satisfactory to the Council in an amount equal to 125% of the estimated cost of the uncompleted improvements except as provided in 9.3. The bond shall be released by the City Council upon the recommendation of the City Engineer indicating the improvements are satisfactorily complete.

9.2

The required improvements shall conform to the standards of Sections 8 of this Ordinance and shall include street cross section, signs and lighting in conformance with adopted City standards.

9.3

The subdivider may request the City to construct municipal sewage facilities, municipal water facilities or bituminous street surfacing with all costs to be assessed against the benefited properties. If the City Council agrees, the subdivider shall enter a Development Contract and give a bond or other financial assurance satisfactory to the Council in an amount equal to 50% of the estimated costs. The assessments shall be paid in full upon sale of the property.

9.4

All costs of the City Engineer, City Attorney, Bond Council, financial experts and other professional costs borne by the City in writing and/or executing Development Contracts, estimates of cost, inspectors, financial arrangements, assessments and pursuing legal remedies in event of default by the subdivider, shall be borne by the subdivider or their successors.

9.5

Before final release of the bond, record drawings shall be provided by the applicant documenting final locations of improvements.

**SECTION X
ADMINISTRATION**

10.1 Zoning Administrator

- 1) The Zoning Administrator shall be appointed by the City Council.
- 2) Duties and responsibilities of the Zoning Administrator:
 - a) Determine if applications are complete and comply with the terms of the Ordinance.
 - b) Direct or conduct inspections of sewage systems and other uses of the land to determine compliance with the terms of the Ordinance.
 - c) Maintain permanent and current records of the Ordinance including, but not limited to, maps, amendments, Zoning or Use Permits, Conditional Use Permits, Variances, appeals and applications, and a separate file for future conditions or expiration of permits.
 - d) Review, file and forward applications for appeals, Variances, Conditional Uses and Zoning amendments.
 - e) To review and approve all metes and bounds property divisions within the City that results in parcels that are greater than 10 acres.
 - f) Enforce the provisions of this Ordinance by reviewing complaints and by pursuing contacts with any violator in accordance with standard procedures as adopted and modified from time to time.
 - g) Mail notices relative to public hearings for Variances, Conditional Uses and Zoning Changes.
 - h) Under the direction of the Chairperson of the Planning Commission, prepare and distribute meeting agendas at least one week prior to the meeting.
 - i) Attend meetings and provide research and findings to the Board of Adjustment/Planning Commission.
 - j) Issue permitted Land Use/Zoning Permits upon application for structures on lots conforming to this Ordinance when the conditions of the Ordinance are met; to issue Conditional Use Permits when directed by the City Council; to issue notices of a Zoning change when directed by the City Council.
 - k) To mail a copy of the findings to applicants.
 - l) To file copies of Conditional Use Permits and Variances with the County Recorder.

- m) To provide notice of public hearings and supporting documentation to the DNR when required by this Ordinance or State Law or where shoreland management controls are to be considered.
- n) To ensure that the City Council, Planning Commission and Board Adjustment review land use application or public hearing applications as prescribed by State Statutes.
- o) To conduct periodic and final inspections with a member of the Planning & Zoning Committee, of property subject to conditions of approval relating to variances, conditional use permits and other land use applications.
- p) Keep the City up to date with regards to changes in state and county land use regulations.

10.2 Board of Adjustment

The City Council shall act as the Planning Commission and Board of Adjustment when no Planning Commission has been formed.

- 1) The Board of Adjustment shall consist of the members of the Planning Commission and shall hold its meetings concurrently with the Planning Commission meeting on an as-needed basis at the discretion of the Chairperson. The chairperson and vice-chairperson of the Planning Commission shall have the same duties on the Board of Adjustment.
- 2) Duties and responsibilities of the Board of Adjustment.
 - a) To consider appeals from the action of the Zoning Administrator wherein the Board will take the authority of the Administrator.
 - b) To hold hearings on Variances after proper public notice in the official newspaper and individual notice by regular mail to any property owners within a minimum of 350 feet distance of any Variance in question. Such notice shall be given at least 10 days before the hearing date.
 - c) To act on Variances within the required time frame with complete findings to justify the action.
 - d) To keep a record of the proceedings, notifications and justifications for their actions.

10.3 Planning and Zoning Commission

The City Council shall act as the Planning Commission and Board of Adjustment when no Planning Commission has been formed.

- 1) Organization of the Planning Commission.
 - a) The Planning Commission shall consist of five members and one alternate member appointed by the City Council. The alternate member shall attend meetings of the Planning Commission and shall be authorized to act as a voting

member of the Planning Commission in the event a regular member is not in attendance at the meeting, or in the event a regular member elects not to act on an issue due to a conflict of interest. In the event Planning Commission members and the alternate member are unable to attend meetings of the Planning Commission, and there are not enough regular or alternate members present at a meeting to constitute a quorum, the City Council liaison, or other City Council member designated by the mayor, may act as a member of the Planning Commission and may act as a voting member of the Planning Commission until such time as Planning Commission members or alternate Planning Commission members arrive in sufficient numbers to constitute a quorum. In the event the City Council liaison, or other representative of the City Council serves and participates in a Planning Commission meeting, that person shall be compensated for that meeting at the same rate as a regular member of the Planning Commission.

- b) The Commission shall elect a chairperson and vice-chairperson from its members for a term of one year.
 - c) The Commission shall meet a minimum of eleven times a year, once each month except January, at a regular meeting unless the docket is empty in which case the Mayor and/or Chairperson can approve suspension of a meeting. Special meetings shall be advertised in the official newspaper and posted in the City Hall at least 10 days in advance of the meeting.
- 2) Duties and responsibilities of the Planning Commission under this Ordinance.
- a) To hold hearings after proper public notice in the official newspaper and individual notice by regular mail of any property owners within a minimum of 350 feet of any land use in question. Such notices shall be given at least 10 days before the hearing date.
 - b) To decide within the required timeframe the following:
 - i) Recommendations to the City Council regarding requested Zoning District boundary changes or amendments to the Ordinance.
 - ii) To review and provide recommendations to the City Council on proposed plats and to provide recommendations on final plats to the City Council.
 - iii) To review and approve all metes and bounds property divisions within the City that results in parcels that are under 10 acres.
 - iv) To review and provide recommendations to the City Council on requests for Conditional Use Permits with complete findings to justify the decision.
 - v) To periodically review the Zoning map and Ordinances and consider their role in shaping the growth of the community and to recommend changes to the City Council of these documents to guide growth and current land use toward the goals of the Comprehensive Plan.
 - vi) To review past actions and direct future actions of the Zoning Administrator.
 - vii) To recommend on a timely basis that the City Council review the Comprehensive Plan when appropriate.
 - viii) To keep a record of the proceedings, notifications and justifications for their actions.

- 3) It shall be the duty of each individual member to be present at all meetings of the Planning Commission and Board of Adjustment. More than three absences in anyone-year period shall be grounds for replacement by the City Council.

10.4 City Council

- 1) The City Council shall have the following duties under this Ordinance:
 - a) Appoint the Zoning Administrator by a majority vote or terminate the Zoning Administrator by a 4/5 vote.
 - b) Confirm the appointments by the Mayor of members to the Board of Adjustment/Planning Commission members by a majority vote, or to remove members by a 4/5 vote.
 - c) To decide within the required timeframe the following:
 - (i) Recommendations from the Planning Commission for changes in Zoning Ordinance and Zoning District boundaries.
 - ii) Recommendations from the Planning Commission for acceptance of proposed plats, Conditional Use Permits, final plats, condominium plats and other matters directed to them.
 - iii) To hear or initiate appeals from the actions of the Board of Adjustment and the Planning Commission where their action is normally final.
 - iv) To direct enforcement of this Ordinance.
 - d) To act as the Planning Commission when no official Commission has been formed.

10.5 Conditional Use Permits

- 1) Conditional Use Permits shall run with the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council.
 - a) All applications for a Conditional Use Permit shall be submitted to the Zoning Administrator 30 days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application.
 - b) The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing.
 - c) The Zoning Administrator shall send the same notice, and supporting documentation, at least 10 days in advance of this hearing to the DNR if the proposed is in shoreland.

- d) At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days' notice thereof to the Zoning Administrator, meeting time permitted.
- 2) Submissions for C.U.P. The applicant shall complete the Conditional Use Permit application approved by the Planning Commission. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
- 3) No Conditional Use Permit application shall be accepted by the Zoning Administrator from a contractor or property owner having outstanding violations. Conditional Use Permits can only be requested by contractors or property owners with outstanding violations upon resolution of the violation to the satisfaction of the Planning Commission.
- 4) In permitting a new Conditional Use or alteration of an existing Conditional Use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the City as a whole. These 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 buildings.
 - c) Controlling the location and number of vehicle access points.
 - d) Increasing the street width.
 - e) Increasing or decreasing the number of required off-street parking spaces.
 - f) Limiting the number, size, location or lighting of signs.
 - g) Requiring berming, fencing screening, landscaping or other facilities to protect adjacent or nearby property.
 - h) Designating sites for open space.
 - i) Advanced storm water runoff management treatment.
 - j) Reducing impervious surfaces.
 - k) Increasing setbacks from the ordinary high water level.
 - l) Restoration of wetlands.
 - m) Limiting vegetation removal and/or riparian vegetation restoration.

- n) Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas.
 - o) Other conditions the zoning authority deems necessary.
- 5) In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.
- 6) The Planning and Zoning Commission shall decide the issue with consideration to the following. The following must be met:
- a) The use or development is an appropriate conditional use in the land use zone.
 - b) The use or development, with conditions, conforms to the comprehensive land use plan.
 - c) The use with condition is compatible with the existing neighborhood.
 - d) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
 - e) For Conventional Subdivisions, the property contains physical constraints which make it unable to be developed by the Conservation Subdivision method.

The following must be considered:

- a) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
- b) The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- c) The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- d) The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an indifference with traffic on surrounding public thoroughfares.
- e) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
- f) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute

a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.

- g) The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
 - h) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.
- 7) When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.
- 8) Violations of the conditions of a Conditional Use Permit shall automatically suspend the permit. A review of the violation shall be conducted by the Planning Commission. The Planning Commission shall make a recommendation to the City Council on conditions for reinstating the permit or revocation. The City Council shall make the final decision on reinstating or revoking the suspended permit.
- 9) Failure by the owner to act on a Conditional Use Permit within 12 months, or failure to complete the work under a Conditional Use Permit within 2 years, unless extended by the Planning Commission, shall void the permit. A second extension shall require a new public hearing.
- 10) A C.U.P. application which has been denied shall not be submitted, in an exact or substantially similar form, for at least 12 months from the date of denial.
- 11) Appeals from the action of the City shall be filed with District Court within 30 days after Council action.
- 12) The Conditional Use Permit shall be filed with the County Recorder within 45 days.
- 12) The Conditional Use Permit shall be filed with the Commissioner within 10 days.
- 13) The conditional use permit runs with the land and applies to subsequent purchasers of the land so long as the conditions are being met.
- 14) Planned Unit Development Procedure and Submissions.
Procedure.
- a) The applicant may submit a Sketch Plan to the Planning Commission for review and discussion at least 14 days prior to the meeting.
 - b) Based on discussion, the applicant can formally apply by submitting preliminary documents, prepared with professional help, including as a minimum the C.U.P. application, and further shall contain the following:

- i. Proposed concept of plan operation.
 - ii. Proposed plat or floor plan, if applicable.
 - iii. Proposed recreational amenities.
 - iv. Proposed timing.
 - v. Proposed final security.
 - vi. Proposed development contract.
- c) The Planning Commission shall review the submissions and make a recommendation to the City Council within a reasonable timeframe with a complete finding of facts.
- d) The City Council shall review the recommendations and render a decision within a reasonable time.
- e) The applicant shall then proceed within the time frame accepted under the preliminary proposal to provide final documents as required, including:
- i. Financial security.
 - ii. Development contract.
 - iii. Title opinion.
 - iv. Final plat or floor plan.
 - v. Surveyors plat check.
 - vi. Final covenants and associated documents.
 - vii. Final time schedule.
 - viii. Final site plan which will control development.
 - ix. MPCA/MnDH approval letter on sewage system & water supply.

10.6 Variances

- 1) Variances shall only be granted where an unusual hardship on the land exists. Variances shall only be approved for instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. Variances shall only be granted when it is demonstrated that granting of the variance will be in keeping with the spirit and intent of the ordinance.
- 2) Variances shall not create a use not provided for in a zoning district.
- 3) Variances shall run with the property and shall be transferable with the property. Variances shall not be transferred to other properties.
- 4) Variances shall run with the property for structures or other specified uses after a public hearing.
 - a) All applications for a Variance shall be submitted to the Zoning Administrator 30 days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an

accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application.

- b) The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing.
 - c) The Zoning Administrator shall send the same notice, with supporting documentation, at least 10 days in advance of this hearing to the DNR if the proposed is in shoreland.
 - d) At the applicant's option, the applicant may request a sketch plan review with no action by the Board of Adjustment and with no fee by giving 14 days' notice thereof to the Zoning Administrator, meeting time permitted.
- 5) Submissions for Variances. The applicant shall complete the Variance application approved by the Board of Adjustment. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
- 6) Variances shall be decided within the required time frame with consideration for the following:
- a) The applicant establishes that there are practical difficulties, as defined in this ordinance, in complying with the official control, and
 - b) The plight of the landowner is due to circumstances unique to the property not created by the landowner, and
 - c) The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the landowner, and
 - d) The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance and the Comprehensive Plan, and
 - e) The variance will not create a land use not permitted in the zone, and
 - f) The variance will not alter the essential character of the locality, and
 - g) The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.
 - h) The Board of Adjustment shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:

- i. Advanced storm water runoff management treatment.
 - ii. Reducing impervious surfaces.
 - iii. Increasing setbacks from the ordinary high water level.
 - iv. Restoration of wetlands.
 - v. Limiting vegetation removal and/or riparian vegetation restoration.
 - vi. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
 - vii. Other conditions the zoning authority deems necessary.
- 7) In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.
- 8) When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.
- 9) No Variance application shall be accepted by the Zoning Administrator from a contractor or property owner having outstanding violations. Variances can only be requested by contractors or property owners with outstanding violations upon resolution of the violation to the satisfaction of the Planning Commission.
- 10) Failure by the owner to act within 12 months on a Variance unless extended by the Board of Adjustment shall void the Variance. A second extension shall require a new public hearing. This provision shall apply to any Variance outstanding at the time of the Ordinance adoption.
- 11) A Variance application which has been denied shall not be submitted, in an exact or substantially similar form, for at least 12 months from the date of denial.
- 12) Violations of the conditions of a Variance shall void the variance.
- 13) Appeals from the action of the City Council shall be filed with the District Court within 30 days after Council action.
- 14) The Variance shall be filed with the County Recorder within 45 days.

10.7 Interim Use Permits

- 1) Interim Uses shall run with the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by

the City Council. All interim uses are temporary and shall terminate on a specific date, or at the occurrence of a specific event, that shall be designated at the time the permit is approved.

- 2) All applications for an Interim Use Permit shall be submitted to the Zoning Administrator 30 days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee.
- 3) The fee or contract owner of the property shall sign the application.
- 4) The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice at least 10 days in advance of this hearing to the DNR if the proposed is in shoreland.
- 5) Submissions for Interim Use Permit (IUP). The submissions for an IUP shall be the same as those required for a Conditional Use Permit as detailed in Section 10.5.
- 6) No Interim Use Permit application shall be accepted by the Zoning Administrator from a contractor or property owner having outstanding violations. Interim Use Permits can only be requested by contractors or property owners with outstanding violations upon resolution of the violation to the satisfaction of the Planning Commission.
- 7) In permitting a new Interim Use or alteration of an existing Interim Use the provisions of Section 10.5 (4) shall apply to allow the Planning Commission to impose conditions on the approval.
- 8) The Planning and Zoning Commission shall decide the issue with consideration to the following:
The following must be met:
 - a) The use or development is an appropriate interim use in the land use zone.
 - b) The date or event that will terminate the use can be identified with certainty.
 - c) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
 - d) The user agrees to any conditions that the governing body deems appropriate for permission of the use.

- 9) The provisions of Section 10.5 (6) must be considered as they would with a conditional use permit request.
- 10) When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits. The City may require an escrow account be established at the time the application is made.
- 11) Violations of the conditions of an Interim Use Permit shall automatically suspend the permit. A review of the violation shall be conducted by the Planning Commission. The Planning Commission shall make a recommendation to the City Council on conditions for reinstating the permit or revocation. The City Council shall make the final decision on reinstating or revoking the suspended permit.
- 12) Failure by the owner to act on an Interim Use Permit within 12 months shall void the permit.
- 13) Appeals from the action of the City shall be filed with District Court within 30 days after Council action.
- 14) The Interim Use Permit runs with the land and applies to subsequent purchasers of the land so long as the conditions are being met.
- 15) An interim use may be terminated by a change in this Code.

10.8 Land Use/Zoning Permits

- 1) Zoning Permits are required for all new structures and any change in structure dimensions, structural components, number of bedrooms, any construction or repair of a sewage system and any grading and filling in shoreland not exempted by this ordinance. Zoning permits shall only be issued to the owner of the property.
- 2) Where a proposed use requires action of the Board of Adjustment, Planning Commission or Council or posting of financial security, said action shall occur and the Conditional Use Permit, Variance, Zoning District change, final plat plan approval, approval of metes and bound division shall be issued or security posted before the Zoning Permit is issued.
- 3) The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.

- 4) No applications shall be accepted by the Zoning Administrator from a property having outstanding violations.
- 5) The Zoning Permit shall contain the parcel number of the property, the signature of the fee or contract owner of the property and any other reasonable information needed to determine compliance with this Ordinance.
- 6) Lot corners shall be visible on the lot. The Zoning Administrator may require a new survey when stakes are not visible or have been removed through erosion, construction or other action and require that a new certificate with existing and recorded dimensions shall be provided.
- 7) Unless extended by the Zoning Administrator, where a Zoning Permit has been issued but no action has occurred within 12 months, the Zoning Permit shall be null and void. Exterior work on the structure shall be complete in 24 months from the issuance of the Zoning Permit. The time limit may be extended up to six months by the Zoning Administrator for good cause. A second extension shall be decided by the Planning Commission.
- 8) Granting of a Zoning Permit shall occur when all requirements of the Ordinance have been met but shall not be considered a statement of compliance with regional, State or Federal codes, statutes or laws or approval of the design of the structure or accessories, or description of the property. Subsequent actions of the Zoning Administrator shall not be considered acceptance of structural components or workmanship, but rather shall be for the purpose of determining general compliance with the Ordinance.
- 9) If the Zoning Administrator determines that any violation of the permit or other section of the Ordinance has occurred, the permit shall become null and void.

10.9 Subdivision

- 1) Pre-Application Meeting. At the sub divider's option, a pre-application meeting shall be held including the subdivider, City Zoning Administrator, City Engineer, if requested by the Zoning Administrator, and the City Clerk. Discussion at this meeting shall be limited to procedure, Ordinance requirements and timing.
- 2) Sketch Plan Review Meeting with Planning Commission. An on-site review of a sketch plan by the Planning Commission is required prior to submission of an application for preliminary plat.
 - a) The subdivider shall submit a digital copy of the sketch plan, 14 days prior to the normal Planning Commission meeting, in a format compatible with Cass County's coordinate-based parcel data. At that time, the subdivider shall also request a site visit as part of the formal agenda.
 - b) The Planning Commission shall walk the property with the applicant. Commission members shall strive to identify any unique features of the property

that should appear on a preliminary plat submittal.

- c) The Planning Commission shall not take action on the proposal but may make suggestions to facilitate the preparation of an approvable preliminary plat or plan.
- 3) The City of Backus may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the City for direct costs relating to professional services provided during the review, approval and inspection of the project. The City may charge the applicant a rate equal to the value of the service to the City. Services provided by City staff or contract professionals will be billed at an established rate.
- 4) Metes and Bounds Subdivision Approval. Where appropriate under the provisions of this Ordinance, the subdivider shall submit documents containing the essential information of a proposed plat or plan and including dimensions computed to one hundredth (1/100th) of a foot and bearing computed to equivalent accuracy to the Planning Commission for approval. The review of the Planning Commission need not include a public hearing.
- 5) The subdivider shall submit 9 copies of his proposal to the Zoning Administrator 30 days prior to the normal Planning Commission meeting and pay the corresponding fee.
- 6) The Zoning Administrator shall review the proposed subdivision for compliance with the Zoning Ordinance including a field review at his discretion.
- 7) The Planning Commission shall decide on approval of the subdivision within a reasonable time based on the resulting lots complying with the Ordinance, the feasibility of the resulting lots for their intended purpose, and the provision for access to adjacent properties. Conditions may be attached to an approval requiring appropriate improvements. No more than one (1) subdivision into two (2) parcels shall be allowed in a three (3) year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed.
- 8) The resulting land descriptions shall be prepared and signed by a Registered Land Surveyor and shall comply with all provisions of this Ordinance.
- 9) Failure of the subdivider to act after an approval of a Metes and Bounds subdivision within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new public hearing.
- 10) Preliminary Plat or Preliminary Condominium Plat Approval. The preliminary Plat or Preliminary Condominium plan approval constitutes formal approval of the concept and design of the subdivision. The Planning Commission review shall include a public hearing and may include a field review at their discretion. All reports of City staff, DNR, road authorities and Parks Commission, as well as citizen

comments shall be reviewed and included in the hearing record. Related variance requests, rezoning requests and conditional use requests shall be heard concurrently with a subdivision request.

- a) The subdivider shall submit 9 copies of his proposed plat or condominium plat to the Zoning Administrator 30 days prior to the normal Planning Commission meeting, pay the required fees and request a public hearing.
- b) The Zoning Administrator shall notify all property owners within 350 feet, by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten (10) days ahead of the public hearing, including sufficient legal property description in the advertisement.
- c) The Zoning Administrator shall distribute one (1) copy to each Planning Commission member, if the proposal is adjacent to a County Highway, one (1) copy to the County Engineer, and if the plat is in shorelands, one (1) copy to the DNR postmarked at least ten (10) days before the public hearing for review and comment.
- d) The Zoning Administrator shall review the proposed plat or plan as to content standards, necessary variances, from the Zoning Ordinance and this Ordinance, necessary rezoning or necessary conditional use permits, and advise the subdivider and the Planning Commission of his findings.
- e) The subdivider shall make addition application for the necessary permits at least 30 days prior to the normal Planning Commission or Board of Adjustment meeting as applicable, if subdivider desires to have a concurrent public hearing for variance, conditional use or rezoning.
- f) The Planning Commission shall hold the Public Hearing and may continue the hearing as it deems necessary to allow all factual input it deems necessary to allow a decision. Lack of submission of comments by outside agencies shall be construed to mean the agency has no objections.
- g) The Planning Commission shall recommend the approval or disapproval of the Preliminary Plat or Preliminary Condominium Plat to the Council within one hundred twenty (120) days of submission, and the findings shall be sent to the subdivider. The Planning Commission shall consider the following in its decision:
 - i. Is the property properly zoned?
 - ii. Does the proposal conform to the requirements of the Zoning Ordinance?
 - iii. Does the proposal conform to the requirements of the Subdivision Ordinance?
 - iv. Have the concerns of the affected agencies been addressed?
- h) The City Council shall review the findings and recommendations of the Planning Commission at their next regular meeting and make the final determination.

- i) The City Council will hear any appeal within thirty (30) days of the Planning Commission action and will re-notify anyone noticed for the Public Hearing. Said appeals will be filed with the City Clerk within fifteen (15) days of the decision.
 - j) Failure of the subdivider to act after an approval of Preliminary Plat or Preliminary Condominium Plat within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new public hearing.
- 11) Final Plat or Final Condominium Plat Approval. Upon approval by the Planning Commission, the subdivider shall cause the Final Plat or Final Condominium Plat, documents and concurrent documents to be prepared and submitted to the Planning Commission for recommendation to the City Council. All coincident variance requests, conditional use permit requests and/or rezoning requests shall either have been decided or be pending approval simultaneously with the Final Plat.
- a) The subdivider shall submit 9 paper copies of the Final Plat or Final Condominium Plat and concurrent documents to the Zoning Administrator 30 days prior to the Planning Commission meeting.
 - b) The Zoning Administrator shall distribute the information received to the City Attorney, the City Engineer and an independent Registered Land Surveyor, who shall review the submission for conformance with the standards and comment thereupon to the Planning Commission. The Zoning Administrator shall compare the Final Plat to the Preliminary Plat and comment thereupon. The City Attorney shall ascertain that all parties with an interest in the parcel to be divided are indicated as signers of the documents. The City Engineer shall determine that the improvements required have been completed or have been included in a development contract and that the required security has been posted with the City Council. The independent Registered Land Surveyor shall compare the approved Preliminary Plat with the Final Plat, provide a plat check of the Final Plat, and verify that the Final Plat meets the survey standards required by Minnesota Statutes.
 - c) The Planning Commission shall review the reports of the City Attorney, City Engineer, Zoning Administrator and independent Registered Land Surveyor and make recommendation to the City Council within 45 days of submission. The Planning Commission shall consider the following:
 - i. Has the applicant compiled with all conditions and requirements upon which the preliminary approval is expressly conditioned wither through performance or execution of appropriate agreements assuring performance?
 - ii. Does the Final Plat or Final Condominium Plat agree with the Preliminary Plat or Preliminary Condominium Plat?
 - iii. Does the City Attorney agree that all parties with an interest in the property are shown as signers of the document?
 - iv. Does the City Engineer agree that all improvements required

- are satisfactorily completed or are guaranteed by contract with adequate financial security?
 - v. Does an independent Professional Land Surveyor agree the final document meets the statutory requirements?
 - vi. Has financial security been posted in the appropriate amount?
- d) The City Council shall review the proposal at their next regular meeting and decide the approval within sixty (60) days of the submission of the Final Plat or Final Condominium Plat to the City.
- e) Following approval by the City Council, the subdivider shall submit to the Zoning Administrator, two (2) double mounted cloth backed prints on card stock (hard-shells) and two (2) mylar prints of the Final Plat or Final Condominium Plat for signature by the Mayor and Clerk.
- f) Upon signature, the subdivider shall file all pertinent documents with the County Recorder. Failure to file a Final Plat or Plan, within two (2) years shall void the approval unless extended by the City Council.

10.10 Fees

- 1) The Council shall adopt a schedule of fees from time to time for all permits. No permit shall be issued, or request brought before the Board of Adjustment or Planning Commission until the fees are paid. All late applications or after the fact applications shall require an additional fee whether the permit is issued or not.
- 2) The City shall not accept applications where the applicant has any past due fees or charges due to the City until the account is made current.

10.11 Financial Requirements

- 1) Applications will not be accepted as complete where an applicant has any utility charges, delinquent taxes, delinquent assessments or other fees past due with the City or County. The past due account must be paid to bring the account current before an application will be accepted.
- 2) When costs associated with processing or reviewing an application exceed the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to hire in reviewing permits. Outstanding fees shall be paid before issuance of the permit and any construction of the project begins.

10.12 Required Decision Making Time Frames

- 1) The City of Backus shall make land use decisions pursuant to time frames

established in Minnesota Statutes. It shall be the applicant's responsibility to submit a completed application packet, which shall by definition include the application forms approved by the City, site plan with all information required by this ordinance and remit proper fees for the land use application. Once the Zoning Administrator or appointee has received the completed application packet, the review time frame shall commence.

10.13 Notifications to the Department of Natural Resources

- 1) All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The City of Backus will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.
- 2) All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- 3) All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- 4) Any request to change the shoreland management classification of public waters within the City of Backus must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp.4.
- 5) Any request to reduce the boundaries of shorelands of public waters within the City of Backus must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

**SECTION XI
ENFORCEMENT**

11.1 Violations and Penalties

The violation of any provision of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to the Ordinance shall be a misdemeanor. Each act of violation and every calendar day on which such violation occurs or continues shall be a separate offense.

11.2 Liability of City Officials

The failure of any officer of the City or Board or employees of the City to act, pursuant to this Ordinance except as an individual acting in his own behalf, shall not be an offense and shall not subject the officer, Board, or employee to any penalty except that provided for under Performance of City Personnel under the City Personnel Policies. The City shall not be liable for problems arising from the use of lot corners provided by the property owner.

11.3 Equitable Relief

In the event of a violation or threatened violation of any provision of this Ordinance or the conditions of any permit issued pursuant to the Ordinance, the City, in addition to other remedies, may act or institute action to prevent, restrain, correct, or abate such violation or threatened violation.

SECTION XII

SEPARABILITY, SUPREMACY, EFFECTUATION, AMENDMENTS

12.1 Separability

Every section, provision, or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision, or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

12.2 Supremacy

When any condition implied by this Ordinance on the use of land or buildings is either more restrictive or less restrictive than applicable conditions imposed by statute, rules, and regulations, other City ordinance or regulation or other jurisdiction, the more restrictive shall apply. The Ordinance does not abrogate any easements, restrictions, or covenants imposed on the land by private declaration or agreement, but where such provisions are less restrictive than an applicable provision of this Ordinance, the Ordinance shall prevail.

12.3 Effectuation

This Ordinance shall be in full force and effect from and after its passage by the City Council and subsequent publication.

12.4 Amendment

The City Council may adopt amendments by a 4/5 vote to either the Zoning Ordinance or Zoning map in relation to the land uses within a district or the boundaries of the district(s). Such amendments shall not be issued indiscriminately but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the City.

12.5 Procedure

- 1) An amendment may be initiated by the Council, the Planning Commission or by any property owners.
- 2) If initiated by the City Council, the proposed amendment shall be referred to the Planning Commission for up to sixty (60) days for public hearing.
- 3) The Zoning Administrator shall review the proposed changes and make a recommendation to the Planning Commission.
- 4) The Planning Commission shall cause all property owners within a minimum of

350 feet of the proposed Zoning District change to be notified by regular mail and shall publish a hearing notice for either a Zoning District change or Zoning Ordinance change in the Legal Section of the official newspaper at least (10) days ahead of the public hearing.

- 5) The Planning Commission shall provide notice and proposed amendment to the DNR at least ten (30) days ahead of the public hearing if the amendment includes the shoreland area or shoreland management controls.
- 6) The Planning Commission shall hold the hearing and make a recommendation within sixty (60) days of the date of application to the City Council. Adoption of a new zoning map shall require published notice only.
- 7) The City Council shall review the recommendations and shall make a timely decision. An amendment requires a 4/5 vote to be enacted.
- 8) The City Clerk shall publish a summary of the text of the change or description of boundary change or a new zoning map (whichever is appropriate) in the official newspaper within one week after action by the Council and shall send a copy to the DNR.

ORDINANCE DATES

Legal Notice of Hearing Published: _____

Public Hearing Held: _____

Adopted by the City Council: _____

Kurt Sawyer, Mayor

Attest: _____

Ann Swanson, City Clerk