

# Zoning Regulations

City of Medicine Lake

Hennepin County, Minnesota

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Medicine Lake, Minnesota 55441  
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## **§100 - TITLE AND APPLICATION**

### §100.1 Short Title

### §100.2 Intent and Purpose

### §100.3 Relation to Comprehensive Municipal Plan

### §100.4 Standard Requirements

### §100.5 Uses Not Provided For Within Zoning Districts

### §100.6 Monuments

### §100.7 Separability

### §100.8 Authority

### §100.9 Comprehensive Revision

#### §100.1 Short Title.

This Chapter shall be known, cited and referred to as the Medicine Lake Zoning Regulations (except as referred to herein, where it shall be known as this Chapter).

#### §100.2 Intent and Purpose.

The intent of this Chapter is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. Such regulations are established to protect such use areas; to promote orderly development and redevelopment; to provide adequate light, air and convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, building, yards and density of population; to provide for compatibility of different land uses; to provide for the orderly transition from a rural to an urban or suburban environment; to provide for administration of this Chapter, to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to the Zoning Regulations.

#### §100.3 Relation to Comprehensive Municipal Plan.

It is the policy of the City of Medicine Lake that the enforcement, amendment, and administration of this Chapter be accomplished with due consideration of the recommendations contained in the City Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council of the City. The Council recognizes the City Comprehensive Plan as the policy to regulate land use and development in accordance with the policies and purpose herein set forth.

#### §100.4 Standard Requirements.

- (a) Where the conditions imposed by any provision of this chapter are either more or less restrictive than comparable conditions imposed by other law, ordinance, rule or regulation of the City, the law, ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.
- (b) In their interpretation and application, the provisions of the Zoning Regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

- (c) 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 the provisions of this Chapter.
- (d) Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Chapter.
- (e) No yard or lot existing in the time of passage of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.
- (f) In their application, these regulations shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided, that where the regulations of this Chapter are more restrictive, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Chapter shall be controlling.

§100.5 Uses Not Provided for Within Zoning Districts.

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such cases, the City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, upon receipt of the staff study shall, if appropriate, initiate an amendment to the Zoning Regulations to provide for the particular use under consideration or shall find that the use is not compatible for development within the City. The provisions of this chapter shall not apply to railroad and other public rights-of-way.<sup>1</sup>

§100.6 Monuments.

For the purpose of this Chapter, all international, federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to insure that these markers are maintained in good condition during and following construction and development. All section, 1/4 section and 1/16 section corners shall be duly described and tied.

§100.7 Separability.

It is hereby declared to be the intention of the City that the several provisions of this Chapter are separable in accordance with the following:

- (a) If any court of competent jurisdiction shall adjudge any provision of this Chapter to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in said judgment.

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<sup>1</sup> Section §100.5 amended by Ordinance 92, March 6, 2006.

- (b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Chapter to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

§100.8 Authority.

This Chapter is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, §462.351 to §462.363.

§100.9 Comprehensive Revision.

The Council intends this Chapter to be a comprehensive revision to Ordinance No. 61 and all other ordinances inconsistent with this Chapter, as amended. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of this Chapter is not affected by its adoption.

## **§200 - RULES AND DEFINITIONS**

### §200.1 Rules

### §200.2 Definitions

#### §200.1 Rules.

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

- (1) The singular number includes the plural, and the plural the singular.
- (2) The present tense includes the past and the future tenses, and the future the present.
- (3) The word "shall" is mandatory while the word "may" is permissive.
- (4) The masculine gender includes the feminine and neuter.
- (5) Whenever a word or term defined hereinafter appears in the text of this Chapter, its meaning shall be construed as set forth in such definition thereof.
- (6) All measured distances expressed in feet shall be to the nearest tenth of a foot.
- (7) Whenever a calculation is made based upon the provisions herein, if a fraction of a number results, the more restrictive rounding to a whole number shall apply.

#### §200.2 Definitions.

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

- (1) **Abandonment:** To cease or discontinue a use or activity for any reason, but excluding temporary interruptions to the use during periods of building or remodeling where a valid building permit has been issued or during periods of routine seasonal closure.
- (2) **Abutting:** Making contact with or separated only by public right-of-way, railroad, public utility right-of-way or navigable waters.
- (3) **Accessory Building or Use:** A subordinate building, structure or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.
- (4) **Addition:** A physical enlargement of an existing structure.
- (5) **Alley:** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.
- (6) **Alteration:** Any change, addition, or modification in construction or occupancy of an existing structure or modification to the surface of the ground.

- (7) Animals:
- (a) Domestic Animals: For purposes of this Chapter, domestic animals shall be defined as house pets such as dogs, cats, and birds which can be contained within a principal structure throughout the entire year, provided that the containment can be accomplished without special modification to the structure requiring a building permit from the City. In addition, it includes birds and rabbits normally sheltered outside the home.
  - (b) Farm Animals: Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as farm animals in the State of Minnesota.
  - (c) Wild Animals: Animals that are not domestic or farm animals ordinarily wild such as squirrels, raccoons, deer, foxes, and the like.
- (8) Apartment: A portion of a building consisting of a room or suite of rooms which is designed for, intended for, or used as a residence by a single family or an individual, and is equipped with cooking facilities. Includes dwelling unit and efficiency unit.
- (9) Applicant: The owner, their agent or person having legal control of, ownership and/or interest in land which the provisions of this Chapter are being considered for or reviewed, including permits, variances, amendments or appeals. The term "applicant" also includes agents, employees and others acting under the direction of the entity having legal control of, ownership and/or interest in said land.<sup>1</sup>
- (10) Automobile Repair - Major: General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.
- (11) Automobile Repair - Minor: Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding twelve thousand (12,000) pounds gross weight, but not including any operation specified under "Automobile Repair - Major."
- (12) Basement: That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling (see Story).
- (13) Bay: Cantilevered area of a room.
- (14) Best Management Practices (BMPs): Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.<sup>1</sup>

- (15) Boarding (House) Home - Foster Children: A family dwelling where children out of their own homes are cared for.
- (16) Boarding (Lodging) House: A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided to three (3) or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than eight (8) persons.
- (17) Boathouse: A structure used principally for the storage of boats or boating equipment.
- (18) Buffer: The use of land, topography, difference in elevation, space, fences, or landscape plantings to screen or partially screen a use or property from the vision of another use or property.
- (19) Buffer Strip: A protective vegetated strip located adjacent to a natural resource, such as a water of the state, that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat. The buffer strip begins at the “ordinary high water mark” for wetlands. This start point corresponds to the Minnesota Department of Natural Resources’ definition of a “shoreline” in Minnesota Rules 6115.0030. Acceptable buffer vegetation includes preserving existing pre-development vegetation and/or planting locally distributed native Minnesota trees, shrubs and grassy vegetation.<sup>2</sup>
- (20) Buildable Area: The space remaining on a lot after the minimum setback and open space requirements of this Chapter have been met.
- (21) Building: Any structure having a roof and built for the support, shelter, or enclosure of persons, animals, chattels, or moveable property of any kind and includes structure.
- (22) Building Height: The vertical distance from the average of the highest and lowest point of grade for that portion of the lot covered by the building to the highest point of the roof for flat roofs, to the roof deck line of mansard roofs, and to the uppermost point on all other roof types.
- (23) Building Line: A line parallel to the roadway pavement edge and a line parallel to the ordinary high water mark on lakeshore lots at any story level of a building and representing the minimum distance which all or any part of the building is setback from said roadway pavement edge or high water mark. Building line is also affected by the line of sight.

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (24) Building Setback: The minimum horizontal distance between the building and any combination of the following: the lot line, ordinary high water mark (OHW), or roadway pavement edge.
- (25) Business: Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.
- (26) Carport: A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on one (1) or more sides.
- (27) Cellar: That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to floor below is equal to or greater than the vertical distance from grade to ceiling.
- (28) Channel: A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.
- (29) City Council: The governing body for the City of Medicine Lake.
- (30) Clear Cutting: The removal of an entire stand of trees and/or vegetation.
- (31) Club or Lodge: A non-profit association of persons who are bonafide members paying annual dues, use of premise being restricted to members and their guests.
- (32) Cluster Development: The development patterns and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land as accomplished through a planned unit development.
- (33) Commercial Recreation: Bowling alley, cart track, junior center, golf, billiards (pool) hall, vehicle racing or amusement, dance hall, skating, trampoline, boat rental, campgrounds, park, and similar uses.
- (34) Common Open Space: Any open space including parks, nature areas, playgrounds, trails, and recreational buildings and structures which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.
- (35) Common Plan of Development or Sale: A contiguous area where multiple separate and distinct land disturbance activities may be taking place at different times, or on different schedules, but under one proposed plan. "One proposed plan" is broadly defined to include design, permit application, advertisement, or physical demarcation indicating that land disturbance activities may occur.<sup>1</sup>

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (36) Comprehensive Plan: A comprehensive plan prepared by the City, including a compilation of policy statement goals, standards and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.
- (37) Concept Plan: A report in map and text form submitted as the first phase of a Planned Unit Development (PUD) proposal, depicting the location, general purpose, general type of land use and circulation patterns, primary relationships between site elements and between the proposed development and surrounding development, proposed general schedule of development, and information on the applicant.
- (38) Conditional Use: Those occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning use district, which for the respective conduct or performance in such designated use districts may require reasonable, but special, peculiar, unusual or extraordinary limitations facilities, plans, structures, conditions, modification, or regulations in such use district for the promotion or preservation of the general public welfare, health, convenience and the integrity of the City Comprehensive Plan.
- (39) Conditional Use Permit: A permit issued by the City Council in accordance with procedures specified in this Chapter, as a flexibility device to enable the City Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.
- (40) Condominium: A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes, §515.A.1-101 to §515.A.4-118.
- (41) Cooperative (Housing): A multiple family dwelling owned and maintained by the residents and subject to the provisions of Minnesota Statutes §290.09 and §290.13. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.
- (42) Court: An unoccupied open space other than a yard which is bounded on two (2) or more sides by the walls of the buildings.
- (43) Curb Level: The elevation of the established curb in front of a building measured at the center of such front. Where no curb level has been established, the City Building Inspector shall determine a curb level or its equivalent for the purpose of this Chapter.
- (44) Day Care Facility: Any state licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habitation, 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. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity

centers, day treatment programs, and day services as defined by Minnesota Statute §245.782.

- (45) Density, Residential: A number expressing the relationship of the number of dwellings to an acre of land as established in the comprehensive plan.
- (46) Deposition: Any rock, soil, gravel, sand or other material deposited naturally or by man into a water body, watercourse, flood plains or wetlands.
- (47) Developer: Any person, group, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in development of land.<sup>1</sup>
- (48) Development: All structures, land uses, land disturbance activities, and other modifications of the existing landscape above and below ground or water, on a single parcel, or on more than one parcel if covered by a single PUD or conditional use permit.<sup>2</sup>
- (49) Discharge: The release, conveyance, channeling, runoff, or drainage of storm water, including snowmelt, from a development site.<sup>3</sup>
- (50) Draining: The removal of surface water or ground water from land.
- (51) Dredging: To enlarge or clean-out a water body, watercourse or wetland.
- (52) Dwelling: A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple family dwellings, but not including hotels, motels, boarding houses, or manufactured housing, motels, nursing homes, trailers, tents, or trailer coaches.
- (53) Dwelling, Multiple (Apartment): A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.
- (54) Dwelling, Single Family: A dwelling unit designed exclusively for occupancy by one (1) family.
  - (a) Attached: A dwelling which is joined to another at one or more sides by a party wall.
  - (b) Detached: A dwelling unit not attached to another dwelling or structure or is entirely surrounded by open space.

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>3</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (55) Dwelling, Two-Family: A dwelling designed exclusively for occupancy by two (2) families living independently of each other.
- (a) Double Bungalow: A two-family dwelling with two (2) units side-by-side.
- (b) Duplex: A two-family dwelling unit with one (1) unit above the other.
- (56) Dwelling Unit: A residential building or portion thereof intended for occupancy by one (1) family with facilities for living, sleeping, cooking, and eating, but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, motor homes or travel trailers.
- (57) Easement: A grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.
- (58) Elderly (Senior Citizen) Housing: A public agency owned or controlled multiple dwelling building with open occupancy limited to persons over sixty (60) years of age.
- (59) Efficiency Apartment: A dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.
- (60) Engineer: The professional engineer engaged by the City Council.
- (61) Erosion: Any process that wears away the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of people and nature.<sup>1</sup>
- (62) Erosion Control: Methods employed to prevent erosion, such as soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing<sup>2</sup>.
- (63) Essential Services: Overhead or underground electrical, gas, steam or water distribution systems and structures or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith but not including buildings.
- (64) Essential Service Structures: Structures and buildings necessary for the operation of essential services, including but not limited to telephone buildings, telephone booths, gas regulator stations, substations, electrical stations, water tanks, lift stations.
- (65) Expansion Permit: A permit which is granted by the City Council for the expansion or enlargement of a non-conforming structure in accordance with Section §900.6.

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (66) Exposed Soil Areas: All areas of the development site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface have been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, which are borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered “exposed soil,” until it meets the definition of “final stabilization.”<sup>1</sup>
- (67) Exterior Storage: The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.
- (68) Family: An individual or two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than three (3) persons not so related maintaining a common household and using common cooking and kitchen facilities.
- (69) Fence: A fence is defined for the purpose of this Chapter as any partition, structure, wall, hedgeline, plantings or gate erected as a dividing mark, barrier or enclosure.
- (a) Fence - Boundary Line: All fences located within five (5) feet of a property line
- (b) Fence - Interior Yard: All fences located five (5) feet beyond a property line.
- (70) Filling: The act of depositing any rock, soil, gravel, sand or other material so as to fill a waterbody, watercourse, or wetland.
- (71) Filter Strips: A vegetated section of land designed to treat runoff as overland sheet flow from adjacent impervious surface areas. They may be designed in any natural vegetated form from a grassy meadow to a small forest. Their dense vegetated cover facilitates pollutant removal and infiltration.<sup>2</sup>
- (72) Final Stabilization: All soil disturbance activities at the site have been completed and a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of seventy-five (75) percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization.<sup>3</sup>
- (73) Floor Area: The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within living, selling or working space or other such activities, to the production or processing of goods, or to business or professional offices. Measurable floor area is limited to floors with a minimum ceiling height of seven (7) feet.

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>3</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (74) Flood Plain: The flood plain means those areas within the City that are subject to flooding in the 100 year flooding events and which lie below the elevations shown on the official Flood Insurance Rate Map (Community Panel No. 27069000001A effective date: April 15, 1982) and generally lying below elevation 890.2 feet.
- (75) Garage - Private: An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles and trucks not exceeding twelve thousand (12,000) pounds gross weight, of the family or families resident upon the premises, and in which no business service or industry is carried on.
- (76) 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 enumeration or hire and in which any sale of gasoline, oil and accessories is only incidental to the principal use (see also automobile repair - minor and major).
- (77) Grade (Adjacent Ground Elevation): The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
- (78) Grading: Changing the natural or existing topography of land.
- (79) Ground Floor Area: The lot area covered by a building or buildings measured from the exterior faces of exterior walls but excluding decks and terraces and detached garages which do not exceed twelve (12) feet in height.
- (80) Guest Room: A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking.
- (81) Hedge: A landscape barrier consisting of a continuous, dense planting of shrubs.
- (82) Home Occupation: Any occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.
- (83) Hydric Soils: Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.<sup>1</sup>
- (84) Hydrophytic Vegetation: Macrophytic (large enough to be observed by the naked eye) plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.<sup>2</sup>
- (85) Illicit Connection: An illicit connection is defined as either of the following:

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (a) Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
  - (b) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.<sup>1</sup>
- (86) Illicit Discharge: Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 1700.3 of this ordinance.<sup>2</sup>
- (87) Impervious Surface: A surface that has been compacted or covered with a layer of material that either prevents or retards infiltration of water into the soil, causing water to run off the surface in greater quantities and at a faster rate of flow than existed prior to development.. It includes surfaces such as compacted sand, limerock, or clay, as well as most conventionally surfaced streets, rooftops, sidewalks, parking lots, driveways, patios, and storage areas.<sup>3</sup>
- (88) Irrigation System: A permanent, artificial watering system designed to transport and distribute water to plant.
- (89) Junk Yard: An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled; including but not limited to, scrap iron and other materials, paper, rags, rubber, tires, lumber, and bottles. A junk yard includes an auto wrecking yard, but does not include uses established entirely within closed buildings nor sanitary land fills.
- (90) Kennel: Any place where more than three (3) animals over three (3) months of age are kept or harbored, such animals being owned or kept by the owner or lessee of the premises wherein or whereupon the animals are kept or harbored. A commercial kennel is any place where a person, firm, or corporation accepts animals from the general public and where such animals are kept for the purpose of selling, boarding, breeding, training, treating or grooming, except a veterinary clinic.
- (91) Land Disturbance Activity: Any manmade land change that may result in soil erosion from water, wind, ice or gravity and the movement of sediments into or upon waters or lands within this government's jurisdiction, including construction, clearing & grubbing, grading, excavating, transporting and filling of land. Within the context of this ordinance, land disturbance activity does not mean.

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>3</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (a) Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work.
  - (b) Additions or modifications to existing single-family structures, which result in increasing less than one thousand (1,000) square feet of exposed soil or impervious surface and/or is part of a larger "common plan of development or sale".
  - (c) Construction, installation, and maintenance of fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating less than one thousand (1,000) square feet of exposed soil or impervious surface.
  - (d) Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved Soil Erosion Control Plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.<sup>1</sup>
- (92) Landscaping: Plantings such as trees, flowers, grass and shrubs and improvements directly related thereto.
- (93) Land Reclamation: The process of the re-establishment to acceptable topography (i.e. slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.
- (94) Line of Sight: *a) for lakeside setbacks* - An imaginary building line that connects the forward most parts of two adjacent principal buildings in relation to the *Normal (Ordinary) High Water Mark* and *b) for non-lakeside front yard setbacks* - an imaginary building line that connects the forward most parts of two adjacent principal buildings in relation to the front lot line which also delineates the public right-of-way. The line of sight effects the lake side setback of lakeshore property and the front setback of non-lakeshore property.<sup>2</sup>
- (95) Livestock: Any animals or poultry or other fowl except dogs, cats and birds owned by the resident of the premises and kept as pets but not for commercial sale except incidental to their character as pets.
- (96) Loading Space: That portion of a lot or plot designed to serve the purpose of loading or unloading for all types of vehicles.
- (97) Lodging (Boarding) Room: A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as one (1) lodging room.

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance #103, August 2<sup>nd</sup> 2010.

- (98) Lot (Of Record): A parcel of land, whether subdivided and/or otherwise legally described and as a lot and which is occupied by or intended for occupancy by one (1) principal building or principal use together with any accessory buildings and such open spaces as required by this Chapter and having its principal frontage upon a public street.
- (99) Lot Area: The total land area of a horizontal plane within the lot lines lying above the ordinary high water line.
- (100) Lot, Base: Lots meeting all the specifications in the zoning district prior to being subdivided into a two-family dwelling or quadraminium subdivision.
- (101) Lot, Buildable: A lot which meets the minimum lot width and area requirements of the use district in which it is located.
- (102) Lot, Corner: A lot situated at the junction of and abutting two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.
- (103) Lot, Depth of: The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.
- (104) Lot, Double Frontage: An interior lot having frontage on two streets.
- (105) Lot Improvement: Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.
- (106) Lot, Interior: A lot, other than corner lot, including through or double frontage lots.
- (107) Lot, Lakeshore: A lot abutting public waters or abutting public lands abutting public waters.
- (108) Lot Line: A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way or the ordinary high water mark.
- (109) Lot Line, Front: The lot line adjacent to the street shall be considered the front lot line.
- (110) Lot Line, Rear: That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.
- (111) Lot, Substandard: A lot or parcel of land for which a deed has been recorded in the office of the Hennepin County Recorder upon or prior to the effective date of this Chapter which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Chapter.
- (112) Lot, Through: A lot fronting on two parallel streets.

- (113) Lot, Unit: Lots created from the subdivisions of a two-family dwelling or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.
- (114) Lot, Width: The average required horizontal distance between the side lot lines measured at right angles to the lot depth.
- (115) Manufactured Home: Any single family dwelling transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.
- (116) Manufactured Home Lot: A section of ground in a manufactured home park designated as the location of one housing unit, and all other necessary improvements required by this Chapter.
- (117) Manufactured Home Park: Any park, court, lot, parcel or tract of land, designed, improved, maintained or intended for the purpose of supplying a location for manufactured home units or upon which any manufactured homes are parked. It shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the manufactured home park or not.
- (118) Metes and Bounds: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property delineating a fractional portion of a section, lot or area by described lines or portions thereof.
- (119) Minerals: Soil, clay, stone, sand and gravel and other similar solid material or substance to be mined from natural deposits.
- (120) Mining: All or part of the process involved in the extraction of minerals by removing the overburden and extracting directly from the mineral deposits thereby exposed.
- (121) Model Home: A home which is similar to others in a development and which is open to public inspection for the purpose of selling said other homes.
- (122) Municipal Separate Storm Sewer System (MS4): The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.<sup>1</sup>

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (123) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by EPA (or by a State under authority delegated pursuant to US Code, Title 33, Section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.<sup>1</sup>
- (124) Native Vegetation: The pre-settlement (already existing in Minnesota at the time of statehood in 1858) group of plant species native to the local region, which were not introduced as a result of European settlement or subsequent human introduction.<sup>2</sup>
- (125) Natural Drainage System: All land surface areas which by nature of their contour configuration, collect, store and channel surface water runoff.
- (126) Non-Conforming: A situation where any development, structure, sign, site lighting, off-street parking lot, buffer yard, land use or parcel was legally constructed or established prior to the effective date of this ordinance, or subsequent amendment to it, which is not in full compliance with the regulations of this Ordinance.
- (a) Non-conformity: any non-conforming use, structure or lot as defined herein that was established or constructed prior to the effective date of this ordinance or subsequent amendment to it, which is not in full compliance with the regulations of this ordinance.
- (b) Non-conforming use: any use which is not permitted, conditionally permitted or permitted as an accessory use within the district in which the use is located.
- (c) Non-conforming structure: any structure which does not conform with the applicable standards of the zoning code and specifically the standards within the district in which the structure is located. (i.e. setbacks, height, square footage, or other standard)
- (d) Non-conforming lot: any lot which does not conform to the applicable standards of the zoning code and specifically the standards within the district in which the lot is located. (e. lot size, width, or depth or other dimensional standard)
- (e) Degree of non-conformity: means the measured extent (either horizontal or vertical) to which an existing use or structure fails to comply with a requirement of this chapter. Degree on non-conformity only applies to that portion of a structure that is causing the structure to be non-conforming status.
- (f) Parallel extension of non-conforming structures: means any horizontal or vertical increase in the linear feet or surface area of the portion of a structure that is equal to the existing dimension causing the structure to be non-conforming.<sup>3</sup>

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>3</sup> Section §200.2 amended by Ordinance 92, March 6, 2006.

- (127) Non-Storm Water Discharge: Any discharge to the storm water system that is not composed entirely of storm water.<sup>1</sup>
- (128) Normal (Ordinary) High Water Mark: A continuous mark of reference on the landscape at an elevation where land and water meet for some period of record; it is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. The normal high water mark of Medicine Lake shall be the 889.1 feet lake elevation as determined by the Minnesota Department of Natural Resources.
- (129) Noxious Matter or Material: Material capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental effects on the physical or economic well being of individuals.
- (130) Occupancy: The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.
- (131) Off-Street Loading Space: A space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials.
- (132) Off-Street Parking Space: An area of such shape and dimensions as provided by this Chapter, enclosed in the principal building, in an accessory building, or unenclosed, sufficient in size to store one (1) fifteen (15) foot motor vehicle, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of a motor vehicle.
- (133) Open Sales Lot: Land devoted to the display of goods for purchase, sale, rent, lease or trade where such goods are not enclosed within a building, and for the storage of same prior to sale.
- (134) Open Space: Any open area not covered by structures, but not limited to the following uses: required or established yard areas, parking areas, sidewalks, school walks, trails, recreation areas, water bodies, shorelands, watercourses, wetlands, ground water recharged areas, flood plain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitation for development.
- (135) Open Storage: Storage of material outside of a building.
- (136) Ornamental Tree. Any tree planted primarily for its ornamental value or for screening purposes and tends to be smaller at maturity than canopy trees.

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (137) Overburden: The earth, rock and other materials that lie above a natural deposit of minerals.
- (138) Owner: Any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the property.
- (139) Parcel: An individual lot or tract of land.
- (140) Parking Space: An area of such shape and dimensions as provided by this Chapter, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) motor vehicle, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.
- (141) Party Wall: A common wall which divides two (2) independent structures by a fire wall.
- (142) Performance Standard: Criterion established for setbacks, fencing, landscaping, screening, drainage, accessory buildings, outside storage and to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat or other nuisance elements generated by or inherent in uses of land or buildings.
- (143) Permanent Cover: Long-term methods employed to prevent erosion and achieve "final stabilization", such as grass, gravel, asphalt, and concrete.<sup>1</sup>
- (144) Permit: Within the context of this ordinance, a "permit" is a written warrant or license granted for construction, zoning approval, subdivision approval, or to allow land disturbance activities.<sup>2</sup>
- (145) Permitted Use: A use which may be lawfully established in particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.
- (146) Person: An individual, firm, partnership, association, corporation, legal entity, or organization of any kind.
- (147) Planned Unit Development (PUD):
- (a) As a conditional use permit, a development procedure whereby internal site design standard deviations from this Chapter may be allowed in order to accommodate two (2) or more principal structures, and/or facilities to improve site design and operation. See also "Cluster Development."
  - (b) As a zoning district, a development procedure whereby mixing of buildings and uses can occur which cannot be otherwise addressed under this Chapter, and/or whereby

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

internal site design standard deviations from this Chapter may be allowed to improve site design and operation.

- (148) Planning Commission: The duly appointed Medicine Lake Planning Commission.
- (149) Pole Buildings: Any structure possessing the following characteristics: structural wood poles or timbers buried in ground on individual footings; metal wall coverings hung vertically of less than twenty-eight (28) gauge. Such definition shall not include or apply to decks, sign supports, earth retention structures, playground equipment, electric utilities, or any similar structure not covering or enclosing a specific area.
- (150) Principal Building: A building or group of buildings in which the primary use of a lot is located.
- (151) 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.
- (152) Protective Covenant: A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.
- (153) Public Uses: Uses owned or operated by municipal, school districts, county, state, or other governmental units.
- (154) Public Waters: Public waters of Medicine Lake shall include public waters as defined in Minnesota Statutes 103G.005, Subdivision 15, as amended, and also to specifically include all manmade or natural channels, inlets or lagoons, existing now or created in the future, that are connected to the waters of Medicine Lake and share the established ordinary high water mark (OHW) of 889.1 of Medicine Lake.
- (155) Publication: Notice placed in the official City newspaper stating time, location and date of meeting and description of the topic.
- (156) Quadraminium: A single structure which contains four (4) separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure.
- (157) Recreation, Field or Building: An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semi-public use, whether temporary or permanent, except a theater, whether provision is made for their accommodation of an assembly or not. A golf course, arena, baseball park, stadium, circus or gymnasium is a recreation field or building for the purpose of this Chapter.
- (158) Recreational Vehicle: Includes manufactured homes less than thirty (30) feet in overall length, including those which telescope or fold down; chassis mounted campers, house cars, motor homes, tent trailers, slip-in-campers (those mounted in a pickup truck or similar vehicle), converted buses, and converted vans used primarily for recreational purposes. Cars used for racing shall not be included within this definition.
- (159) Restaurant: An establishment which serves food in or on non-disposable dishes to be consumed primarily while seated at tables or booths within the building.

- (160) Satellite Dish: Shall mean a combination of:
- (a) antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources;
  - (b) a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals;
  - (c) a coaxial cable whose purpose is to carry the signals into the interior of the building.
- (161) Satellite Dish Height: Shall mean the height of the antenna or dish measured vertically from the highest point of the antenna or dish when positioned for operation, to the top of the foundation which supports the antenna.
- (162) Screen: A method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.
- (163) Sediment: The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, wind, ice or gravity, and has come to rest on the earth's surface either above or below water level.<sup>1</sup>
- (164) Sediment Control: The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices are silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.<sup>2</sup>
- (165) Sedimentation: The process or action of depositing sediment.<sup>3</sup>
- (166) Semi-Public Use: Uses owned by private or private non-profit organizations which are open to some, but not all, of the public, such as denominational cemeteries, private schools, clubs, lodges, recreation facilities, churches, etc.
- (167) Septic Sewer System: A septic sewer disposal system consists of: septic tank, absorption field of standard trenches or a dry well, house sewer and outlet sewer. In the septic tank, bacterial action breaks down sewage. Standard trenches or a dry well handles final disposal of liquid from the septic tank. The house sewer brings wastes to the tank and the outlet sewer carries sewage liquids (effluent) from the absorption field.
- (168) Setback: The minimum horizontal distance between a structure and the nearest property line; within shoreland districts it shall also mean the minimum horizontal distance between a structure or sanitary facility and the ordinary high water mark. Distances are

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>3</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

to be measured from the most outwardly extended wall portion of the structure, except as provided hereinafter.

- (169) Shoreland: Land located within the following distances from public water; 1,000 feet (330.03 m) from the normal high water mark of a lake, pond, or flowage; and 300 feet (90.9 m) from a river or stream, or the landward extent of a flood plain designated by ordinance of such a river or stream, whichever is greater. The practical limit of shorelands may be less than statutory limits where such limits may be less than statutory limits as designated by natural drainage divides at lesser distances, as shown on the official Zoning Map of the City of Medicine Lake.
- (170) Shrub: A self-supporting woody perennial plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen, and usually not more than 10 feet in height at its maturity.
- (171) Sign: Any letter, word, symbol, device, poster, picture, statuary, reading matter or representation in the nature of an advertisement, announcement, message, or visual communication whether painted, pasted, printed, affixed or constructed which is displayed outdoors for informational or communicative purposes. It shall include, but not be limited to, the following types and purposes of signs: advertising, area identification, business, directional, flashing, free standing, illuminated, institutional, nameplate, pylon, rotating, swinging, temporary and traffic control.
- (172) Site Plan: A map drawn to scale depicting the development of tract of land, including, but not limited to, the location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, and walkways, as related to a proposed development.
- (173) Slope: Means the degree of deviation of a surface from the horizontal, usually, expressed in percent of degrees.
- (174) Soil: The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes of this ordinance, temporary stockpiles of clean sand, gravel, aggregate, concrete or bituminous materials (which have less stringent protection) are not considered “soil” stockpiles.<sup>1</sup>
- (175) Stabilized: The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization<sup>2</sup>
- (176) Steep Slope: Any slope steeper than fifteen (15) percent (Fifteen (15) feet of rise for every one hundred (100) feet of horizontal run).<sup>3</sup>

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>3</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (177) Storm Water: Under Minnesota Rule 7077.0105, subpart 41b, storm water “means precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.” (According to the Code of Federal Regulations (CFR) under 40 CFR 122.26 [b][13], “Storm water means storm water runoff, snow melt runoff and surface runoff and drainage.”). Storm water does not include construction site dewatering.<sup>1</sup>
- (178) Storm Water Pollution Control Plan: A joint storm water and erosion and sediment control plan that is a document containing the requirements of Section 1700.3, that when implemented will decrease soil erosion on a parcel of land and off-site nonpoint pollution. It involves both temporary and permanent controls.<sup>2</sup>
- (179) Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused under floor space shall be considered as a story.
- (180) Street: A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road or way.
- (181) Street, Local: A street intended to serve primarily as an access to abutting properties.
- (182) Street, Major or Arterial: A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.
- (183) Street Pavement: The wearing of exposed surface of the roadway used by vehicular traffic.
- (184) Street Width: The shortest distance between the lines delineating the right-of-way of a street.
- (185) Structure: Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built-up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.
- (186) Structural Alteration: Any change, other than incidental repairs, which would prolong, or modify the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

- (187) Subdivision: Any tract of land divided into building lots for private, public, commercial, industrial, etc. development. Minnesota Rule 6120.2500, subpart 17, defines subdivision as, "land that is divided for the purpose of sale, rent, or lease, including planned unit development."<sup>1</sup>
- (188) Surveyor: A person duly registered as a land surveyor by the State of Minnesota.
- (189) Temporary Protection: Short-term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.<sup>2</sup>
- (190) Townhouses: Structure housing three (3) or more dwelling units contiguous to each other only by the sharing of one (1) common wall. Such structures to be of the town or row houses type as contrasted to multiple dwelling apartment structures.
- (191) Travel Trailer: Any trailer not used as a residence but which is used for temporary living quarters for recreational or vacation activities and one that is towed on public roads in connection with such use.
- (192) Truck Stop: A motor fuel station devoted principally to the needs of trucks and which shall include eating and/or sleeping facilities.
- (193) Undue Hardship: Undue hardship is a condition resulting when reasonable use cannot be made of a property if used under conditions allowed by the official control, 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 an undue hardship if reasonable use for the property exists under the terms of the ordinance.
- (194) Usable Open Space: A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways and parking areas shall not constitute usable open space.
- (195) Use: The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Chapter.
- (196) Use, Non-Conforming: Any building or land lawfully occupied by a use at the time of the passage of this ordinance or of amendments thereof which does not conform after

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

the passage of this ordinance or an amendment thereto with the use regulations of the district in which it is located.

- (197) Variance: The waiving by the City Council of the literal provisions of the Zoning Standards in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.
- (198) Vegetated or Grassy Swale: A vegetated earthen channel that conveys storm water, while treating the storm water by biofiltration. Such swales remove pollutants by both filtration and infiltration. (*Commentary: Storm water controls using infiltration need protection against silt plugging, such as settling basins and manhole silt sumps. Otherwise silt plugging can result in failure rates as high as 80-90% in only five years.*)<sup>1</sup>
- (199) Very Steep Slope: Any slope steeper than one foot of rise for each three feet of horizontal run (Thirty-three (33) percent slope).<sup>2</sup>
- (200) Waters of the State: As defined in Minnesota Statutes section 115.01, subdivision 22 all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.”<sup>3</sup>
- (201) Warehousing: The storage of materials or equipment within an enclosed building.
- (202) Waterbody: Means a body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.
- (203) Watershed: The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.
- (204) Wet Detention or Retention Facility: A permanent man-made structure containing a permanent pool of water that is used for the temporary storage of storm water runoff.<sup>4</sup>
- (205) Wetlands: An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:
  - (a) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities (These communities correspond roughly to

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<sup>1</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>2</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>3</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

<sup>4</sup> Section §200.2 amended by Ordinance 108, January 9, 2012.

wetland types 1, 2, 3, 4, 6, 7 and 8 described by the United States Fish and Wildlife Services, Circular 39, Wetlands of the US 1956);

- (b) Mineral soils with gley horizons or organic soils belonging to the Histosol order (peat and muck);
  - (c) Soil which is water logged or covered with water at least three (3) months of the year. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and such property may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage, but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
- (206) Wholesaling: The selling of goods, equipment and materials by bulk to another business that in turn sells to the final customer.
- (207) Wind Energy Conversion System (WECS): Any device that is designed to convert wind power to another form of energy such as electricity or heat (also referred to by such common names of wind charger, wind turbine and windmill).
- (208) Yard: An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.
- (209) Yard, Depth Of: The mean horizontal distance between the line of a building and the lot line.
- (210) Yard, Front: A yard extending along the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth.
- (211) Yard, Lakeside: Any yard abutting the ordinary highwater line (OHW).
- (212) Yard, Rear: A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies, or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall be in all cases at the opposite end of the lot from the front yard.
- (213) Yard, Required: That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.
- (214) Yard, Side: A yard between the side line of the lot and nearest line of the principal building and extending from the front lot line of the lot to the rear yard.
- (215) Zero Lot Line: The reduction of side yard setback requirements to zero, permitting the placement of a structure near or adjacent to the side yard lot line. With zero lot line, no portion of the structure or accessory appurtenance shall project over the lot lines except as provided by party wall easement.

- (216) Zoning Amendment: A change authorized by the City either in the allowed use with a district or in the boundaries of the district.
- (217) Zoning District: An area or areas of the City (as delineated on the Zoning Map) set aside for specific uses with specific regulations and provisions for use and development as defined by this Chapter.
- (218) Zoning District Overlay: A zoning district containing regulations superimposed upon other zoning district regulations and where the more restrictive district use regulations shall apply.
- (219) Zoning District Underlying: All zoning districts except overlay zoning districts.
- (220) Zoning Map: The map or maps incorporated into this chapter as part thereof, designating the zoning districts.

## **§300 - ADMINISTRATION - AMENDMENTS (TEXT AND MAP)**

### §300.1 Procedure

### §300.2 Amendments - Initiation

#### §300.1 Procedure.

- (a) Requests for rezoning (text or map) shall be filed with the Planning Commission on an official application form. Such application shall be accompanied by a fee as provided by City Council resolution. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials fully explaining the proposed change, development or use and list of property owners located within three hundred fifty (350) feet of the subject property. Said property owners list shall be certified by Hennepin County or City. The request for amendment shall be placed on the agenda of the first possible Planning Commission meeting occurring twenty-one (21) days from the date of submission of the application. The request shall be considered officially submitted when all the informational requirements are complied with.
- (b) The applicant shall supply proof of title of the property and the legal description of the property for which the rezoning is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded documents whereby the petitioners acquire a legal ownership or equitable ownership interest or supply written authorization from the owner(s) of the property in question to proceed with the requested rezoning.
- (c) Upon receipt of said application, the Planning Commission shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing and report its findings and recommendations to the City Council. Notice of said hearing shall consist of a legal property description and description of the request, and shall be published in the official newspaper at least ten (10) days prior to hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.
- (d) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.
- (e) The Planning Commission and City Council shall consider possible adverse effects of the proposed amendment. Their judgment shall be based upon (but not limited to) the following factors:
  - (1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan;
  - (2) The proposed use is or will be compatible with present and future land uses of the area;
  - (3) The proposed use conforms with all performance standards contained herein;
  - (4) The proposed use will not tend to or actually depreciate the area in which it is proposed;
  - (5) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity;

- (6) Traffic generation by the proposed use is or will be within capabilities of streets serving the property.
- (f) The Planning Commission and City Council shall have the authority to request additional information from the applicant concerning physical and operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- (g) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- (h) The Planning Commission shall recommend approval or denial of the request.
- (i) The City Council shall not act upon an amendment until they have received a report and recommendation from the Planning Commission but shall act within 60 days of the date of the application as provided by Minnesota Statute Section 15.99.<sup>1</sup>
- (j) Upon receiving the report and recommendation of the Planning Commission, the City Clerk shall place the report and recommendation on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- (k) Upon receiving the report and recommendation of the Planning Commission, the City Council shall have the option to set and hold a public hearing if deemed necessary.
- (l) If, upon receiving said reports and recommendations of the Planning Commission, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council will differ from that of the Planning Commission, the City Council may, before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.
- (m) Approval of a proposed amendment shall require passage by a majority vote of the entire City Council or as provided by Minnesota Statute Section 462.357.<sup>2</sup>
- (n) The amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper.
- (o) Whenever an application for an amendment has been considered and denied by the City Council, a similar application and proposal for the amendment affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months

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<sup>1</sup> Section §300.1 amended by Ordinance 92, March 6, 2006.

<sup>2</sup> Section §300.1 amended by Ordinance 92, March 6, 2006.

from the date of its denial, unless a decision to reconsider such matter is made by at least four-fifths (4/5) vote of the entire City Council.

§300.2 Amendments - Initiation.

The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Chapter. The procedural requirements of §300.1(a) and §300.1(b) of this Chapter shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate or having documented interest therein, within the City may initiate a request to amend the district and map boundaries or text of this Chapter so as to affect the said real estate.

## **§400 - ADMINISTRATION - CONDITIONAL USE PERMITS**

### [§400.1 Purpose](#)

### [§400.2 Procedure](#)

### [§400.3 Application](#)

### [§400.4 Information Requirement](#)

### [§400.5 Lapse of Conditional Use Permit by Non-Use](#)

### [§400.6 Performance Security](#)

### [§400.7 Conditional Use Permit Initiation](#)

#### §400.1 Purpose.

The purpose of a conditional use permit is to provide the City of Medicine Lake with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

#### §400.2 Procedure.

- (a) Request for conditional use permits, as provided within this Chapter shall be filed with the Planning Commission on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of property owners located within three hundred fifty (350) feet of the subject property obtained from and certified by Hennepin County or the City. The request for conditional use permit shall be placed on the agenda of the first possible Planning Commission meeting occurring twenty-one (21) days from the date of submission of the application. The request shall be considered as being officially submitted when all the information requirements are complied with.
- (b) The applicant shall supply proof of title and the legal description of the property for which the conditional use permit is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded document whereby the petitioners acquire a legal ownership or equitable ownership interest or supply written authorization from the owner(s) of the property in question to proceed with the requested conditional use permit.
- (c) Upon receipt of said application, the Planning Commission shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description and description of request, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.
- (d) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.

- (e) The Planning Commission shall instruct the appropriate staff persons or consultants to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.
- (f) The Planning Commission and City Council shall consider possible adverse effects of the proposed conditional use. Their judgment shall be based upon (but not limited to) the following factors:
  - (g) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan;
  - (h) The proposed use is or will be compatible with present and future uses of the area;
  - (i) The proposed use conforms with all performance standards contained herein;
  - (j) The proposed use will not tend to or actually depreciate the area in which it is proposed;
  - (k) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity;
  - (l) Traffic generated by the proposed use is within capabilities of streets serving the property.
- (m) The Planning Commission and City Council shall have the authority to request additional information from the applicant concerning physical and operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- (n) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- (o) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the Chapter.
- (p) The City Council shall not grant a conditional use permit until they have received a report and recommendation from the Planning Commission or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered as provided by Minnesota Statute Section 15.99.
- (q) Upon receiving the report and recommendation of the Planning Commission, the City Clerk shall place the report and recommendations on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- (r) Upon receiving the report and recommendation of the Planning Commission, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded findings of fact and may impose any condition it considers necessary to protect the public health, safety and welfare.
- (s) If, upon receiving said reports and recommendations of the Planning Commission, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of

the City Council will differ from that of the Planning Commission, the City Council may before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.

- (t) Approval of a request shall require passage by a four-fifths (4/5) vote of the City Council.
- (u) Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial unless a decision to reconsider such matter is made by at least four-fifths (4/5) vote of the full City Council.
- (v) If a request for a conditional use permit receives approval of the City Council, the applicant shall record such with the County Registrar of Titles. The applicant, immediately upon recording such or as soon as is reasonably possible, shall furnish the City proof of recording. No building permits for the property in question will be granted until such proof of recording is furnished to the City.

#### §400.3 Application.

The conditional use permit and the stipulations and limitations imposed therein shall be applied to the property in question. The City, if so stated in formal action, may also apply the stipulations and limitations:

- (a) To the property in question, limited to the present owner.
- (b) To the property in question, for a specified time period.

#### §400.4 Information Requirement.

The information required for all conditional use permit applications generally consists of the following items, and shall be submitted when requested by the City:

- (a) Site Development Plan.
  - (1) Location of all buildings on lots including both existing and proposed structures
  - (2) Location of all adjacent buildings located within three hundred fifty (350) feet of the exterior boundaries of the property in question
  - (3) Location and number of existing and proposed parking spaces
  - (4) Vehicular circulation
  - (5) Architectural elevations (type and materials used in all external surface)
  - (6) Location and type of all proposed lights
  - (7) Curb cuts, driveways, number of parking spaces.
- (b) Dimension Plan.

- (1) Lot dimensions and area
  - (2) Dimensions of proposed and existing structures
  - (3) "Typical" floor plan and "typical" room plan
  - (4) Setbacks of all buildings located on property in question
  - (5) Proposed setbacks
  - (6) Sanitary sewer and water plan with estimated use per day.
- (c) Grading Plan.
- (1) Existing contours
  - (2) Proposed grading elevations
  - (3) Drainage configuration
  - (4) Storm sewer catch basins and invert elevations
  - (5) Spot elevations
  - (6) Proposed road profile.
- (d) Landscape Plan.
- (1) Location of all existing trees, type, diameter, and which trees will be removed
  - (2) Location, type and diameter of all proposed plantings
  - (3) Location and material used for all screening devices.
- (e) Legal description of property under consideration.
- (f) Proof of ownership of the land for which a conditional use permit is requested.

§400.5 Lapse of Conditional Use Permit by Non-Use.

Whenever within one (1) year after granting a conditional use permit, the use as allowed by the permit shall not have been initiated or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use that has been granted by the City Council. Such extension shall be requested in writing and filed with the Planning Commission at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

§400.6 Performance Security.

- (a) Except in the case of non-income producing residential property (excluding relocated structures), upon approval of a conditional use permit the City shall be provided, where deemed necessary, with an irrevocable letter of credit, surety bond, cash escrow, certificate of deposit payable to the City, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the City.
- (b) The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or City Building Inspector's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the City Engineer and Building Inspector.
- (c) The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and regulations of the City has been issued by the City Building Inspector.
- (d) Failure to comply with the conditions of the conditional use permit or the regulations of the City shall result in forfeiture of the security.

§400.7 Conditional Use Permit-Initiation.

The City Council or Planning Commission may, upon their own motion, initiate a request for a conditional use permit in conformance with the provisions of this Chapter. Any person owning real estate or having documented interest therein, within the City may initiate a request for a conditional use permit for real estate in conformance with the provisions of this Title.

## §500 - ADMINISTRATION - VARIANCES

[§500.1 General Provisions and Standards](#)

[§500.2 Procedures](#)

[§500.3 Lapse of Variance](#)

[§500.4 Performance Security](#)

[§500.5 Certified Survey Required](#)

### §500.1 General Provisions and Standards.

- (a) Purpose. The purpose of this section is to provide for deviations from the literal provisions of this Chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Chapter.
- (b) The City Council shall serve as the Board of Adjustment and Appeals.
- (c) Review Criteria. Conditions governing considerations of both major and minor variance requests:
  - (1) In considering all requests for a variance and in taking subsequent action, the Planning Commission and the Council shall make a finding of fact that the proposed action will not:
    - a. Impair an adequate supply of light and air to adjacent property
    - b. Unreasonably increase the congestion in the public street
    - c. Increase the danger of fire or endanger the public safety
    - d. Unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this Chapter.
    - e. Violate the intent and purpose of the Comprehensive Plan
    - f. Violate any of the terms or conditions of Item (2a) below.
  - (2) A variance from the terms of this Chapter shall not be granted unless it can be demonstrated that:
    - a. Undue hardship will result if the variance is denied. Undue hardship shall exist under the following circumstances:
      - 1. There are special conditions and circumstances which are peculiar to the land, structure or building involved.
      - 2. Undue hardship caused by the special conditions and circumstances may not be solely economic in nature.
      - 3. The property in question cannot be put to reasonable use if used under the conditions allowed by this ordinance. Reasonable use does not mean that

the applicant must show the land cannot be put to any reasonable use without the variance. Rather, the applicant may show that it would like to use the property in a reasonable manner that is prohibited by the ordinance. "Practical difficulties" may justify a variance, including functional and aesthetic concerns.

- b. Literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter, or deny the applicant the ability to put the property in question to a reasonable use.
  - c. The special conditions and circumstances causing the undue hardship do not result from the actions of the applicant.
  - d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures or buildings in the same district.
  - e. The request is not a use variance.
  - f. Variance requested is the minimum variance necessary to accomplish the intended purpose of the applicant.
  - g. Variance requested will not alter the essential character of the locality.
  - h. A prior erroneous application of the zoning ordinance cannot be used to require a city to grant a variance.
  - i. An applicant shall not rely on similar variances granted previously.
- (3) Application for a variance shall set forth reasons that the variance is justified in order to make reasonable use of the land, structure or building.
- (4) Should the Council find that the conditions outlined heretofore apply to the proposed lot or parcel, the Council may grant a variance from the strict application of this Chapter so as to relieve such difficulties or hardships to the degree considered reasonable, provided such relief may be granted without impairing the intent of this Chapter. The Planning Commission shall have the power to advise and recommend such conditions related to the variance regarding the location, character and other features of the proposed building, structure, or use as it may deem advisable in the interest of the intent and purpose of this Chapter.

#### §500.2 Procedures.

- (a) Request for variances, as provided within this chapter, shall be filed with the Planning Commission on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. Such application shall also be accompanied by ten (10) copies of detailed written and graphic material fully explaining the proposed change, development, or use and a list of property owners located abutting or immediately neighboring of the subject property obtained from and certified by Hennepin County or the City. The request for variance shall be placed on the agenda of the first possible Planning Commission meeting occurring fourteen (14) days after the

date of submission of the application. The request shall be considered officially submitted when all the informational requirements are complied with.

- (b) The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall be at least three (3) days prior to said hearing.
- (c) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this chapter.
- (d) The Planning Commission and City Council shall have the authority to request additional information from the applicant concerning physical or operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter. Failure of an applicant to supply all necessary supportive information may be grounds for denial of the request.
- (e) The applicant or representative thereof shall appear before the Planning Commission to answer question concerning the proposed variance.
- (f) The Planning Commission shall make findings of fact and recommend approval or denial of the request. The Commission's recommendation shall be presented to the Council.
- (g) Upon receiving the report and recommendation of the Planning Commission, the City Clerk shall place the report and recommendation on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- (h) The Council shall review the application and may at its option conduct a public hearing on the request.
- (i) The Council shall make finding of fact and approve or deny a request for variance within sixty (60) days after receipt of the application as provided by Minnesota Statute Section 15.99.
- (j) A variance of this Chapter shall be by a majority vote of the Council.
- (k) All decisions by the Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Hennipen County District Court.
- (l) Whenever a variance has been considered and denied by the City Council, a similar application and proposal for the variance affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by a majority of the full City Council.
- (m) If a request for variance receives approval of the City Council, the City Council may request the applicant to record such with the County Registrar of Titles. The applicant, immediately upon recording such, or as soon as reasonably possible, shall furnish the City proof of recording. No building permit for the property in question will be granted until such proof of recording is furnished to the City.

### §500.3 Lapse of Variance.

For all variances granted after the effective date of this ordinance, if within one (1) year after granting a variance the use as allowed by the variance shall not have been initiated or utilized, then such a variance shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the Council. Such extension shall be requested in writing and filed with the Planning Commission at least thirty (30) days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or use the permitted in the variance or appeal. Such petition shall be presented to the Council for decision.

### §500.4 Performance Security.

- (a) Upon approval of a variance, the City shall be provided, where deemed necessary by the Council, with an irrevocable letter of credit, surety bond, cash escrow, certificate of deposit payable to the City, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance and City Chapter provisions.
- (b) The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or Building Inspector's estimated costs of labor and materials for the proposed improvements or development.
- (c) The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance and City regulations has been issued by the Building Inspector.
- (d) Failure to comply with the conditions of the variance or appeal and City regulations shall result in forfeiture of the security.
- (e) Whenever a performance guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the permit. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

### §500.5 Certified Survey Required.

A certified survey of the subject site in question shall be required to show present topography, boundary lines, and other significant features including structures, significant landscape features (such as trees with a diameter of more than twelve (12) inches). Survey to include features from the adjacent properties within twenty (20) feet of the subject property.

## **§600 - ADMINISTRATION - APPEALS**

### §600.1 Board Designation

### §600.2 Approval

### §600.3 Filing

### §600.4 Procedure

### §600.5 Appeal

#### §600.1 Board Designation.

The City Council shall serve as the Board of Adjustment and Appeals.

#### §600.2 Approval.

A majority vote of the full Board of Adjustments and Appeals shall be required to reverse any decision of an administrative officer in the interpretation of this Chapter.

#### §600.3 Filing.

An appeal from the ruling of an administrative officer of the City shall be made by the property owner or their agent within thirty (30) days after the making of the order appealed from.

#### §600.4 Procedure.

The procedure for making such an appeal shall be as follows:

- (a) The property owner or their agent shall file with the City Clerk a notice of appeal stating the specific grounds upon which the appeal is made.
- (b) The Board of Adjustment and Appeals shall make its decision by resolution within sixty (60) days and a copy of the resolution shall be mailed to the applicant by the Planning Commission.

#### §600.5 Appeal.

All decisions by the Board of Adjustments and Appeals shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision with the Hennepin County District Court.

## **§700 - ADMINISTRATION - CERTIFICATE OF OCCUPANCY OF ZONING**

### [§700.1 Certificate Required](#)

### [§700.2 Application](#)

#### §700.1 Certificate Required.

No building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy of zoning shall have been issued by the Building Inspector stating that the building or structure complies with all of the provisions within this Chapter and applicable state building code sections.

#### §700.2 Application.

Said certificate shall be applied for coincident with the application for a building permit, conditional use permit, and/or variance and shall be issued within ten (10) days after the Building Inspector shall have found the building or structure satisfactory and given final inspection. Said application shall be accompanied by a fee as established by City Council resolution.

## **§800 - ENFORCEMENT AND PENALTIES**

### §800.1 Enforcement

### §800.2 Violation

#### §800.1 Enforcement.

This Chapter shall be administered and enforced by the Building Inspector who is appointed by the City Council. The Planning Commission may institute in the name of the City of Medicine Lake any appropriate actions or proceedings against a violator as provided by statute, charter, ordinance or regulation.

#### §800.2 Violation.

Any person who violates any of the provisions of this Chapter shall be found guilty of a misdemeanor and shall upon conviction, be subject to a fine or imprisonment as provided for by Minnesota State Statutes, plus the cost of prosecution in either case. Each day that a violation exists shall constitute a separate offense.<sup>1</sup>

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<sup>1</sup> Section §800.2 amended by Ordinance 92, March 6, 2006.

## **§900 - NON-CONFORMING BUILDINGS, STRUCTURES AND USES<sup>1</sup>**

### §900.1 Purpose

### §900.2 Definitions

### §900.3 Non-conformities in General

### §900.4 Non-conforming uses

### §900.5 Non-conforming structures

### §900.6 Expansion Permit

### §900.7 Non-conforming lots of record and construction of new dwellings.

#### §900.1 Purpose.

It is the purpose of this section to provide for the regulation of non-conforming uses, structures and lots to specify those requirements, circumstances and conditions under which non-conforming uses, structures and lots will be operated and maintained.

#### §900.2 Definitions.

For purposes of this Article and in addition to definitions provided within Section 200.2 of the City of Medicine Lake Zoning Regulations, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

- (a) Structural Alteration: a change that occurs to a structure that does not increase the height or building footprint, envelope or shell of a structure.
- (b) Structural Expansion: a change to a structure that increases the height or building footprint, envelope or shell.

#### §900.3 Non-conformities in General

The following applies to all non-conformities in general:

- (a) Determination of non-conforming status. A use, structure or lot will be considered legally non-conforming if it can be demonstrated by clear and convincing evidence that, prior to October 12, 1999, or a subsequent amendment to this chapter, the use, structure or lot was established, altered, enlarged or converted and occupied pursuant to building permits issued by the City. The burden of establishing that a non-conforming use, structure or lot is a legal non-conforming use, structure or lot shall, in all cases, be solely upon the owner of such non-conformity.
- (b) Repairs and maintenance. Incidental repairs and normal maintenance of non-conformities shall be permitted unless such repairs are otherwise prohibited by the Code. Nothing in this Article shall be deemed to prevent keeping in good repair a structure in which a non-conforming use is conducted

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<sup>1</sup> Section §900 amended by Ordinance 104, November 1, 2010.

but no such structure that is declared by the building official to be unsafe or unlawful by reason of physical condition shall be restored, repaired or rebuilt.

- (c) Authority to continue. Any non-conforming use, structure or lot may be continued in accordance with the provisions of this article.
- (d) Change of use, structure or lot. When any lawful non-conforming use, structure or lot in any district has been changed to a conforming status, it shall not thereafter be changed to any non-conforming use, structure or lot.

#### §900.4 Non-conforming uses

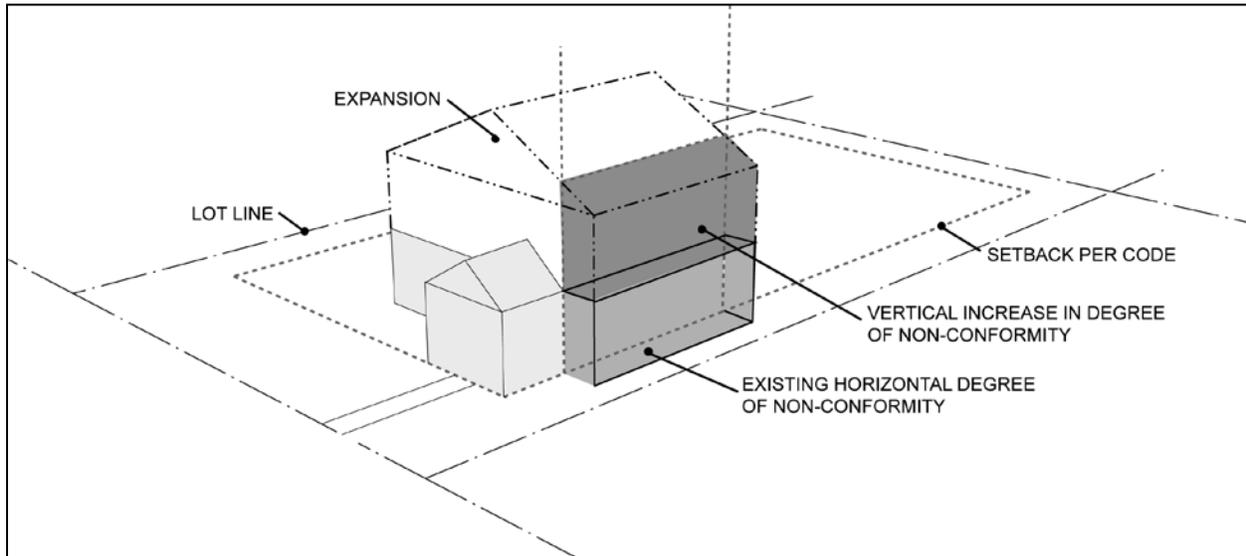
Any non-conforming use of land or structures may continue as long as it otherwise remains lawful, subject to the following provisions:

- (a) Extension, enlargement or intensification affecting land area. No such non-conforming use shall be extended, enlarged or intensified, nor extended to occupy a greater area of land or a greater height than that which is occupied on the effective date of adoption or amendment of this chapter and no additional accessory structures shall be established thereon.
- (b) Moving of non-conforming uses. No such non-conforming use shall be moved, in whole or in part, to any other portion of the lot not so occupied on the date of adoption of this section or to a parcel or lot not in conformance with this chapter.
- (c) Cease of non-conforming use. If such non-conforming use ceases for any reason for a period of one year (365 continuous days) or more, any subsequent use of such land or structure shall conform to the regulations specified in this chapter for the district in which such land is located.
  - (1) The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a non-conforming use.
  - (2) The existence of a non-conforming use on part of a lot or tract of land shall not be construed to establish a non-conforming use on the entire lot or tract of land.
- (d) Discontinuance or succession of use. Any land on which such non-conforming use is discontinued and succeeded by a permitted use shall thereafter conform to the regulations for the district in which the land is located and the non-conforming use may not thereafter be resumed.
- (e) Extension, enlargement or intensification affecting structure. Any such non-conforming use may be expanded or extended throughout any part of a structure, provided that no structural alterations or enlargement of said structure shall occur except for those required by law or modifications made to provide an accessibility improvement upon approval of the building official or designee.
- (f) Change to a permitted use. Any such non-conforming use may change to a use that is permitted in the district in which such non-conforming use is located.
- (g) Destruction by fire or other peril. When any such non-conforming use is destroyed by fire or other peril it shall not be reconstructed except in conformance with the provisions of this chapter and as provided under Minnesota Statutes governing non-conformities, as amended from time to time.

#### §900.5 Non-conforming structures

The following standards shall apply to non-conforming structures, provided that such structure is not located in any Floodplain District:

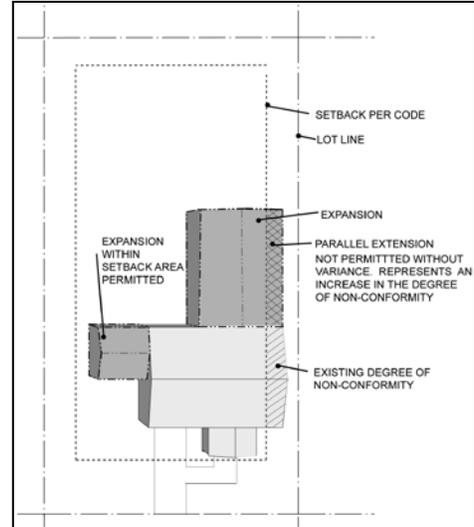
- (a) Alterations or expansions. Structural alterations or expansions of a non-conforming structure existing on the effective date of adoption of this article shall not increase the degree of non-conformity and shall be constructed in compliance with the regulations of the district in which it is located.



- (1) Alterations may be made to a non-conforming residential structure to improve the livability, provided such alteration does not increase the number of dwelling units beyond what is permitted in the district in which the structure is located.
  - (2) Expansions to a non-conforming structure may be made provided that portion of the structure that is being expanded occurs without violating the standards of this code.
  - (3) Expansions to a non-conforming structure, where such expansion may violate the standards of this code, may be permitted through the granting of an expansion permit. An expansion permit would be considered so long as the expansion occurs within the existing horizontal degree of non-conformity.
  - (4) Substantial alterations made on a voluntary basis that include removal of, or expansion of a structures foundation, would require the structure to be brought into consistency with the provisions of the Medicine Lake Zoning Code
- (b) Moving of a structure. When a non-conforming structure is moved on a lot for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located.
- (c) Destruction by fire or other peril. When a non-conforming structure is destroyed by fire or other peril it shall be reconstructed in conformity with the provisions of this chapter, except:
- (1) Non-conforming single-family residences in any residential district may be restored in the same footprint within one year, regardless of the extent of damage. Restoration shall be evidenced by obtaining a building permit within one year of the date of destruction of the

non-conforming structure. If the foundation of such structure is altered, the structure shall be rebuilt to conform to current standards.

- (2) As provided under Minnesota Statutes regulating non-conformities as amended from time to time.
- (d) Parallel extensions. A parallel extension of a non-conforming structure shall be considered a further encroachment resulting in an increase in the degree of non-conformity.
- (e) Accessibility improvement. Notwithstanding the above, any modification to an existing non-conforming structure to provide an accessibility improvement shall be permitted upon approval of the building official or designee of the City.



#### §900.6 Expansion Permit

- (a) Purpose. The purpose of this section is to provide for deviations from the literal provisions of this Chapter when its application would prevent reasonable expansion and to grant such expansion permits for non-conforming structures only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Chapter.
- (b) The City Council shall serve as the Board of Adjustment and Appeals.
- (c) Review Criteria. An expansion permit may be granted, but is not required, after the City Council has determined that the applicant has proven that:
  - (1) The proposed expansion meets the intent and purpose Comprehensive Plan.
  - (2) There are special conditions or circumstances which prevent the expansion from being constructed in a conforming manner.
  - (3) The expansion requested is the minimum necessary to accomplish the intended purpose of the applicant. The expansion will not intrude farther into the required setback beyond the distance of the existing structure.
  - (4) The function and aesthetics of the expansion are consistent with the existing structure and use.
  - (5) The expansion would not adversely affect or alter the essential character of the neighborhood.
  - (6) The resulting drainage pattern does not adversely impact adjacent properties.
  - (7) The expansion does not impair an adequate supply of light and air to adjacent property.

- (8) The expansion does not increase the danger of fire or endanger the public safety.
  - (9) The expansion does not increase noise levels affecting adjacent properties.
- (d) Procedures.
- (1) Requests for expansion permit, as provided within this chapter, shall be filed with the Planning Commission on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. Such application shall also be accompanied by ten (10) copies of detailed written and graphic material fully explaining the proposed change, development, or use and a list of property owners located abutting or immediately neighboring of the subject property obtained from and certified by Hennepin County or the City. The request for an expansion permit shall be placed on the agenda of the first possible Planning Commission meeting occurring fourteen (14) days after the date of submission of the application. The request shall be considered officially submitted when all the informational requirements are complied with.
  - (2) The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall be at least three (3) days prior to said hearing.
  - (3) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this chapter.
  - (4) The Planning Commission and City Council shall have the authority to request additional information from the applicant concerning physical or operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter. Failure of an applicant to supply all necessary supportive information may be grounds for denial of the request.
  - (5) The applicant or representative thereof shall appear before the Planning Commission to answer question concerning the proposed expansion permit.
  - (6) The Planning Commission shall make findings of fact and recommend approval or denial of the request. The Commission's recommendation shall be presented to the Council.
  - (7) Upon receiving the report and recommendation of the Planning Commission, the City Clerk shall place the report and recommendation on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
  - (8) The Council shall review the application and may at its option conduct a public hearing on the request.
  - (9) The Council shall make finding of fact and approve or deny a request for an expansion permit within sixty (60) days after receipt of the application as provided by Minnesota Statute Section 15.99.
  - (10) An expansion permit shall be by a majority vote of the Council.

- (11) All decisions by the Council involving an expansion permit shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Hennepin County District Court.
  - (12) Whenever an expansion permit has been considered and denied by the City Council, a similar application and proposal for an expansion permit or other land use application affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by a majority of the full City Council.
  - (13) If a request for an expansion permit receives approval of the City Council, the City Council may request the applicant to record such with the County Registrar of Titles. The applicant, immediately upon recording such, or as soon as reasonably possible, shall furnish the City proof of recording. No building permit for the property in question will be granted until such proof of recording is furnished to the City.
- (e) Lapse of Expansion Permit. For all expansion permits granted after the effective date of this ordinance, if within one (1) year after granting an expansion permit the expansion as allowed by the expansion permit shall not have been initiated or utilized, then such expansion permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the Council. Such extension shall be requested in writing and filed with the Planning Commission at least thirty (30) days before the expiration of the original expansion permit or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or use the permitted in the expansion permit or appeal. Such petition shall be presented to the Council for decision.
- (f) Performance Security.
- (1) Upon approval of an expansion permit, the City shall be provided, where deemed necessary by the Council, with an irrevocable letter of credit, surety bond, cash escrow, certificate of deposit payable to the City, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the expansion permit and City Chapter provisions.
  - (2) The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or Building Inspector's estimated costs of labor and materials for the proposed improvements or development.
  - (3) The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the expansion permit and City regulations has been issued by the Building Inspector.
    - a. Failure to comply with the conditions of the expansion permit or appeal and City regulations shall result in forfeiture of the security.
    - b. Whenever a performance guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the

permit. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

- (g) Certified Survey Required. A certified survey of the subject site in question shall be required to show present topography, boundary lines, and other significant features including structures, significant landscape features (such as trees with a diameter of more than twelve (12) inches). Survey to include features from the adjacent properties within twenty (20) feet of the subject property or a further distance as required to determine the line of sight setback, where it applies.

§900.7 Non-conforming lots of record and construction of new dwellings.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Code, a single-family dwelling and customary accessory structures may be erected on a single lot of record established prior to October 12, 1999, provided that such structure is not located in any Floodplain District. This provision shall apply even though such lot fails to meet the requirements for lot area or width, or both, that are applicable in the district. Yard setback dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which the lot is situated.

## **§1000 - GENERAL BUILDING AND PERFORMANCE REQUIREMENTS**

<a href="#">§1000.1</a>	<a href="#">Purpose</a>
<a href="#">§1000.2</a>	<a href="#">Dwelling Unit Restriction</a>
<a href="#">§1000.3</a>	<a href="#">Platted and Unplatted Property</a>
<a href="#">§1000.4</a>	<a href="#">Accessory Buildings, Uses and Equipment</a>
<a href="#">§1000.5</a>	<a href="#">Swimming Pools</a>
<a href="#">§1000.6</a>	<a href="#">Fences</a>
<a href="#">§1000.7</a>	<a href="#">Required Fencing, Screening, and Landscaping</a>
<a href="#">§1000.8</a>	<a href="#">Traffic Visibility</a>
<a href="#">§1000.9</a>	<a href="#">Drainage Plans</a>
<a href="#">§1000.10</a>	<a href="#">Glare</a>
<a href="#">§1000.11</a>	<a href="#">Smoke</a>
<a href="#">§1000.12</a>	<a href="#">Dust and Other Particulate Matter</a>
<a href="#">§1000.13</a>	<a href="#">Odors</a>
<a href="#">§1000.14</a>	<a href="#">Noise</a>
<a href="#">§1000.15</a>	<a href="#">Refuse</a>
<a href="#">§1000.16</a>	<a href="#">Outside Storage, Residential, Commercial and Industrial Uses</a>
<a href="#">§1000.17</a>	<a href="#">Sewage Disposal</a>
<a href="#">§1000.18</a>	<a href="#">Waste Material</a>
<a href="#">§1000.19</a>	<a href="#">Bulk Storage (Liquid)</a>
<a href="#">§1000.20</a>	<a href="#">Radiation Emission</a>
<a href="#">§1000.21</a>	<a href="#">Electrical Emission</a>

### §1000.1 Purpose.

The purpose of this section is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the City.

### §1000.2 Dwelling Unit Restriction.

- (a) No garage, tent, accessory building, recreational vehicle or travel trailer shall at any time be used as living quarters, temporarily or permanently.
- (b) Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling. Energy conserving designs in housing are not prohibited by this provision of this Chapter, provided that a conditional use permit is approved by the Council and the structure complies with standards imposed by the State and the Uniform Building Code.
- (c) Tents, play houses or similar structures may be used only for play or recreational purposes.
- (d) No accessory building or structure other than a fence or temporary construction office may be constructed prior to the time of construction of the principal building or structure.

### §1000.3 Platted and Unplatted Property.

- (a) Any person desiring to improve property shall submit to the Building Inspector a Certificate of Survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information which may be necessary to ensure conformance to City regulations.

- (b) All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City in conformity with existing streets and according to the system and standards employed by the City.
- (c) Except as provided in this Chapter, not more than one principal building shall be located on a lot. The words "principal building" shall be given their common, ordinary meaning as defined in §200 of this Chapter. In case of doubt or on any questions or interpretation, the decision of the Planning Commission shall be final, subject to the right of appeal.
- (d) No building, or improvement shall extend beyond the line of sight.

§1000.4 Accessory Buildings, Uses and Equipment.

- (e) Single family detached uses.

- (1) Setbacks.

- a. Front Yard: 35 feet
- b. Side Yard: 3 feet
- c. Rear Yard: 3 feet
- d. Lakeside: No accessory building shall be placed forward of the principal building lakeside.

- (2) Height.

- a. Garages: 16 feet
- b. Sheds and other accessory buildings: 12 feet

- (3) The total floor area of either an attached garage, a detached garage, an accessory building, or their combined area for a single family detached dwelling shall not exceed one thousand five hundred (1500) square feet of floor area and not exceed the ground coverage of the dwelling.
- (4) No building permit shall be issued for more than one (1) detached private garage for each single family dwelling, and such garage shall not exceed one-thousand (1000) square feet.
- (5) No accessory building shall occupy more than one hundred fifty (150) square feet except for a detached garage.
- (6) No building permit shall be issued for the construction of an accessory building when two (2) or more existing accessory buildings are located on the same lot, except by conditional use permit. A detached garage is considered an accessory building.
- (7) All accessory buildings shall require a building permit.

- (f) Building Type and Standards:

- (1) The same or similar quality exterior building material shall be used in the accessory building and in the principal building. All accessory buildings shall also be compatible with the

principal building on the lot. "Compatible" means that the exterior appearance of the accessory building is not different from the principal building from an aesthetic and architectural standpoint as to cause:

- a. A difference, to a degree, of incongruity as determined by the City Council; or,
  - b. A depreciation of neighborhood or adjacent property values.
- (2) Pole buildings or steel sheds are not permitted.
- (3) No accessory structure including detached garages shall be provided with plumbing fixtures.<sup>1</sup>

§1000.5 Swimming Pools.

- (a) Swimming pools shall be subject to the requirements of §1000.4 of this Chapter including lakeside setback provisions which require the pool to maintain the principal structure setbacks as determined.
- (b) Swimming Pool Protection.
  - (1) A permit shall be required for all swimming pools. Each application for a permit to construct or erect a swimming pool shall be accompanied by plans of sufficient detail to show:
    - a. The proposed location and its relationship to the other buildings and structures on the lot.
    - b. The surface area, depth and volume in gallons of the pool.
    - c. Fencing and other fixtures existing on the lot, including utility location and trees.
    - d. The location, size and types of equipment to be used in connection with the pool, including but not limited to filter unit, pump, fencing and the pool itself.
    - e. That the requirements contained in Item (2) below will be satisfied.
  - (2) All below ground pools for which a permit is required and granted shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure, or any combination thereof, of sufficient density as to be impenetrable. If fences are employed, they shall be at least four (4) feet in height. The bottoms of the fences shall not be more than four (4) inches from the ground. Fences shall be of a non-corrosive material and shall be constructed so as to be not easily climbable. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-

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<sup>1</sup> Section §1000.4 amended by Ordinance 91, September 12, 2005.

latching devices placed at a sufficient height so as to be inaccessible to all small children. All fence posts shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection.

- (c) Above ground pools are prohibited.
- (d) Hot tubs and spas are not considered pools.

§1000.6 Fences.

Fences shall be permitted in all yards subject to the following:

- (a) Permit. A building permit is not required.
- (b) Locations. All boundary line fences shall be located entirely upon the private property of the person constructing such fence. The Building Inspector may require the owner of the property upon which a fence now exists, or may require any applicant for a fence permit to establish the boundary lines of a person's property by a survey thereof to be made by a registered land surveyor. In the event of disputed boundary line, the fence shall be at least three feet from the midpoint of the disputed lines.
- (c) Construction and Maintenance. Every fence shall be constructed in a substantial, professional manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute nuisance, public or private. Any such fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the City Council shall commence proper proceedings for the abatement thereof.
- (d) Barbed wire fences and electric fences shall not be permitted.
- (e) Solid walls six (6) feet in height may be constructed and maintained only in the buildable area of a lot by a conditional use permit only.
- (f) On corner lots in all districts, no sight blocking fence or screen shall be permitted within the triangular area defined as beginning at the intersection of the projected right-of-way lines of two intersecting streets, thence thirty (30) feet from the point of beginning on the other right-of-way line, thence to the point of beginning.
- (g) Residential District Fences. All residential fences shall be placed within the property being fenced.
  - (1) Except in the case of a side yard on a corner lot which abuts a street, fences alongside property lines shall not be more than six (6) feet in height for the distance commencing from a point on such side property line located along the back (street) lot line and proceeding thence along such side property line to a point thereon which would be intersected by the front (lakeside) wall line of the existing principal structure on the lot.
  - (2) In order to protect the line of sight of neighbors, fences on the lake side of a house, shall not exceed 42 inches in height and shall be at least 75% open space for passage of air and light.

- (3) Fences along any rear property line which is also the rear property line of an abutting lot shall not exceed six (6) feet in height.
- (4) Except in the case of a side yard on a corner lot which abuts a street, fences along a rear property line which line constitutes the side lot line of an abutting lot shall not exceed six (6) feet in height.
- (5) The required specific screening provisions for residential district shall supersede, where applicable, the general provisions of this Subsection.
- (6) All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced.
- (7) All fences shall not obstruct natural drainage.
- (8) No fence or portion thereof may be within seventy-five (75) feet of the ordinary high water mark.
- (9) No plantings shall be used as fencing if it impedes the site line of adjacent properties of their view of the lake.

(h) Commercial District Fences.

- (1) All commercial fences shall be placed within the property being fenced. Fences extending across a required front yard or a require side yard which abuts a street on a corner lot shall be at least seventy-five (75) percent open for the passage of air and light and shall maintain the traffic visibility.
- (2) Business fences may be erected up to eight (8) feet in height. Fences in excess of eight (8) feet shall require a conditional use permit.
- (3) The screening provisions for commercial districts shall supersede, where applicable, the provisions of this Subsection.

- (i) Special Purpose Fences. Fences for special purposes and fences differing in construction, height or length may be permitted in any district in the City by issuance of a conditional use permit reviewed by the Planning Commission and approved by the Council. Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which the fence is intended. The City may stipulate the height, location, construction, materials and type of special fence thereby permitted.

§1000.7 Required Fencing, Screening, and Landscaping.

- (a) Fencing and Screening. Where any business use (i.e., structure, parking or storage) abuts property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property.
- (1) A green belt planting strip shall consist of grass, plants shrubs, or trees, and shall be maintained in a "neat" appearance. This planting strip shall be designed to provide complete visual screening to a minimum height of six (6) feet. Earth mounding or berms may be used

but shall not be used to achieve more than three (3) feet of the required screen. The planting plan shall require the approval of the Council.

- (2) A required screening fence shall be constructed of masonry brick, wood or metal. Such fence shall provide a solid screening effect six (6) feet in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the City Council. Fences in excess of six (6) feet in height shall require approval of the City Council.
- (b) Landscaping; General Residential. The lot area remaining after providing for off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be landscaped using ornamental grass, shrubs, trees or other acceptable vegetation or treatment generally used in landscaping within one (1) year following the date of building occupancy. Fences or trees placed upon utility and/or city easements are subject to removal if required for the maintenance or improvement of the utility. Permits are required from the city council for such construction or planting: such requests are to be reviewed by the Planning Commission. Trees on utility easements containing overhead wires shall not exceed twenty (20) feet in height (The planting of large trees is not recommended under overhead wires).<sup>1</sup>
- (1) Spacing and Design.
    - a. Where plant materials are planted in two (2) or more rows, plantings shall be staggered in rows unless otherwise approved.
    - b. All areas within the property lines (or beyond, if site grading extends beyond) shall receive landscape treatment or surfacing. All exterior areas not paved or designated as roads, parking or storage, must be planted into ornamental vegetation (lawns, ground covers or shrubs) and shall not be made impervious unless otherwise approved by the City Council.
  - (2) Existing Trees. With respect to existing trees in new developments, all trees on the site are to be saved which do not have to be removed for street, buildings, utilities, drainage or active recreational purposes. Trees over six (6) inches in diameter that are to remain, are to be marked with a red band and to be protected with snow fences or other suitable enclosure, prior to any site grading or excavation. The City may further require that the Applicant retain a professional forester to prepare a forest inventory and management plan for the development, in order to control and abate any existing or potential shade tree disease.
  - (3) Mechanical Equipment. All mechanical equipment such as air conditioning units, etc., erected on the roof of any structure, shall be screened so as not to be visible.

#### §1000.8 Traffic Visibility.

- (a) Fences, Walls and Hedge. No fence, wall, plantings or hedge shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet

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<sup>1</sup> Section §1000.7 amended by Ordinance 92, March 6, 2006

and eight (8) feet where it will interfere with traffic or pedestrian visibility from a driveway or alley to a public way.

§1000.9 Drainage Plans.

- (a) No land shall be developed and no use shall be allowed that results in water runoff causing flooding, erosion, or deposit of minerals on adjacent properties. Such runoff shall be properly channeled into a storm drain, water course, ponding area, or other public facility subject to the review and approval of the City Council and in accordance with storm drainage plans as may be established by the City.
- (b) In the case of all residential subdivisions, business developments, the drainage plans including necessary spot elevations shall be submitted to the City Planning Commission for its review and the final drainage plan shall be subject to its written approval. In the case of such uses, no modifications in grade and drainage flow through fill, erection of retaining walls or other such actions shall be permitted until such plans have been reviewed and have received written approval from the City.

§1000.10 Glare.

Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the center line of said street. Any light or combination of lights which cast light on residential property shall not exceed four (4) foot-candles (meter reading) as measured from said property.

§1000.11 Smoke.

The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as amended.

§1000.12 Dust and Other Particulate Matter.

The emission of dust fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as amended.

§1000.13 Odors.

The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control standards, Minnesota Regulation APC 1-15, as amended.

§1000.14 Noise.

Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Control Standards, Minnesota Regulations NPC, as amended.

§1000.15 Refuse.

(a) Removal.

- (1) Passenger automobiles and trucks not currently licensed by the State, or which are, because of mechanical deficiency, incapable of movement under their own power, parked or stored outside for a period in excess of thirty (30) days, and all materials stored outside in violation of City regulations are considered refuse or junk and shall be disposed of.
- (2) Any accumulation of refuse on any premises not stored in containers which comply with City regulations, or any accumulation of refuse on any premises which has remained thereon for more than one week is hereby declared to be a nuisance and may be abated by order of the Health Officer, as provided by Minnesota Statutes, §145.22 and 145.23 as may be amended, and the cost of abatement may be assessed on the property where the nuisance was found, as provided by law.
- (3) Waste resulting from the handling, storage, sale preparation, cooking and serving of foods with insufficient liquid content to be free flowing is called garbage. The storage and removal of this refuse must meet the requirements of the Medicine Lake City regulations herein.
- (4) Container requirements.
  - a. Garbage Containers. Every household or occupant of any dwelling house and every operator of any boarding house, restaurant, or any other place of business having garbage to dispose of, who does not otherwise provide for the disposal of such garbage in a sanitary manner shall provide him/herself with one or more metal or plastic cans sufficient to receive all garbage which may accumulate between the times of collection. Each use in a single family detached dwelling shall be provided with a bail or handles and tight fitting cover. All garbage accumulating between times of collection shall be placed in cans after having first been drained of surplus water and wrapped in paper or plastic in a manner sufficient to prevent leakage before it is placed in cans. All dumpsters and trash handling equipment shall be kept in a good state of repair with tight-fitting lids to prevent spilling of debris.

§1000.16 Outside Storage, Residential, Commercial and Industrial Uses.

- (a) All outside storage of materials and equipment for residential uses shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:
  - (1) Clothes lines, pole and wire.
  - (2) Not more than a total of four (4) of any combination of the following:
    - a. RV's.
    - b. Camper trailers.
    - c. Utility/vehicle trailers (incl. Snowmobile, jet ski, atv, and pontoon).
    - d. Trailers less than twenty-eight (28) feet.

- e. Cars.
  - f. Boats greater than sixteen (16) feet, not including canoes, kayaks, and paddleboats.
  - g. Sea planes.
- (3) Construction and landscaping material currently being used on the premises.
  - (4) Off-street parking of currently registered and operable passenger vehicles and trucks not to exceed a gross weight of twelve thousand (12,000) pounds.
  - (5) Lawn furniture or furniture used and constructed explicitly for outdoor use.
  - (6) Exterior storage of firewood for the purpose of consumption only by the person or persons on whose property it is stored.<sup>1</sup>
- (b) Except as allowed by district use provisions, outside storage of equipment, materials and inventory as a principal or accessory use for commercial uses shall require a conditional use permit subject to the provisions of §400 of this Chapter. In addition, all non-residential outside storage shall conform to the following conditions:
- (1) The storage area is totally fenced, fully screened and landscaped according to a plan approved by the Planning Commission.
  - (2) If abutting a Residential District or use, screening and landscaping is provided according to a plan approved by the Planning Commission.
  - (3) The storage area is grassed or hard surfaced to control dust. Should a grass surface prove to be unmaintainable, the City shall require that a hard surface be installed within three (3) months of formal written notice to the property owner.
  - (4) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or for neighboring residences and shall be in compliance with Subdivision 1000.10 of this Section.
  - (5) The storage area does not encroach upon required parking space, required loading space, or snow storage area as required by this Chapter.
  - (6) A site plan documenting the location and grading of the storage operation shall be submitted and shall be subject to the approval of the City Building Inspector.

§1000.17 Sewage Disposal.

All on-site sewage disposal systems shall be connected to the public sanitary system.

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<sup>1</sup> Section §1000.16 amended by Ordinance 92, March 6, 2006.

§1000.18 Waste Material.

Waste material resulting from or used in industrial or commercial manufacturing, fabricating, servicing, processing or trimming shall not be washed into the public storm sewer system nor the sanitary sewer system or any public water body, but shall be disposed of in a manner approved by the Minnesota State Fire Marshall, the Pollution Control Agency, and the Department of Natural Resources.

§1000.19 Bulk Storage (Liquid).

All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with requirements of the Minnesota State Fire Marshall and Minnesota Department of Agriculture Offices and have documents from those offices stating the use is in compliance.

§1000.20 Radiation Emission.

All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.

§1000.21 Electrical Emission.

All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.

## **§1100 - GENERAL YARD, LOT AREA AND BUILDING REQUIREMENTS**

<a href="#">§1100.1</a>	<a href="#">Purpose</a>
<a href="#">§1100.2</a>	<a href="#">Usable Open Space</a>
<a href="#">§1100.3</a>	<a href="#">Height</a>
<a href="#">§1100.4</a>	<a href="#">Building Type and Construction</a>
<a href="#">§1100.5</a>	<a href="#">Yards</a>
<a href="#">§1100.6</a>	<a href="#">Minimum Floor Area Per Dwelling Unit</a>
<a href="#">§1100.7</a>	<a href="#">Minimum Floor Area; Commercial Structures</a>
<a href="#">§1100.8</a>	<a href="#">Minimum Lot Area Per Unit</a>
<a href="#">§1100.9</a>	<a href="#">Two Family, Townhouse, Multiple Family Uses</a>
<a href="#">§1100.10</a>	<a href="#">Single Family Dwellings</a>

### §1100.1 Purpose.

This section identifies yard, lot area, building size, building type and height requirements in each zoning district.

### §1100.2 Usable Open Space.

Each multiple family dwelling site shall contain at least five hundred (500) square feet of usable open space as defined in §200 of this Chapter for each dwelling unit contained thereof.

### §1100.3 Height.

- (a) Building heights in excess of those standards contained in the district provisions may be allowed through a conditional use permit provided that:
  - (1) The site is capable of accommodating the increased density of use.
  - (2) The increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
  - (3) Public utilities and services are adequate.
  - (4) The provisions of §400.2.(e) of this Chapter are considered and satisfactorily met.
- (b) No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than twenty-five (25) percent of the area of such roof nor exceed ten (10) feet unless otherwise noted.

### §1100.4 Building Type and Construction.

- (a) No galvanized or unfinished steel, galvanized or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as coated steel shall be permitted in any zoning district.
- (b) Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety, and general welfare.

- (c) Exterior building finishes shall consist of materials comparable in grade and quality to the following:
- (1) Brick.
  - (2) Natural stone.
  - (3) Decorative concrete block.
  - (4) Wood, provided the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood or cypress.
  - (5) Fiberglass and aluminum (non-structural, non-load bearing) provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.
  - (6) Stucco.
  - (7) Vinyl, aluminum or steel siding.

§1100.5 Yards.

No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Chapter, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.

- (a) The following shall not be considered as encroachments on yard setback requirements:
- (1) Awnings, balconies, chimneys, flues, leaders, sills pilasters, lintels, ornamental features, cornices, buttresses, eaves, gutters, and the like provided they do not project more than two (2) feet into the yard.
  - (2) Walks or steps for negotiating ground slopes, retaining walls, terraces, steps, decks, stoops, hedges and natural growth or similar features provided they do not extend above the height of the ground floor level of the principal structure or four (4) feet into the front yard or to a distance less than four (4) feet from any side lot line. Decks located within lakeside yards are allowed up to 50 feet from the OHW. Buildings that are within 50 feet from the OHW are permitted to have a deck extending no more than 12 feet lakeside from the most outwardly wall. Existing decks not in conformance with the provisions of this section are exempt from the provisions of this section and Section 900.
  - (3) Recreational, laundry drying equipment, arbors and trellises, detached outdoor living rooms, detached deck structures, gazebos, boat enclosures and air conditioning or heating equipment, provided they are at a distance of seventy five (75) feet from the ordinary high water mark.
  - (4) Structures used ornamentally, for gardening, or for private recreation purposes, and structures for essential services, all accessory to and customarily incidental to the principal use, are permitted in yards. Solar energy systems not included in the floor area of the

building are permitted in side yards, provided that a side yard strip three (3) feet in width adjoining the side line of the lot shall be unobstructed by any structure or feature, except a fence or retaining wall.

The building line shall not extend beyond the line of sight.<sup>1</sup>

§1100.6 Minimum Floor Area per Dwelling Unit.

- (a) Single Family Dwelling Units: 840 square feet per dwelling.
- (b) Multiple Dwelling Units. Living units classified as multiple dwellings, including double bungalows and townhouses, shall have the following minimum floor areas per unit:
  - (1) One Bedroom Unit: 1,000 square feet.
  - (2) Two or More Bedroom Unit: An additional 100 square feet for each additional bedroom
- (c) Double Bungalows and Townhouses. Except as otherwise specified in the zoning district provisions or allowed as a conditional use permit, double bungalows, and townhouses, as classified below, shall have the minimum floor area per one bedroom unit:
  - (1) Double Bungalow: 1,000 square feet first floor above grade plus 100 additional square feet for each additional bedroom.
  - (2) Townhouse (per unit individual or entry structures): 1,000 square feet first floor above grade plus 100 additional square feet for each additional bedroom.<sup>2</sup>

§1100.7 Minimum Floor Area; Commercial Structures.

Commercial Buildings (principal structure) which are to be less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit as provided for in §400 of this Chapter.<sup>3</sup>

§1100.8 Minimum Lot Area Per Unit.

The lot area per unit requirement for two family, townhouses, apartments and planned unit developments shall be calculated on the basis of the total area in the project and as controlled by an individual or joint ownership according to the following:

- (a) One Family: As specified in zoning district provision (§3100).
- (b) Two Family: As specified in zoning district provisions (§3100 and §3200).

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<sup>1</sup> Section §1100.5 amended by Ordinance 92, March 6, 2006

<sup>2</sup> Section §1100.6 amended by Ordinance 92, March 6, 2006.

<sup>3</sup> Section §1100.7 amended by Ordinance 92, March 6, 2006.

- (c) Townhouse: 10,000 square feet similar multiple unit individual entry structure.
- (d) Multiple Family: 7,500 square feet or as specified in zoning district provisions.

§1100.9 Two Family, Townhouse, Multiple Family Uses.

- (a) No single townhouse structure shall contain more than two (2) dwelling units.
- (b) Minimum unit lot frontage for townhouses shall not be less than forty (40) feet.
- (c) Subdivision of Two Family or Townhouse Lots. The subdivision of base lots containing two family dwellings, or townhouses to permit individual private ownership of a single dwelling within such a structure is acceptable upon the approval by the Council. Approval of a subdivision request is contingent on the following requirements:
  - (1) Two family and townhouses, intended for owner occupancy shall be subdivided on an individual lot basis according to the provisions of §3500 (Planned Unit Development) of this Chapter.
  - (2) Prior to a two family double bungalow dwelling, or townhouse subdivision, the base lot must meet all the requirements of the zoning district.
  - (3) There shall be no more than one principal structure on base lot in all residential districts. The principal structure on a unit lot created in a two family, or townhouse subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lot.
  - (4) Permitted accessory uses as defined by the zoning district are acceptable provided they meet all the zoning requirements.
  - (5) A property maintenance agreement must be arranged by the applicant and submitted to the City Attorney for his review and subject to approval. The agreement shall ensure the maintenance and upkeep of the structure and the lots to meet minimum City standards. The agreement is to be filed with the Hennepin County Recorder's office as a deed restriction against the title of each unit lot.
  - (6) Separate public utility service shall be provided to each subdivided unit and shall be subject to the review and approval of the City Engineer.
  - (7) The subdivision is to be platted and recorded in conformance to requirements of the Subdivision Regulations of the City.
- (d) Subdivision of Multiple Family, Two Family Duplex and Other Such Units.
  - (1) The subdivision is to be platted and recorded in conformance with the requirements of the Subdivision Regulations of the City as applicable.
  - (2) The subdivision shall comply with applicable cooperative or condominium laws of the State of Minnesota.

§1100.10 Single Family Dwellings.

All single family detached homes shall:

- (a) Be constructed upon a continuous perimeter foundation that meets the requirements of the State Uniform Building Code.
- (b) Dwellings shall meet the minimum floor area requirements as set out in this Chapter.
- (c) Have a composition, slate, copper, shingled or tiled roof.
- (d) Receive a building permit. The application for a building permit in addition to other information required shall indicate the height, size, design and the appearance of all elevations of the proposed building and a description of the construction materials proposed to be used. The exterior architectural design of a proposed dwelling may not be significantly different from the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor significantly different from the character of the surrounding neighborhood as to cause a significant depreciation in the property values of the neighborhood or adversely affect the public health, safety or general welfare.
- (e) Meet the requirements of the State Uniform Building Code or the applicable Manufactured Housing Code.<sup>1</sup>

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<sup>1</sup> Section §1100.10 amended by Ordinance 9, March 6, 2006.

## **§1200 - OFF-STREET PARKING REQUIREMENTS**

<a href="#">§1200.1</a>	<a href="#">Purpose</a>
<a href="#">§1200.2</a>	<a href="#">Application of Off-Street Parking Regulations</a>
<a href="#">§1200.3</a>	<a href="#">Site Plan Drawing Necessary</a>
<a href="#">§1200.4</a>	<a href="#">General Provision</a>
<a href="#">§1200.5</a>	<a href="#">Maintenance</a>
<a href="#">§1200.6</a>	<a href="#">Location</a>
<a href="#">§1200.7</a>	<a href="#">Use of Accessory Off-Street Parking Area</a>
<a href="#">§1200.8</a>	<a href="#">Handicapped Parking Spaces</a>
<a href="#">§1200.9</a>	<a href="#">Number of Spaces Required</a>
<a href="#">§1200.10</a>	<a href="#">Off-Site Parking</a>

### §1200.1 Purpose.

The regulation of off-street parking spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

### §1200.2 Application of Off-Street Parking Regulations.

The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the City.

### §1200.3 Site Plan Drawing Necessary.

All applications for a building or an occupancy permit in all zoning districts shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of off-street parking and loading spaces in compliance with the requirements set forth in this Section. All site plans for single family homes must provide for location of at least a two-stall garage, whether or not construction is intended.

### §1200.4 General Provision.

- (a) Floor Area. The term "floor area" as used for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structures or use times the number of floors, minus ten (10) percent, except as may hereinafter be provided or modified.
- (b) Reduction of Existing Off-Street Parking Space or Lot Area. Off-street parking spaces and loading spaces or lot area existing upon the effective date of this section shall not be reduced in number or size unless said number or size exceeds the requirements set forth herein for a similar new use.
- (c) Non-Conforming Structures. Should a non-conforming structure or use be damaged or destroyed by fire, it may be re-established if elsewhere permitted in these zoning regulations, except that in doing so, any off-street parking or loading space which existed before shall be retained.
- (d) Change of Use or Occupancy of Land. No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall be made, nor shall any sale of land, division

or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by these zoning regulations.

- (e) Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by these zoning regulations.
- (f) Residential Area Parking. Off-street parking facilities accessory to residential use shall be utilized solely for the parking of licensed and operable passenger automobiles; no more than one truck not to exceed gross capacity of 12,000 pounds; and recreational vehicles and equipment. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or equipment or for the parking of automobiles belonging to the employees, owners, tenants or customers of business or manufacturing establishments.
  - (1) When determining the number of off-street parking spaces results in a fraction, each fraction shall constitute another space.
  - (2) Should a structure contain two (2) or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required.
- (g) Stall, Aisle, and Driveway Design.
  - (1) Parking Space Size. Except for handicapped parking spaces each parking space shall not be less than eight and one-half (8 1/2) feet wide and twenty (20) feet in length exclusive of access aisles, and each space shall be served adequately by access aisles.
  - (2) All off-street parking facilities shall be designed and constructed with appropriate means of vehicular access to a public street.
  - (3) Within structures, the off-street parking requirements may be furnished by providing a space so designed within the principal building or one structure attached thereto; however unless provisions are made, no building permit shall be issued to convert said parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Chapter.
  - (4) Except in the case of single, two family, townhouse and quadraminium dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single, two family, townhouse and quadraminium dwellings, parking area designs that require backing into the public street are prohibited.
  - (5) Surfacing of all areas intended to be utilized for parking space and driveways shall be surfaced with bituminous, crushed rock or concrete to control dust and drainage. Driveways and stalls of five or more vehicles shall be surfaced with asphalt, crushed rock or concrete. Runoff from gravel driveways in the forms of silt or sand must be kept from flowing down city streets or into waterways. Plans for surfacing and drainage of driveways and stalls for five (5) or more vehicle shall be submitted to the Planning Commission for its review and the final drainage plan shall be subject to its written approval.
  - (6) Striping for all parking stalls, except for single, two family, townhouse and quadraminiums, shall be marked with white or yellow painted lines not less than four (4) inches wide.

- (7) Lighting used to illuminate an off-street parking area shall be hooded and so arranged as to reflect the light away from adjoining property, abutting residential uses and public rights-of-way and be in compliance with §1000.10 of this Chapter entitled "Glare".
- (8) Required screening for all open, non-residential off-street parking areas of five (5) or more spaces shall be screened and landscaped from abutting or surrounding residential districts in compliance with §1000.7 of this Chapter.
- (9) Adequate space for snow storage shall be provided on the site so as not to reduce the required minimum number of parking spaces.<sup>1</sup>

§1200.5 Maintenance.

It shall be the joint and several responsibility of the lessee and owner of the principal use, uses or buildings to maintain in a neat and adequate manner, the parking space, accessways, striping, landscaping and required screening.

§1200.6 Location.

All accessory off-street parking facilities as required by this Chapter shall be located and restricted as follows:

- (a) Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of Subsection 1200.10 of this Section.
- (b) Except for single, two family, townhouse and quadraminium dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited.
- (c) There shall be no exterior storage, long term (30 or more days) off-street parking of vehicles, or parking of recreational vehicles or travel trailers within fifteen (15) feet of any street surface.
- (d) The boulevard portion of the street right-of-way shall not be used for parking without permit.
- (e) Required setback area for accessory off-street parking shall not be provided in required front yards or in required side yards in the case of corner lots.
- (f) Required off-street parking areas for one and two family uses shall be on the street facing yard, side yards other than a required side yard, garage, car port, and upon a well defined driveway. A parking space in excess of that specifically required by this Chapter may be located, in an area not to exceed twelve (12) feet in width abutting the driveway on one side The parking area abutting the driveway shall be surfaced with either concrete, asphalt or in cases of existing gravel driveways, gravel may be used for such additional parking provided a two-thirds (2/3) wash curb [minimum extension eighteen (18) inches] or comparable structure is employed to control run-off.

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<sup>1</sup> Section §1200.4 amended by Ordinance 92, March 6, 2006.

§1200.7 Use of Accessory Off-Street Parking Area.

Accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, or storage of inoperable vehicles.<sup>1</sup>

§1200.8 Handicapped Parking Spaces.

Except for single family, two family, townhouse and quadraminium developments, at least one handicapped parking space shall be provided for each development. An additional space shall be provided for each increment of fifty (50) spaces in excess of the initial fifty (50) spaces. Handicapped spaces shall be at minimum twelve (12) feet by twenty (20) feet, shall be located so as to provide convenient, priority access to the principal use and shall conform to Minnesota Statutes, §168.021, as may be amended.

§1200.9 Number of Spaces Required.

The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth:

- (a) Single Family, Two Family, Townhouse and Quadraminium Units: Two (2) enclosed spaces per unit. Upon application, the City Council may allow the construction of the garage for a single family dwelling to be delayed for a period not to exceed nine (9) months from date of occupancy.
- (b) Boarding House: A minimum two (2) spaces plus at least one (1) parking space for each person for whom accommodations are provided for sleeping.
- (c) Multiple Family Dwellings: At least two (2) rent-free spaces per unit, one of which must be enclosed.
- (d) Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, On-Sale Nightclub: At least one space for each forty (40) square feet of gross floor area of dining and bar area and one space for each eighty (80) square feet of kitchen area.
- (e) Other Uses: Other uses not specifically mentioned herein or unique cases shall be determined on an individual basis by the Council. Factors to be considered in such determination shall include (without limitation) size of buildings, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.

§1200.10 Off-Site Parking.

Off-site parking is subject to conditions as may be deemed necessary by the City Council to protect the welfare and character of the nearby land uses.

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<sup>1</sup> Section §1200.7 amended by Ordinance 92, March 6, 2006.

**Section 1300**

[Reserved]

## **§1400 - BUILDING RELOCATION**

[§1400.1 Review Process](#)

[§1400.2 Performance Standards](#)

[§1400.3 Performance Security](#)

### **§1400.1 Review Process.**

The razing or relocation of any building or structure on a lot or onto another lot within the City shall be subject to the requirements, regulations and conditions of §900 of this Chapter as well as §1400.2 (below) of this Chapter.

### **§1400.2 Performance Standards.**

- (a) Upon relocation, the building shall comply with the applicable requirements of the State Uniform Building Code.
- (b) The proposed relocated building shall comply with the character of the neighborhood in which it is being relocated as determined by the City Council.
- (c) The relocated use will not result in a depreciation of neighborhood or adjacent property values.
- (d) The relocated structure shall be similar to the market valuation of adjacent principal structures as determined by the City or County Assessor.
- (e) The relocated structure shall be ready for occupancy within six (6) months from the date of location on the site.

### **§1400.3 Performance Security.**

A performance security shall be provided to the City as specified in §400.6 of this Chapter.

## **§1500 - SITE/BUILDING PLAN REVIEW**

<a href="#">§1500.1</a>	<a href="#">Purpose</a>
<a href="#">§1500.2</a>	<a href="#">Plan Required</a>
<a href="#">§1500.3</a>	<a href="#">Council Action</a>
<a href="#">§1500.4</a>	<a href="#">Plan Agreements</a>
<a href="#">§1500.5</a>	<a href="#">Enforcement</a>

### §1500.1 Purpose.

The purpose of this section is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through his officially submitted plan documents.

### §1500.2 Plan Required.

In addition to other plan requirements outlined in this Chapter, site and construction plans will be required and shall be submitted to and approved by the Building Inspector prior to the issuance of any building permit.

### §1500.3 Council Action.

Except in the case of minor projects, additions or alterations as determined by the Building Inspector, all building and site plans for multiple family or commercial construction shall be subject to review by the Planning Commission and approval by the Council.

### §1500.4 Plan Agreements.

All site and construction plans officially submitted to the City shall be treated as a formal agreement between the building contractor and the City. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard or specifications without prior submission of a plan modification request to the Building Inspector for his review and approval.

### §1500.5 Enforcement.

The Building Inspector shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this section has been officially documented by the Building Inspector.

## **§1600 - HOME OCCUPATIONS**

[§1600.1 Purpose](#)

[§1600.2 Application](#)

[§1600.3 Requirement: General Provisions](#)

[§1600.4 Inspection](#)

### §1600.1 Purpose.

The purpose of this section is to prevent unfair competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood.

### §1600.2 Application.

Subject to the nonconforming use provisions of this Chapter, all occupations conducted in the home shall comply with the provisions of this Section.

### §1600.3 Requirement: General Provisions.

All home occupations shall comply with the following general provisions:

#### (a) General Provisions.

- (1) No home occupation shall produce light glare, noise, odor, fumes or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
- (2) No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- (3) Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall not result in an incompatibility or disturbance to the surrounding residential uses.
- (4) No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
- (5) There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.
- (6) The home occupation shall meet all applicable fire and building codes.
- (7) There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling.
- (8) All home occupations shall comply with all City of Medicine Lake regulations.
- (9) Home occupations shall not create a parking demand for on street parking nor in excess of that which can be accommodated in an existing driveway, where no vehicle is parking closer

than fifteen (15) feet from the curb line or edge of paved surface. No on-street parking is allowed except by permits.

(b) Requirements; Permitted Home Occupation. Council will determine appropriate home occupation usage subject to the following:

- (1) No person other than those who customarily reside on the premises shall be employed.
- (2) All permitted home occupations shall be conducted entirely within the principal building and may not be conducted in an accessory building.
- (3) Permitted home occupations include and are limited to: art studio, dressmaking, secretarial services, family day care, foster care, professional offices and teaching with musical, dancing and other instructions.
- (4) The home occupation shall not involve any of the repair service or manufacturing, which requires equipment other than found in a home or over-the-counter sale of merchandise, produced off the premises.

§1600.4 Inspection.

The City hereby reserves the right to inspect the premises in which the occupation is being conducted to ensure compliance with and the provisions of this section or any conditions additionally imposed whose operations disrupt the nature/character of residential neighborhoods. The council shall make such determinations at their own discretion.

## **§1700 – STORMWATER POLLUTION AND EROSION CONTROL<sup>1</sup>**

[1700.1 Purpose](#)

[1700.2 Scope](#)

[1700.3 Prohibition of Illicit Discharges](#)

[1700.4 Notification of Pollutants Discharged into Storm Water](#)

[1700.5 Storm Water Pollution Control Plan](#)

[1700.6 Review](#)

[1700.7 Modification of Plan](#)

[1700.8 Financial Securities](#)

[1700.9 Notification of Failure of Storm Water Plan and/or NPDES Permit](#)

[1700.10 Variance](#)

[1700.11 Enforcement](#)

[1700.12 Right of Entry and Inspection](#)

[1700.13 Abrogation and Greater Restrictions](#)

[1700.14 Severability](#)

### **1700.1 Purpose.**

The purpose of this ordinance is to control or prevent storm water pollution along with soil erosion and sedimentation within the City, including non-storm water discharges/connections to the municipal storm water system to the maximum extent practicable as required by federal and state law. It establishes standards and specifications for storm water conservation practices, planning activities and discharge/connection prohibitions, which minimize storm water pollution, soil erosion and sedimentation. This ordinance also establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

### **1700.2 Scope.**

Except where a variance is granted, any person, group, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity that involves more than 200 cubic yards of cut or fill or disturbs more than 10,000 square feet on any property within the City shall apply to the City for the approval of a Storm Water Pollution Control Plan (SWPCP). No land shall be disturbed until a SWPCP is approved by the City and conforms to the standards set forth herein. This ordinance also applies to all water discharged/connected to the storm water system that is generated on any developed and undeveloped lands unless explicitly exempted by the City as described in Section 1700.3.

### **1700.3 Prohibition of Illicit Discharges.**

**Prohibition of illicit discharges.** No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or

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<sup>1</sup> Section §1700 added in its entirety by Ordinance 108, January 9, 2012.

waters containing any pollutants, other than storm water. The commencement, conduct or continuance of any illicit discharge to the storm water system is prohibited except as described as follows:

- (a) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
- (b) Discharges or flow from firefighting, and other discharges specified in writing by the City as being necessary to protect public health and safety.
- (c) Discharges associated with dye testing; however this activity requires a verbal notification to the City prior to the time of the test.

The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm water system.

#### 1700.4 Notification of Pollutants Discharged into Storm Water.

Notwithstanding other requirements of the law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drainage system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Failure to provide notification of a release as provided above is a violation of this ordinance.

#### 1700.5 Storm Water Pollution Control Plan.

Every applicant for a building permit or permit to allow a land disturbance activity must submit a storm water pollution control plan to the City. No building permit or permit to allow a land disturbance activity shall be issued until the City approves this plan. At a minimum these pollution control practices must conform to those in the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas."

- (a) General Policy on Storm Water Runoff Rates: Release rates from storm water treatment basins shall not increase over the predevelopment twenty-four (24) hour two (2) year, ten (10) year and one hundred (100) year peak storm discharge rates, based on the last ten (10) years of how that land

was used. Also accelerated channel erosion must not occur as a result of the proposed activity. For discharges to wetlands, volume control is generally more important than discharge rate control.

- (b) The Storm Water Pollution Control Plan and the Grading Plan: The storm water pollution control plan's mechanisms, the limit of disturbed surface, and the location of buffer areas shall be marked on the approved grading plan, and identified with flags, stakes, signs etc. on the development site before work begins.
- (c) Inspections of the Storm Water Pollution Control Plan's Mechanisms: Inspections shall be done weekly by either the City, developer or the developer's designated representative, and within twenty-four (24) hours after every storm or snow melt event large enough to result in runoff from the site (approximately 0.25 inches or more in twenty-four (24) hours). At a minimum, these inspections shall be done during active construction.
- (d) Minimum Requirements of the Storm Water Pollution Control Plan. The plan shall contain or consider:
  - (1) The name and address of the applicant and the location of the activity.
  - (2) Project description including the nature and purpose of the land disturbance activity and the amount of grading, utilities, and building construction involved.
  - (3) Phasing of construction including time frames and schedules for the project's various aspects.
  - (4) A map of the existing site conditions including existing topography, property information, steep and very steep slopes, existing drainage systems/patterns, type of soils, waterways, wetlands, vegetative cover, one hundred (100) year flood plain boundaries, locations of existing and future buffer strips.
  - (5) A site plan that includes the location of the proposed land disturbance activity, stockpile locations, erosion and sediment control plan, construction schedule, and the plan for the maintenance and inspections of the storm water pollution control measures.
  - (6) A site plan showing adjacent areas that might be affected by the land disturbance activity including neighboring streams, lakes, wetlands, flood plain, residential areas, roads, etc.
  - (7) Designate the site's areas that have the potential for serious erosion problems.
  - (8) Erosion and sediment control mechanisms that will be used to control erosion and sedimentation on the site, both during and after the construction process.
  - (9) Describe how the site will be stabilized after construction is completed, including specifications, time frames or schedules.
  - (10) Calculations: any that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones and other applicable practices.
- (e) General Storm Water Pollution Control Plan Criteria. The plan shall address the following:
  - (1) Stabilizing all exposed soils and soil stockpiles and the related time frame or schedule.

- (2) Establishing permanent vegetation and the related time frame or schedule.
  - (3) Preventing sediment damage to adjacent properties and sensitive natural areas such as streams, wetlands, lakes and natural vegetation.
  - (4) Scheduling for erosion and sediment control practices.
  - (5) Where permanent and temporary sedimentation basins will be located.
  - (6) Engineering the construction and stabilization of steep and very steep slopes.
  - (7) Measures for controlling the quality and quantity of storm water leaving a site.
  - (8) Stabilizing all waterways and outlets.
  - (9) Protecting storm sewers from the entrance of sediment.
  - (10) What precautions will be taken to contain sediment, when working in or crossing water bodies.
  - (11) Restabilizing utility construction areas as soon as possible.
  - (12) Protecting paved roads from sediment and mud brought in from access routes.
  - (13) The eventual discontinuation of temporary erosion and sediment control mechanisms.
  - (14) How the temporary and permanent erosion and sediment controls will be maintained.
  - (15) The disposal of collected sediment and floating debris.
- (f) Minimum Storm Water Pollution Control Mechanisms and Related Inspections: These minimum control mechanisms are required where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control mechanisms are needed, they will be specified at the discretion of the City. The City will determine what actions are necessary.
- (1) All grading plans and building site surveys must be reviewed by the City for the effectiveness of erosion and sediment control mechanisms in the context of site topography and drainage.
  - (2) Erosion and sediment control mechanisms must be properly installed by the developer before construction activity begins. Such mechanisms may be adjusted during dry weather to accommodate short-term activities, such as those allowing the passage of very large vehicles. As soon as this activity is finished or before the next runoff event, the erosion and sediment control mechanisms must be returned to the configuration specified by the City. A sediment control inspection must then be scheduled, and passed before a footing inspection will be done.
  - (3) Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.

- (4) Easements. If a storm water pollution control plan involves directing some or all of the site's runoff, the applicant or the applicant's designated representative shall obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of such water.
- (5) The scheduling of the site's activities to lessen their impact on erosion and sediment creation, so as to minimize the amount of exposed soil.
- (6) Control runoff as follows (Either a and b or a and c):
  - a. Unless precluded by moderate or heavy snow cover (Mulching can still occur if a light snow cover is present.), stabilize all exposed inactive disturbed soil areas within one hundred (100) feet of any water of the state, or within one hundred (100) feet of any conveyance (curb, gutter, storm sewer inlet, drainage ditch, etc.) with sod, seed or weed free mulch. This must be done, if the applicant will not work the area for seven (7) days on slopes greater than three (3) feet horizontal to one (1) foot vertical (3:1), fourteen (14) days on slopes ranging from 3:1 to 10:1 and twenty-one (21) days for slopes flatter than 10:1.
  - b. For disturbed areas greater than one (1) acre construct temporary or permanent sedimentation basins. Sedimentation basins must have a minimum surface area equal to at least 1% of the area draining to basin, and be constructed in accordance with accepted design specifications including access for operations and maintenance. Basin discharge rates must also be controlled to prevent erosion in the discharge channel.
  - c. For disturbed areas less than one (1) acre sedimentation basins are encouraged, but not required, unless required by the City. The applicant shall install erosion and sediment controls at locations directed by the City. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along steep and very steep slopes. Silt fences are required along channel edges to reduce the amount of sediment reaching the channel. Silt fences, rock check dams, etc. must be regularly inspected and maintained.
- (7) Sediment basins related to impervious surface area. Where a project's ultimate development replaces surface vegetation with one (1) or more acres of cumulative impervious surface, and all runoff has not been accounted for in a local unit of government's existing storm water management plan or practice, the runoff must be discharged to a wet sedimentation basin prior to entering waters of the state. At a minimum the work shall conform to the current version of the Minnesota Pollution Control Agency's publication, "Protecting Water Quality in Urban Areas," and the current requirements found in the same agency's NPDES/SDS permits for storm water associated with construction activities.
- (8) Generally, sufficient silt fence shall be required to hold all sheet flow runoff generated at an individual site, until it can either infiltrate or seep through silt fence's pores.
- (9) Temporary stockpiling of ten (10) or more cubic yards of excess soil on any lot or other vacant area shall not be allowed without issuance of a grading/excavating permit for the land disturbance activity in question.

- (10) For soil stockpiles greater than ten (10) cubic yards the toe of the pile must be more than twenty-five (25) feet from a road, drainage channel or storm water inlet. If such stockpiles will be left for more than seven (7) days, they must be stabilized with mulch, vegetation, tarps or other means. If left for less than seven (7) days, erosion from stockpiles must be controlled with silt fences or rock check dams.
  - a. If for any reason a soil or non-soil stockpile of any size is located closer than twenty five (25) feet from a road, drainage channel or storm water inlet, and will be left for more than seven (7) days, it must be covered with tarps or controlled in some other manner.
  - b. All non-soil (clean sand, gravel, concrete or bituminous) must at a minimum have silt fencing or other effective sediment control mechanisms installed.
- (11) All sand, gravel or other mining operations taking place on the development site shall apply for a Minnesota Pollution Control Agency National Pollutant Discharge Elimination System (NPDES) General Storm Water permit for industrial activities and all required Minnesota Department of Natural Resources permits.
- (12) Temporary rock construction entrances, or equally effective means of preventing vehicles from tracking sediment from the site, may be required wherever vehicles enter and exit a site. Vehicle tracking of sediment from the site must be minimized by BMPs such as stone pads, concrete or steel wash racks, or equivalent systems. Street sweeping must be used if such BMPs are not adequate.
- (13) Parking is prohibited on all bare lots and all temporary construction entrances, except where street parking is not available. Gravel entrances are to be used for deliveries only as per the development contract.
- (14) Streets must be cleaned and swept whenever tracking of sediments occurs and before the site is left idle for weekends and holidays. A regular sweeping schedule should be established.
- (15) Water (impacted by the construction activity) removed from the site by pumping must be treated by temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. Such water shall not be discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property or a wetland.
- (16) Catch basins. All newly installed and rehabilitated catch basins must be provided with a sump area for collecting coarse-grained material. Such basins must be cleaned when they are half filled with material.
- (17) Roof drain leaders. All newly constructed and reconstructed buildings must route roof drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in pervious areas.
- (18) Removal from the project's site of more than one (1) acre of topsoil shall not be done, unless written permission is given by the City. Excessive removal of topsoil from the project's site can cause significant current and future soil erosion problems.

- (19) Inspection and maintenance. All storm water management facilities must be designed to minimize the need of maintenance, to provide easy vehicle and personnel access for maintenance purposes and be structurally sound. These facilities must have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in storm water runoff. The City or its designated representative shall inspect all storm water management facilities during construction, during the first year of operation and at least once every three (3) years thereafter. The City will keep all inspection records on file for a period of three (3) years. Inspection and maintenance easements. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purpose.
- (20) Follow-up inspections must be performed by the City on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant and/or builder to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, construction stop orders may be issued by the city, until all erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.
- (21) All infiltration areas must be inspected to ensure that sediment from ongoing construction activity is not reaching infiltration areas, and that these areas are also being protected from soil compaction from the movement of construction equipment.

(g) Permanent Storm Water Pollution Controls Mechanisms.

- (1) The applicant shall install, construct, or pay the City fees for all permanent storm water management facilities necessary to manage increased runoff, so that the discharge rates from storm water treatment basins, such that the predevelopment twenty-four (24) hour two (2) year, ten (10) year, and one hundred (100) year peak storm discharge rates are not increased. These predevelopment rates shall be based on the last ten (10) years of how that land was used. Accelerated channel erosion must not occur as a result of the proposed land disturbance or development activity. An applicant may also make an in-kind or a monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbance and development activities undertaken by one or more persons, including the applicant. All calculations and information used in determining these peak storm discharge rates shall be submitted along with the storm water pollution control plan.
- (2) The applicant shall consider reducing the need for permanent storm water management facilities by incorporating the use of natural topography and land cover such as natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of treated (e.g., settled) water without compromising the integrity or quality of the wetland or pond.
- (3) The following permanent storm water management practices must be investigated in developing the storm water management part of the storm water pollution control plan in the following descending order of preference:

- a. Protect and preserve as much natural or vegetated area on the site as possible, minimizing impervious surfaces. Direct runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches.
  - b. Flow attenuation of treated storm water by the use of open vegetated swales and natural depressions.
  - c. Storm water wet detention facilities (including percolation facilities); and
  - d. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection (f) above. The applicant shall provide justification for the method selected.
- (h) Minimum Design Standards for Storm Water Wet Detention Facilities. At a minimum these facilities must conform to the most current technology as reflected in the current version of the Minnesota Pollution Control Agency’s publication, “Protecting Water Quality in Urban Areas” and the current requirements found in the same agency’s NPDES permits for storm water associated with construction activities.
- (i) Minimum Protection for Natural Wetlands.
- (1) Runoff must not be discharged directly into wetlands without appropriate quality and quantity runoff control, depending on the individual wetland’s vegetation sensitivity.
  - (2) Wetlands must not be drained or filled, wholly or partially, unless replaced by either restoring or creating wetland areas of at least equal public value. Compensation, including the replacement ratio and quality of replacement should be consistent with the requirements outlined in the Board of Water and Soil Resources rules that implement the Minnesota Wetland Conservation Act of 1991 including any and all amendments to it.
  - (3) Work in and around wetlands must be guided by the following principles in descending order of priority:
    - a. Avoid both the direct and indirect impact of the activity that may destroy or diminish the wetland.
    - b. Minimize the impact by limiting the degree or magnitude of the wetland related activity.
    - c. Rectify the impact by repairing, rehabilitating, or restoring the affected wetland environment with one of at least equal public value.
    - d. Reduce or eliminate the adverse impact over time by preservation and maintenance operations during the life of the activity.
- (j) Minimum Vegetated Buffer Protection for Rivers, Streams and Wetlands.
- (1) At a minimum, a vegetated buffer strip on each bank the width of one hundred (100) feet (forty (40) feet for most wetlands) for rivers, streams and outstanding resource value wetlands, shall be provided. If possible, such a buffer strip shall consist of predevelopment native vegetation. Ideally for rivers or streams, a shade tree canopy in the part of the buffer

zone closest to the stream channel should be established. Buffer width shall be increased at least two (2) feet (four (4) feet for all wetlands) for every one (1) percent of slope of the surrounding land. Natural wetlands adjacent to rivers and streams are not counted as buffer strips. They are considered a natural resource worthy of protection in their own right. Therefore the widths of natural wetlands are not counted as part of the river or stream's buffer strip. Such wetlands rate their own forty-foot (40) plus vegetated buffer strip.

- a. Detailed buffer design is usually site specific. Therefore the City can require a larger buffer than the minimum.
  - b. For newly constructed buffer sites the design criteria should follow common principles and the example of nearby natural areas. The site should be examined for existing buffer zones and mimic that slope structure and vegetation as much as possible. Buffer design and protection during construction should do any or all of the following: slow water runoff, trap sediment, enhance water infiltration, trap fertilizers, pesticides, pathogens, heavy metals, trap blowing snow and soil, and act as corridors for wildlife. How much stress is put on these functions will determine the buffer zone's final configuration.
  - c. The applicant or a designated representative shall maintain the buffer strip for the first year. After that the City, or a party designated by the City, shall maintain the buffer strip.
  - d. Buffer strips can be made into perpetual conservation easements.
  - e. Buffer strips shall be marked as such with permanent markers. :
  - f. The City may allow buffer area averaging in cases where averaging will provide additional protection to either the resource or environmentally valuable adjacent upland habitat, provided that the resource's total buffer area remains the same. This means that some sections of the buffer will be wider than normal. Care should be taken in averaging so that the buffer's usefulness is not short-circuited.
- (2) Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
  - (3) Watercourses used solely for drainage, such as roadside ditches, are exempt from this provision. Minnesota Pollution Control Agency Class 7 limited resource (Waters not protected for aquatic habitat or recreational use) value waters are also exempt from this provision, unless the Class 7 water is directly tributary to either a Minnesota Department of Natural Resources designated trout stream or a state designated Outstanding Resource Value Water.
  - (4) Minimal width public recreational and educational trails in vegetated buffer strips are exempt from this provision provided that the buffer strip's width is increased by the width of

the trail (i.e. A 10 foot wide trail in a 100 foot buffer strip increases the true width of the strip plus the trail to 110 feet.)

- (k) Models/Methodologies/Computations for Performance Evaluation. Hydrologic models and design methodologies used for the determining runoff characteristics and analyzing storm water management structures must be approved by the City. Plans, specifications and computations for storm water management facilities submitted for review must be sealed and signed by registered professional engineer. All computations must appear in the plans submitted for review, unless otherwise approved by the City.

#### 1700.6 Review.

The City shall review the storm water pollution control plan. This review must be completed within seven (7) days of receiving the plan from the applicant.

- (a) Permit Required. If the City determines that the storm water pollution control plan meets the requirements of this ordinance, the City shall issue a permit valid for a specified period of time that authorizes the land disturbance activity contingent on the implementation and completion of the storm water pollution control plan.
- (b) Permit Denial. If the City determines that the storm water pollution control plan does not meet the requirements of this ordinance, the City shall not issue a permit for the land disturbance activity.
  - (1) All land use and building permits for the site in question must be suspended until the applicant has an approved storm water pollution control plan.
- (c) Permit Suspension and Revocation. If the storm water pollution control plan is not being implemented the City can suspend or revoke the permit authorizing the land disturbance activity.

#### 1700.7 Modification of Plan.

An approved storm water pollution control plan may be modified on submission of a written application for modification to the City, and after written approval by the City. In reviewing such an application, the City may require additional reports and data.

- (a) Records Retention. The City shall retain the written records of such modifications for at least three (3) years.

#### 1700.8 Financial Securities.

The applicant shall provide a financial security for the performance of the work described and delineated on the approved grading plan involving the storm water pollution control plan and any storm water and pollution control plan related remedial work. This security must be available prior to commencing the project.

- (a) Form of the Security. The form of the security must be one of the following:
  - (1) By cash security deposited to the City for thirty percent (30%) of the total financial security in Section 1700.6, when less than one (1) acres of soil will be simultaneously exposed.

When over one (1) acres of soil will be simultaneously exposed to erosion, then the cash security increases to fifty percent (50%) of the total financial security in Section 1700.6.

- (2) The remainder of the financial security shall be placed either with the City, a responsible escrow agent, or trust company, at the option of the City, money, an irrevocable letter of credit, negotiable bonds of the kind approved for securing deposits of public money or other instruments of credit from one or more financial institutions, subject to regulation by the state and federal government wherein said financial institution pledges that the funds are on deposit and guaranteed for payment. This security shall save the City free and harmless from all suits or claims for damages resulting from the negligent grading, removal, placement or storage of rock, sand, gravel, soil or other like material within the City. The type of security must be of a type acceptable to the City.
  - (3) The City may request a greater financial security, if the City considers that the development site is especially prone to erosion, or the resource to be protected is especially valuable
  - (4) If more soil is simultaneously exposed to erosion than originally planned, the amount of the security shall increase in relation to this additional exposure.
- (b) Maintaining the Financial Security. If at any time during the course of the work this amount falls below 50% of the required deposit, the applicant shall make another deposit in the amount necessary to restore the deposit to the required amount within two (2) days. Otherwise the City may:
- (1) Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
  - (2) Revoke any permit issued by the City to the applicant for the site in question and another of the applicant's sites within the City's jurisdiction.
- (c) Proportional Reduction of the Financial Security. When more than one-third of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security by one-third, if recommended in writing by the City. When more than two-thirds of the applicant's maximum exposed soil area achieves final stabilization, the City can reduce the total required amount of the financial security to two thirds of the initial amount, if recommended in writing by the City.
- (d) Action against the Financial Security. The City may act against the financial security, if any of the conditions listed below exist. The City shall use funds from this security to finance any corrective or remedial work undertaken by the City or a contractor under contract to the City and to reimburse the City for all direct cost incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.
- (1) The applicant ceases land disturbance activities and/or filling and abandons the worksite prior to completion of the City approved grading plan.

- (2) The applicant fails to conform to any City approved grading plan and/or the storm water pollution control plan as approved by the City, or related supplementary instructions.
  - (3) The techniques utilized under the storm water pollution control plan fail within one (1) year of installation.
  - (4) The applicant fails to reimburse the City for corrective action taken under Section 1700.7.
  - (5) Emergency action under either part 1700.6 (e) or any part of Section 1700.7.
- (e) Emergency Action. If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency preventative action. The City shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the City may be recovered from the applicant's financial security.
- (f) Returning the Financial Security. Any unspent amount of the financial security deposited with the City for faithful performance of the storm water pollution control plan and any storm water and pollution control plan related remedial work must be released not more than one (1) full year after the completion of the installation of all such measures and the establishment of final stabilization.

1700.9 Notification of Failure of the Storm Water Pollution Control Plan and/or NPDES Permit.

The City shall notify the applicant when the City is going to act on the financial securities part of this ordinance.

- (a) Notification by the City. The initial contact will be to the party or parties listed on the application and/or the storm water pollution control plan as contacts. Except during an emergency action under Section 1700.6 (e), forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the City has been unable to establish contact, the City may proceed with the corrective work.
- (1) There are conditions when time is of the essence in controlling erosion. During such a condition the City may take immediate action, and then notify the applicant as soon as possible.
- (b) Erosion Off-Site. If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, shall more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the City, the applicant does not repair the damage caused by erosion, the City may do the remedial work required and charge the cost to the applicant.
- (c) Erosion into Streets, Wetlands or Water Bodies. If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies,

prevention strategies, cleanup and repair must be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

- (d) Failure to Do Corrective Work. When an applicant fails to conform to any provision of Sections 1700.6 or 1700.7 within the time stipulated, the City may take the following actions:
- (1) Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
  - (2) Suspend or revoke any permit issued by the City to the applicant for the site in question or any other of the applicant's sites within the City's jurisdiction.
  - (3) Direct the correction of the deficiency by City staff or by a separate contract. The issuance of a permit for land disturbance activity and/or NPDES constitutes a right-of-entry for the City or its contractor to enter upon the construction site for the purpose of correcting erosion control deficiencies.
  - (4) All costs incurred by the City in correcting storm water pollution control deficiencies must be reimbursed by the applicant. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities as described in Section 1700.6.
  - (5) If there is an insufficient financial amount in the applicant's financial securities as described in Section 1700.6, to cover the costs incurred by the City, then the City may assess the remaining amount against the property. As a condition of the permit for land disturbance activities, the owner shall waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of the assessment.

#### 1700.10 Variance.

In any case where, upon application of the responsible person or persons, the City finds that by reason of exceptional circumstances, strict conformity with this ordinance would be unreasonable, impractical, or not feasible under the circumstances; the City in its discretion may grant a variance there from upon such conditions as it may prescribe for prevention, control, or abatement of pollution in harmony with the general purposes of this ordinance. Variances shall be processed according to Section 500 Administration - Variances.

#### 1700.11 Enforcement.

The City shall be responsible for enforcing this ordinance.

- (a) Penalties. Any person, firm, or corporation failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. All land use, building and NPDES permits shall be suspended until the applicant has corrected the violation. Each day that a separate violation exists shall constitute a separate offense.

#### 1700.12 Right of Entry and Inspection.

- (a) Powers. The applicant shall promptly allow the City and their authorized representatives, upon presentation of credentials to:

- (1) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.
  - (2) Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.
  - (3) Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site, and perform any additional duties as defined by state and federal law.
  - (4) Inspect the storm water pollution control measures.
  - (5) Sample and monitor any items or activities pertaining to storm water pollution control measures.
  - (6) The City has the right to require the permitted site to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the facility at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
  - (7) Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be born by the applicant.
  - (8) Unreasonable delays in allowing the City access to a permitted facility is a violation of a storm water permit and of this ordinance.
- (b) Search Warrants. If the City has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

## **§1800 - LAND FILLING OPERATIONS**

<a href="#"><u>§1800.1</u></a>	<a href="#"><u>Permit Required</u></a>
<a href="#"><u>§1800.2</u></a>	<a href="#"><u>Application and Required Information</u></a>
<a href="#"><u>§1800.3</u></a>	<a href="#"><u>Technical Reports</u></a>
<a href="#"><u>§1800.4</u></a>	<a href="#"><u>Issuance of Permit</u></a>
<a href="#"><u>§1800.5</u></a>	<a href="#"><u>Conditions of Operations</u></a>
<a href="#"><u>§1800.6</u></a>	<a href="#"><u>Security</u></a>
<a href="#"><u>§1800.7</u></a>	<a href="#"><u>Failure to Comply</u></a>
<a href="#"><u>§1800.8</u></a>	<a href="#"><u>Completion of Operation</u></a>
<a href="#"><u>§1800.9</u></a>	<a href="#"><u>Land Fills in Process</u></a>

### **§1800.1 Permit Required.**

Any person who proposes to add land fill in excess of fifty (50) cubic yards to any property within the City limits, shall apply to the City for a Land Fill Permit.

### **§1800.2 Application and Required Information.**

- (a) Any person desiring a permit hereunder shall present an application on such forms as shall be provided by the Planning Commission requiring the following information:
- (1) The name and address of the applicant.
  - (2) The name and address of the owner of the land.
  - (3) The address and legal description of the land involved.
  - (4) The purpose of the land fill.
  - (5) A description of the source, type, and amount of fill material to be placed upon the premises.
  - (6) The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
  - (7) An estimate of the time required to complete the land fill.
  - (8) A site plan showing present topography and also including boundary lines for all properties, water courses, wetlands, flood plain and other significant features within three hundred fifty (350) feet.
  - (9) A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided in such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the land fill is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth.
  - (10) A plan and/or statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.

- (11) A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.
- (12) The application shall be considered as being officially submitted when all the information requirements are complied with. A fee for such application is submitted based upon the schedule as established by City Council Resolution.
- (13) A road and hauling permit from the City.

§1800.3 Technical Reports.

- (a) The Building Inspector shall process all land fill permit applications. Such applications, when determined to be necessary by the Building Inspector and all those for more than fifty (50) cubic yards shall be forwarded to the Planning Commission. Where watersheds, flood plains and/or wetlands are in question, the Minnesota Department of Natural Resources and Bassett's Creek Watershed Management Organization shall also be contacted. These technical advisors shall be instructed by the Planning Commission to prepare reports for the Council.
- (b) Filing fees in excess of the actual incurred expenses shall be refunded to the applicant. When the expenses incurred in the review of the application exceed the fee, such excess expenses shall be billed to the applicant.

§1800.4 Issuance of Permit.

- (a) Unless sent to the Planning Commission for review and comment, the Building Inspector shall determine as to whether, and when, and under what conditions a land fill permit for less than fifty (50) cubic yards shall be issued.
- (b) Upon receiving information and reports from the Planning Commission, the Council shall make its determination as to whether, and when, and under what conditions such permit for a land fill greater than fifty (50) cubic yards is to be issued to the applicant by the Building Inspector.

§1800.5 Conditions of Operation.

- (a) Under no circumstances shall any such land fill operation be conducted or permitted if the contents of the land fill or any part thereof shall consist of garbage, animal or vegetable refuse, poisons, contaminants, chemicals, decayed material, filth, sewage or similar septic or biologically dangerous material, or any other material deemed to be unsuitable by the City.
- (b) Unless expressly extended by permit, the hours of operation shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.

§1800.6 Security.

The Council may require either the applicant or the owner or user of the property on which the land fill is occurring to post as security in such form and sum as the Building Inspector and/or City Engineer shall determine, with sufficient surety provided to the Planning Commission, conditioned to pay to the City the extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill material, the amount of such cost and expense to be determined by the City Building Inspector; and conditioned further to comply with all requirements of this Chapter, and the

particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

§1800.7 Failure to Comply.

The Council may, for failure of any person to comply with any requirement made of such person in writing under the provisions of such permit, as promptly as same can reasonably be done proceed to cause said requirement to be complied with. The cost of such work shall be taxed against the property whereon the land fill is located or the City may at its option proceed to collect such costs by an action against the person to whom such permit has been issued, and such person's Superiors if a bond exists. In the event that land filling operation requiring a permit are commenced prior to City review and approval, the City may require work stopped and all necessary applications filed and processed, or fill removed. Application fees shall be double the normal charge.

§1800.8 Completion of Operation.

- (a) All land fill operations shall be completed within ninety (90) days of the issuance of the permit. Upon completion the permit holder shall notify the Building Inspector in writing of the date of completion. If additional time beyond the ninety (90) days is needed for completion, the permit holder may apply to the Planning Commission and upon a satisfactory showing of need, the Council may grant an extension of time. If such extension is granted, it shall be for a definite period and the Building Inspector shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the land fill operation within ninety (90) days and that failure to complete the operation was due to circumstances beyond the permit holder's control such as shortage of fill material, teamster's strike, unusually inclement weather, illness or other such valid and reasonable excuse for non-completion. In the event a request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with the other provisions of this Chapter relating to grading, leveling and seeding or sodding. What constitutes such "reasonable time" shall be determined by the Building Inspector after inspection of the premises.
- (b) At the completion of a land fill operation, the premises shall be graded, leveled, and seeded or sodden with grass. The grade shall be such elevation with reference to any abutting street or public way as the Building Inspector shall prescribe in the permit. The site shall also conform to such prerequisites as the Building Inspector may determine with reference to storm water drainage runoff and storm water passage or flowage so that the land fill cannot become a source of, or an aggravation to, storm water drainage conditions in the area.
- (c) The Building Inspector shall inspect the project following completion to determine if the applicant has complied with the conditions required thereto. Failure of such compliance shall result in the withholding of any building permits for the site and notice of such withholding shall be filed in the office of the City Clerk for the purpose of putting subsequent purchasers on notice.

§1800.9 Land Fills in Process.

All land fill operations for which permit has previously been issued shall terminate such operations on the date specified by the permit.

## **§1900 - LAND EXCAVATION/GRADING**

<a href="#">§1900.1</a>	<a href="#">Permit Required</a>
<a href="#">§1900.2</a>	<a href="#">Exceptions</a>
<a href="#">§1900.3</a>	<a href="#">Application for Permit</a>
<a href="#">§1900.4</a>	<a href="#">Technical Reports</a>
<a href="#">§1900.5</a>	<a href="#">Issuance of Permit</a>
<a href="#">§1900.6</a>	<a href="#">Conditions of Permit</a>
<a href="#">§1900.7</a>	<a href="#">Security</a>
<a href="#">§1900.8</a>	<a href="#">Failure to Comply</a>
<a href="#">§1900.9</a>	<a href="#">Completion of Operation</a>

### **§1900.1 Permit Required.**

The extraction of sand, gravel, black dirt or other natural material from the land or the grading of land by a person in the amount of fifty (50) cubic yards or 10,000 square feet or more shall be termed land excavation/grading and shall require a permit.<sup>1</sup>

### **§1900.2 Exceptions.**

It is intended hereunder to cover the removal of natural materials from lands including such activity when carried on as a business, but shall not apply to basement excavation or other excavation which is already covered by the Building Code or other such regulations of the City.

### **§1900.3 Application for Permit.**

- (a) Any person desiring a permit hereunder shall present an application on such form as shall be provided by the Planning Commission requiring the following information:
- (1) The name and address of the applicant.
  - (2) The name and address of the owner of the land.
  - (3) The address and legal description of the land involved.
  - (4) The purpose of the excavation or grading.
  - (5) A description of the type and amount of material to be excavated from or graded on the premises.
  - (6) The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
  - (7) An estimate of the time required to complete the excavation or grading.

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<sup>1</sup> Section §1900.1 amended by Ordinance 92, March 6, 2006.

- (8) A site plan showing present topography and also including boundary lines for all properties, water courses, wetlands and other significant features within three hundred fifty (350) feet.
  - (9) A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided in such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the excavation is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth.
  - (10) A security statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.
  - (11) A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.
- (b) The application shall be considered as being officially submitted when all the information requirements are complied with. A fee for such application shall be paid to the City at the time the application is submitted based upon the schedule as established by City Council Resolution.

§1900.4 Technical Reports.

- (a) The Building Inspector shall immediately upon receipt of such applications forward a copy thereof to the City Council. Where watersheds and/or wetlands are in question, the Minnesota Department of Natural Resources and Bassett's Creek Watershed Management Organization shall also be contacted. These technical advisors shall be instructed by the Building Inspector to prepare reports for the Council.
- (b) Filing fees in excess of the actual incurred expenses shall be refunded to the applicant. When the expenses incurred in the review of the application exceed the fee, such excess expenses shall be billed to the applicant.

§1900.5 Issuance of Permit.

Upon receiving information and reports from the Building Inspector, the Council shall make its determination as to whether, and when, and under what conditions such permit for an excavation or grading is to be issued to the applicant by the Building Inspector.

§1900.6 Conditions of Permit.

- (a) The Council, as a prerequisite to the granting of a permit, or after a permit has been granted, may require the applicant to whom such permit is issued, or the owner or user of the property on which the excavation or grading is located to:
  - (1) Properly fence the excavation.
  - (2) Slope the banks, and otherwise properly guard to keep the excavation in such condition as not to be dangerous from caving or sliding banks.
  - (3) Properly drain, fill in, level or grade the excavation after it has been created, so as to make the same safe and healthful as the Council shall determine.
  - (4) Keep the excavation or grading within the limits for which the particular permit is granted.

- (5) Remove excavated or graded material from the excavation away from the premises upon and along such highways, streets or other public ways as the Council shall order and direct.
- (b) Unless expressly extended by permit, the hours of operation shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.

§1900.7 Security.

The Council may require either the applicant or the Owner or user of the property on which the excavation or grading is occurring to post a security in such form and sum as the Council shall determine, with sufficient surety provided to the City, conditioned to pay to the City the extraordinary cost and expense of repairing, from time to time, and highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting excavated material, the amount of such cost and expense to be determined by the City Building Inspector; and conditioned further to comply with all requirements of this Chapter, and the particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is based.

§1900.8 Failure to Comply.

The Council may, for failure of any person to comply with any requirement made of such person in writing under the provisions of such permit, as promptly as same can reasonably be done proceed to cause said requirement to be complied with, and the cost of such work shall be taxed against the property whereon the land fill is located, or the City may, at its option, proceed to collect such costs by an action against the person to whom such permit has been issued, and his superiors if a security exists.

§1900.9 Completion of Operation.

- (a) All excavation and grading operations shall be completed within ninety (90) days of the issuance of the permit. Upon completion the permit holder shall notify the Building Inspector in writing of the date of completion. If additional time beyond the ninety (90) days is needed for completion, the permit holder may apply to the City and upon a satisfactory showing of need, the Council may grant an extension of time. If such extension is granted, it shall be for a definite period and the Building Inspector shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the excavation operation within ninety (90) days and that failure to complete the operation was due to circumstances beyond the permit holder's control, such as teamster's strike, unusually inclement weather, illness or other such valid and reasonable excuse for non-completion. In the event request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with the other provisions of this Chapter relating to grading, leveling and seeding or sodding. What constitutes such "reasonable time" shall be determined by the City Building Inspector after inspecting the premises.
- (b) At the completion of an excavation or grading project, the premises shall be graded, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the City Building Inspector shall prescribe in the permit. The site shall also conform to such prerequisites as the City Building Inspector may determine with reference to storm water drainage runoff and storm water passage or flowage so that the excavation cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The City Building Inspector shall inspect the project following completion to determine if the applicant has complied with the conditions imposed as part of the permit.

## §2000 - SIGNS

### §2000.1 Compliance Required.

No advertising signs shall be displayed or erected in said City, except in the following cases, and under the following conditions:

- (a) Signs displaying the name only of the property or premises upon which displayed, or of the owner or lessee thereof.
- (b) Signs not exceeding eight square feet in area, pertaining only to the sale, rental, or lease of the premises upon which displayed.
- (c) The following signs upon the securing of a special use permit for each such sign:
  - (1) Signs advertising the sale of a subdivision, and locate thereon or signs advertising the location of a permitted use.
  - (2) Directional and informational signs of a public or quasi-public nature, including signs or properties not situated adjacent to the street next to which such signs are located.
- (d) Non-commercial signs (meaning political or campaign signs) as regulated by Minnesota Statutes Section 211G.045.<sup>1</sup>

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<sup>1</sup> Section §2000.1 amended by Ordinance 92, March 6, 2006.

## **§2100 - ESSENTIAL SERVICES**

- [§2100.1 Purpose](#)
- [§2100.2 Special Permit Required](#)
- [§2100.3 Procedural Requirements](#)
- [§2100.4 Conditional Use Permit Required](#)

### §2100.1 Purpose.

The purpose of this section is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the health, safety and welfare of the City will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.

### §2100.2 Special Permit Required.

All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines and substations less than 3 KV, when installed in any public right-of-way in any zoning district, shall require a special permit approved by the City Council.

### §2100.3 Procedural Requirements.

All underground telephone lines, pipelines for local distribution, underground transmission lines, and overhead electric transmission lines less than 3 KV, which are extended to serve more than one parcel and are proposed to be installed at location other than in public right-of-way, shall require a special permit issued by the City Council. Approval by the City Council shall be based upon the information furnished in the following procedural requirements:

- (a) Prior to the installation of any of the previous essential services, the owner of such service shall file with the Building Inspector and the Planning Commission, all maps and other pertinent information as deemed necessary for the City Council to review the proposed project.
- (b) The Building Inspector and the Planning Commission shall transmit the map and accompanying information to the City Council for their review and approval regarding the project's relationship to the Comprehensive Plan and parts thereof and/or City Code provisions.
- (c) The Building Inspector and Planning Commission shall report in writing to the City Council the findings as to the compliance of then proposed project with the Comprehensive Plan and City Code provisions.
- (d) In considering applications for the placement of essential services, as regulated in this Chapter, the aforesaid City staff shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
- (e) Upon receiving the approval of the City Council, the Building Inspector shall issue a permit for the installation and operation of the applicant's essential services. If the Building Inspector and Planning Commission's report recommends the denial of said permit causing the City Council to deny its issuance, the applicant may appeal.

§2100.4 Conditional Use Permit Required.

All transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 3 KV shall be a conditional use in all districts subject to the requirements of §400 of this Chapter.

## §2200 - MODEL HOMES

§2200.1	Purpose
§2200.2	Procedure
§2200.3	Special Requirements

### §2200.1 Purpose.

The purpose of this section is to provide for the erection of model homes in new subdivisions without adversely affecting the character of surrounding residential neighborhoods or creating a general nuisance. As model homes represent a unique temporary commercial use, special consideration must be given to the peculiar problems associated with them and special standards must be applied to ensure reasonable compatibility with their surrounding environment.

### §2200.2 Procedure.

The erection of a model home(s) shall require approval of the Council.

### §2200.3 Special Requirements.

- (a) Temporary parking facilities equal to four (4) spaces per model home dwelling unit shall be provided. The overall design, drainage and surfacing of the temporary parking facility shall be subject to the approval of the City Building Inspector.
- (b) No model home shall incorporate outside lighting which creates a nuisance due to glare or intensity, as provided for in §1000.10 of this Chapter.
- (c) All criteria for conditional use consideration but not procedural requirements as contained in § 400.2 of this Chapter shall be considered and satisfactorily met.

## §2300 - ANIMALS

§2300.1 General

§2300.2 Keeping Animals

§2300.3 Care of Animals

### §2300.1 General.

This section 2300 is intended to supplement and not to amend or modify the provisions of Ordinance 67 entitled "Dog, Cats, and Animals".

### §2300.2 Keeping Animals.

The following animals may be kept in the City:

- (a) Domestic animals are an allowed use in all zoning districts. Permitted domestic animals shall consist of dogs, cats, birds, rabbits, small rodents and fish.
- (b) With the exception of animals as allowed, no other animals are allowed except by conditional use permit.
- (c) Animals may not be kept if they cause a nuisance or endanger the health or safety of the community.

### §2300.3 Care of Animals.

All animals shall be subject to the following requirements:

- (a) The size, number, species, facilities for and location of animals kept shall be maintained so as not to constitute a danger or nuisance by means of odor, noise or other elements.
- (b) The person caring for any animal(s) shall be of sufficient age knowledge and experience to adequately and safely care for and control the animal(s).
- (c) Facilities for housing animal(s) shall be:
  - (1) Constructed of such material as is appropriate for the animal(s) involved.
  - (2) Maintained in good repair.
  - (3) Controlled as to temperature, ventilated and lighted compatible with the health and comfort of the animal(s).
  - (4) Of sufficient size to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition of debility, stress or abnormal behavior patterns.
  - (5) Cleaned as often as necessary to prevent contamination of the animal(s) contained therein and to minimize disease hazards and reduce odors.

- (d) Animals shall be provided wholesome, palatable food and water free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health.

**Section 2400**

[Reserved]

## §2500 - COMMUNICATION RECEPTION/TRANSMISSION DEVICES

### §2500.1 Permitted Uses

### §2500.2 Conditional Use Permit

#### §2500.1 Permitted Uses.

Satellite dishes, television antennas, radio antennas and other such communication transmission/reception devices are permitted accessory uses within all zoning districts, provided that they meet the following conditions:

- (a) Height. A ground mounted communication device height shall not exceed fifteen (15) feet unless approved as a conditional use permit by the City Council.
- (b) Yards. The communication device shall not be located on lake side, not closer than five (5) feet from side or rear lot line or within street setback.
- (c) Roofs. The communication device may be placed on the roof of any authorized structure on the premises. The height of the communications device shall not exceed six and one-half (6-1/2) feet above the peaks of the roof, unless approved by a conditional use permit by the City Council.
- (d) Neighboring Property Impact. In cases where no building permit is required, the communication device shall be so located that in the event it falls, it will not fall on adjoining property.
- (e) Building Permits. A building permit shall be required for the installation of any communication device which requires a conditional use permit, or for any device which has a structural surface exposure of greater than nine (9) square feet. Building permit applications shall be accompanied by a site plan and structural components data for the communication device, including details of anchoring. The Building Inspector must approve the plans before installation.
- (f) Color/Content. Communication devices shall be of a neutral color and shall not be painted with scenes or contain letters or message which qualify as a sign.
- (g) Lightning Protection. Each communication device shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code.
- (h) Electrical Code. Communication device electrical equipment and connections shall be designed and installed in conformance with the National Electrical Code.
- (i) Effective Date. The provisions of this section shall be applicable to all communication reception/transmission devices erected after 1 December 1993. All such structures existing prior to this date shall be addressed as legal non conforming uses.

#### §2500.2 Conditional Use Permit.

Communication reception transmission devices not qualifying as a permitted accessory use may be considered through conditional use provisions established by § 400 of this Chapter.

## **§2600 - PUBLIC PROPERTY/RIGHTS-OF-WAY**

[§2600.1 Coverage](#)

[§2600.2 Liability](#)

### **§2600.1 Coverage.**

The erection and/or placement of any structure, or permanent signage, overnight vehicle parking in the public right-of-way or on City property by any person, or group other than a governmental unit shall require the processing of a conditional use permit in accordance with §400 of this Chapter.

### **§2600.2 Liability.**

As a condition of approval for the erection or placement of a structure in the public right-of-way, or on City property by any party other than a governmental unit, the applicant shall be required to hold harmless the City of Medicine Lake for any potential liability and shall demonstrate to the City proof of adequate liability insurance.

**Section 2700**

[Reserved]

**Section 2800**

[Reserved]

**Section 2900**

[Reserved]

## §3000 - GENERAL ZONING DISTRICT PROVISIONS

[§3000.1 Establishments of Districts](#)

[§3000.2 Zoning District Boundaries](#)

[§3000.3 Map](#)

### §3000.1 Establishment of Districts.

The following zoning districts are hereby established within the City of Medicine Lake:

(a) Residential Districts.

- (1) "R-1" Residential - Single Family District.
- (2) "R-2" Residential - Single Family and Two Family District.

(b) Business District.

- (1) "B-1" Neighborhood Business District.

(c) Special Districts.

- (1) "PUD" Planned Unit Development District.
- (2) "S" Shoreland Overlay District.
- (3) "W" Wetland Systems Overlay District.

### §3000.2 Zoning District Boundaries.

Zoning district boundary lines of this Chapter generally follow lot lines, the center of railroad rights-of-way lines, the center of street rights-of-way, the center of water courses or the corporate limit lines, all as they exist upon the effective date of this Chapter.

- (a) Appeals concerning the exact location of a zoning district boundary line shall be heard by the Council serving as the Board of Adjustment and Appeals.

### §3000.3 Map.

The location and boundaries of the districts established by this text are hereby set forth on the Official Zoning Map. Said map shall be on file with the City Clerk, and hereinafter referred to as the "Zoning Map." Which map and all the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Chapter by reference.<sup>1</sup>

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<sup>1</sup> Section §3000.3 amended by Ordinance 9, March 6, 2006.

## **§3100 - "R-1" RESIDENTIAL SINGLE FAMILY DISTRICT**

<a href="#">§3100.1</a>	<a href="#">Purpose</a>
<a href="#">§3100.2</a>	<a href="#">Permitted Uses</a>
<a href="#">§3100.3</a>	<a href="#">Accessory Uses</a>
<a href="#">§3100.4</a>	<a href="#">Conditional Uses</a>
<a href="#">§3100.5</a>	<a href="#">Lot Requirements and Setbacks</a>
<a href="#">§3100.6</a>	<a href="#">Maximum Building Height</a>
<a href="#">§3100.7</a>	<a href="#">Maximum Lot Coverage</a>

### §3100.1 Purpose.

The purpose of the "R-1" Residential Single Family District is to provide for exclusive low density single family detached residential dwelling units and directly related, complementary uses.

### §3100.2 Permitted Uses.

The following are permitted uses in an "R-1" District:

- (a) Single family detached dwellings.
- (b) Public parks and playgrounds.
- (c) Essential services.

### §3100.3 Accessory Uses.

The following are permitted accessory uses in an "R-1" District:

- (a) All permitted accessory uses as allowed in the "R-1" Zoning District except the keeping of animals and buildings and structures related thereto.

### §3100.4 Conditional Uses.

The following are conditional uses in an "R-1" District (Requires a conditional use permit based upon procedures; set forth in and regulated by §400 of this Chapter.):

- (a) Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the City, provided that:
  - (1) Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.
  - (2) Equipment is completely enclosed in a permanent structure with no outside storage.
  - (3) Adequate screening from neighboring uses and landscaping is provided in compliance with §1000.7 of this Chapter.
  - (4) The provisions of §400.2(f) of this Chapter are considered and satisfactorily met.
- (b) Residential Planned Unit Development, as regulated by this Chapter.

§3100.5 Lot Requirements and Setbacks.

The following minimum requirements shall be observed in an "R-1" District subject to additional requirements, exceptions and modifications set forth in this Chapter:

- (a) Lot Area: Twelve Thousand Five Hundred (12,500) square feet.
- (b) Average Lot Width: Interior lot – Fifty (50) feet; Corner lot - One Hundred (100) feet
- (c) Setbacks:
  - (1) Front yards: Fifty (50) feet minimum. For non-lake shore lots the line of sight shall also apply.
  - (2) Side yards: Seven (7) feet minimum for interior lots. Thirty (30) feet minimum for corner lots.
  - (3) Rear yards:
    - a. Principal building: Fifty (50) feet minimum.
    - b. Accessory building: Per §1000.4 of this Chapter.
  - (4) Lakeside yards: As determined by the line of sight but not less than fifty (50) feet.<sup>1</sup>

§3100.6 Maximum Building Height.

- (a) Principal building: Thirty-five (35) feet.
- (b) Accessory building: Per §1000.4 of this Chapter.

§3100.7 Maximum Lot Coverage.

- (a) Impervious Surface: Forty (40) percent maximum.

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<sup>1</sup> Section §3100.5 amended by Ordinance 92, March 6, 2006.

## **§3200 - "R-2" RESIDENTIAL SINGLE AND TWO FAMILY DISTRICT**

<a href="#">§3200.1</a>	<a href="#">Purpose</a>
<a href="#">§3200.2</a>	<a href="#">Permitted Uses</a>
<a href="#">§3200.3</a>	<a href="#">Accessory Uses</a>
<a href="#">§3200.4</a>	<a href="#">Conditional Uses</a>
<a href="#">§3200.5</a>	<a href="#">Lot Requirements and Setbacks</a>
<a href="#">§3200.6</a>	<a href="#">Maximum Building Height</a>
<a href="#">§3200.7</a>	<a href="#">Maximum Lot Coverage</a>

### §3200.1 Purpose.

The purpose of the "R-2" Residential Single and Two Family District is to provide for low density one (1) and two (2) unit dwellings and directly related, complementary uses.

### §3200.2 Permitted Uses.

The following are permitted uses in an "R-2" District:

- (a) All permitted uses as provided for in the "R-1" District.
- (b) Two family dwelling units.

### §3200.3 Accessory Uses.

The following are permitted accessory uses in an "R-2" District:

- (a) All permitted accessory uses as allowed in an "R-1" District.

### §3200.4 Conditional Uses.

The following are conditional uses in a "R-2" District. (Requires a conditional use permit based upon procedures; set forth in and regulated by §400 of this Chapter):

- (a) All conditional uses, subject to the same conditions as in an "R-1" District.

### §3200.5 Lot Requirements and Setbacks.

The following minimum requirements shall be observed in an R-2 District subject to additional requirements, exceptions and modifications set forth in this Chapter.

- (a) Lot Area: Eighteen thousand (18,000) square feet minimum.
- (b) Average Lot Width: Seventy five (75) feet minimum for interior lots. One hundred (100) feet minimum for corner lots.
- (c) (c) Setbacks:
  - (1) Front yards: Fifty (50) feet minimum for all lots. For non-lake shore lots the line of sight shall also apply.

- (2) Side yards: Seven (7) feet minimum for interior lots. Thirty (30) feet minimum for corner lots.
- (3) Rear yards:
  - a. Principal building: Fifty (50) feet minimum.
  - b. Accessory building: Per §1000.4 of this Chapter.
- (4) Lakeside yards: Fifty (50) feet minimum or as determined by the line of sight but not less than fifty (50) feet.

§3200.6 Maximum Building Height.

- (a) Principal building: Thirty-five (35) feet.
- (b) Accessory building: Per §1000.4 of this Chapter.

§3200.7 Maximum Lot Coverage.

Impervious Surface: Forty (40) percent maximum

**Section 3300**

[Reserved]

## § 3400 - “B-1” Neighborhood Business District

<a href="#">§3400.1</a>	<a href="#">Purpose</a>
<a href="#">§3400.2</a>	<a href="#">Permitted Uses</a>
<a href="#">§3400.3</a>	<a href="#">Accessory Uses</a>
<a href="#">§3400.4</a>	<a href="#">Lot Requirements and Setbacks</a>
<a href="#">§3400.5</a>	<a href="#">Maximum Building Height</a>
<a href="#">§3400.6</a>	<a href="#">Maximum Lot Coverage</a>

### §3400.1 Purpose.

The purpose of the “B-1” Neighborhood Business District is to provide for a small service area which may supply office and local retail sales uses.

### §3400.2 Permitted Uses.

- (a) Restaurants.
- (b) On or off sale liquor establishments.
- (c) Office buildings.

### §3400.3 Accessory Uses.

- (a) Accessory buildings.
- (b) Recreational uses including volleyball, tennis, and basketball courts.

### §3400.4 Lot Requirements and Setbacks.

- (a) Lot Width: Two Hundred (200) feet
- (b) Lot Area: Eighteen Thousand (18,000) square feet
- (c) Setbacks:
  - (1) Front yards: Fifty (50) feet.
  - (2) Side yards: Twenty (20) feet.
  - (3) Rear yards:
    - a. Principal building: Fifty (50) feet.
    - b. Accessory building: Per §1000.4 of this Chapter.
  - (4) Lakeside yards: Not less than seventy-five (75) feet.

### §3400.5 Maximum Building Height.

- (a) Principal building: Thirty-five (35) feet.

(b) Accessory building: Per §1000.4 of this Chapter.

§3400.6 Maximum Lot Coverage.

Impervious Surface: Forty (40) percent maximum.

## **§ 3500 - PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT**

[§3500.1 Purpose](#)

[§3500.2 General Requirements and Standards](#)

[§3500.3 Submission Requirements](#)

[§3500.4 Procedure for Processing a Planned Unit Development](#)

### §3500.1 Purpose.

This section is established to provide comprehensive procedures and standards designed to allow greater flexibility in the development of neighborhoods or areas by incorporating a mixture of densities/intensities or use types when applied to a PUD Overlay District. The PUD process, by allowing deviation from the strict provisions of this Chapter related to setbacks, height, lot area, width and depth, yards, etc., by conditional use permit or the mix of uses by PUD zoning, is intended to encourage:

- (a) Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and siting of structures and by the conservation and more efficient use of land in such developments.
- (b) Higher standards of site and building design through the use of trained and experienced land planners, architects and landscape architects.
- (c) More convenience in location and design of development for service facilities.
- (d) The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the prevention of soil erosion.
- (e) A creative use of land and related physical development which allows a phased and orderly transition of land.
- (f) An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.
- (g) A development pattern in harmony with the objectives of the Comprehensive Plan. (PUD is not intended as a means to vary applicable planning and zoning principles.)
- (h) A more desirable and creative environment than might be possible through the strict application of zoning and subdivision regulations of the City.

### §3500.2 General Requirements and Standards.

- (a) Ownership. An application for PUD must be filed by the landowners or jointly by all landowners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved final plan shall be binding on all owners.
- (b) Comprehensive Plan Consistency. The proposed PUD shall be consistent with the City Comprehensive Plan.

- (c) Sanitary Sewer Plan Consistency. The proposed PUD shall be consistent with the City Comprehensive Sewer Plan.
- (d) Compatibility. The proposed PUD shall be compatible with the adjacent land uses.
- (e) Common Open Space. Common open space at least sufficient to meet the minimum requirements established in the Comprehensive Plan and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD shall be provided within the area of the PUD development.
- (f) Operating and Maintenance Requirements for PUD Common Open Space Facilities. Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a pre-determined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the City:
  - (1) Dedicated to public, where a community-wide use is anticipated and the Council agrees to accept the dedication.
  - (2) Landlord control, where only use by tenants is anticipated.
  - (3) Property Owners Association, provided all of the following conditions are met:
    - a. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tracts, or common area, a declaration of covenants, condition and restrictions or an equivalent document and a set of floor plans such as specified by Minnesota Statutes §515A.2-10 through §515A.2-107, shall be filed with the City, said filing with the City to be made prior to the filing of said declaration or document or floor plans with the recording officers of Hennepin County, Minnesota.
    - b. The declaration of covenants, conditions and restriction or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject said properties to the terms of said declaration.
    - c. The declaration of covenants, conditions and restriction shall provide that an Owners Association or Corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing private control.
    - d. The declaration shall additionally, amongst other things, provide that in the event the Association or Corporation fails to maintain properties in accordance with the applicable rules and regulations of the City or fails to pay taxes or assessments on properties as they become due and in the event the City incurs any expenses in enforcing its rules and regulations, which said expenses are not immediately reimbursed by the Association or Corporation, then the City shall have the right to

assess each property its prorated share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.

- e. Membership must be mandatory for each owner and any successive buyer.
  - f. The open space restrictions must be permanent and not for a given period of years.
  - g. The Association must be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it.
  - h. Property owners must pay prorated share of the cost of the Association by means of an assessment to be levied by the Association which meets the requirements for becoming a lien on the property in accordance with Minnesota Statutes.
  - i. The Association must be able to adjust the assessment to meet changed needs.
  - j. The by-laws and rules of the Association and all covenants and restrictions to be recorded must be approved by the Council prior to the approval of the final PUD plan.
- (g) Staging of Public and Common Open Space. When a PUD provides for common or public open space, and is planned as a staged development over a period of time, the total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.
- (h) Density. The maximum allowable density in a PUD overlay districts shall be determined by standards negotiated and agreed upon between the applicant and the City. In all cases the negotiated standard shall be consistent with the development policies as contained in the Comprehensive Plan. Whenever a PUD is to be developed in stages, such stage shall, when averaged with all previously completed stages, have a residential density that exceeds one hundred (100) percent of the proposed residential density of the entire PUD.
- (i) Utilities. In any PUD, all utilities, including telephone, electricity, gas and cable shall be installed underground.
- (j) Utility Connections.
- (1) Water Connections. Where more than one property is served from the same service line, individual unit shut off valves shall be provided as required by the City.
  - (2) Sewer Connections. Where more than one unit is served by sanitary sewer lateral which exceeds three hundred (300) feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the Property Owners Association or owner.
- (k) Landscaping. In any PUD, landscaping shall be provided according to a plan approved by the City, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the City shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the PUD plan.

(1) Setbacks.

- (1) The front and side yard restrictions of the periphery of the Planned Unit Development conditional use permit site at a minimum shall be the same as imposed in the base zoning districts. A PUD zoning district shall at minimum have a seventy-five (75) lake side setback, and thirty-five (35) foot street side setback and seven (7) foot side yard setbacks. As appropriate, the City Council may increase these standards.
- (2) No building shall be located less than fifteen (15) feet from the back of the curb line along those roadways which are part of the internal street pattern.
- (3) No building within the project shall be nearer to another building than one-half (1/2) the sum of the building heights of the two buildings.

§3500.3 Submission Requirements.

Ten (10) copies of the following exhibits, analysis and plans shall be submitted to the Planning Commission and Council during the PUD process, at the times specified in §400 of this Chapter entitled "Conditional Use Permits".

(a) General Concept Stage.

(1) General Information.

- a. The landowner's name and address and such person's interest in the subject property.
- b. The applicant's name and address if different from the landowner.
- c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.
- d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy or contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidences as the City Attorney may require to show the status of title or control of the subject property.

(2) Present Status.

- a. The address and legal description of the subject property.
  - b. A map depicting the existing development of the subject property and all land within three hundred (300) feet thereof which clearly indicates the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within one hundred (100) feet of the subject property.
- (3) A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the

development and use of neighboring property in accordance with the applicable regulations of the City.

- (4) Site Conditions. Graphic reproductions of the existing site conditions at a scale of one (1) to one hundred (100) feet(1:100). All of the graphics should be the same scale as the final plan to allow easy cross reference.
  - a. Contours - minimum two (2) foot intervals.
  - b. Location, type and extent of tree cover.
  - c. Slope analysis.
  - d. Location and extent of water bodies, wetlands, streams and flood plains within three hundred (300) feet of the subject property.
  - e. Significant rock outcroppings.
  - f. Existing drainage patterns.
  - g. Vistas and significant views.
  - h. Soil conditions as they affect development. The use of overlays is recommended for clear reference.
  - i. Water table and water supply analysis.
- (5) Schematic drawing of the proposed development concept including but not limited to the general location of major circulation elements, public and common open space, residential and other land uses.
- (6) A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
  - a. Area devoted to uses.
  - b. Area devoted to use by building type.
  - c. Area devoted to common open space.
  - d. Area devoted to public open space.
  - e. Approximate area devoted to streets.
  - f. Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
- (7) When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be

provided or constructed during each such stage, and the overall chronology of development to be followed from stage to stage.

- (8) When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
  - (9) General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
  - (10) Schematic utilities plans indicating placement of water, sanitary and storm sewers.
  - (11) The Building Inspector may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.
  - (12) The Building Inspector may require the submission of additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.
- (b) Development Stage. Development stage submissions should depict and outline the proposed implementations of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include but not be limited to:
- (1) Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan.
  - (2) Ten (10) sets of preliminary plans, drawn to a scale of no less than one (1) inch equals one hundred (100) feet or scale requested by the Building Inspector containing at least the following information:
    - a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat therefore recorded in Hennepin County).
    - b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
    - c. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, and existing buildings which will remain, if any.
    - d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all elements.
    - e. Location, designation and total area of all common open space.
    - f. Location, designation and total area proposed to be conveyed or dedicated for public open space; including parks, playgrounds, school sites and recreational facilities.

- g. Proposed lots and blocks, if any, and numbering system.
  - h. The location, use and size of structures and other land uses on adjacent properties.
  - i. Detailed sketches and provisions of proposed landscaping.
  - j. General grading and drainage plans for the developed PUD.
  - k. Any other information that may have been required by the Planning Commission and City in conjunction with their approval of the general concept plan.
- (3) An accurate legal description of the entire area within the PUD for which final development plan approval is sought.
  - (4) A tabulation indicating the number of residential dwellings units and expected population.
  - (5) Preliminary architectural "typical" plans indicating use floor plan, elevations and exterior wall finishes of proposed buildings.
  - (6) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easement rights-of-way, utility lines and facilities, lots, blocks, public and common open space, general landscaping plan and structures
  - (7) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan.
  - (8) A preliminary plat prepared in accordance with the Subdivision Regulations of the City.
  - (9) Shoreland Management Plan as described in §3600.11(a)(5), as may be necessary.
  - (10) A Wetland Systems Impact Plan as described in §3700.4(a), as may be necessary.
  - (11) A Soil Erosion Control Plan acceptable to watershed districts, Department of Natural Resources, Soil Conservation Service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.
  - (12) A statement summarizing all changes which have been made in any document, plan data or information previously submitted together with revised copies of any such document, plan or data.
  - (13) Such other and further information as the Planning Commission or City Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.

- (14) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this section it finds to be unnecessary to the consideration of the specific proposal for PUD approval.<sup>1</sup>
- (c) Final Plan Stage. After approval of a general concept plan for the PUD and approval of a development stage plan for a section of the proposed PUD, the applicant will submit the following material for review by the City staff prior to issuance of a building permit:
- (1) Proof of recording of any easements and/or restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.
  - (2) All certificates, seals and signatures required for the dedication of land and recordation of documents.
  - (3) Final architectural working drawings of all structures.
  - (4) Final plant and final engineering plans and specifications for streets, utilities and other public improvements, together with a City/Applicant Agreement for the installation of such improvements and financial guarantees for the completion of such improvements.
  - (5) Any other plan, agreements, or specifications necessary for the City staff to review the proposed construction. All work must be in conformance with the Minnesota State Uniform Building Code.

§3500.4 Procedure for Processing a Planned Unit Development.

- (a) General Processing Requirements. The PUD request shall be processed according to §300 or §400 of this Chapter as may be applicable, except as herein modified.
- (b) Application Conference. Prior to filing of an application for a PUD, the applicant of the proposed PUD is encouraged to arrange for and attend a conference with the Building Inspector. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this section before incurring substantial expense in the preparation of plans, surveys and other data.
- (c) General Concept Plan.
- (1) Purpose. The General Concept Plan provides an opportunity for the applicant to submit a plan to the City showing his/her basic intent and the general nature of the entire development without incurring substantial cost. The following elements of the proposed General Concept Plan represents the immediately significant elements for City review and comment:

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<sup>1</sup> Section §3500.3 amended by Ordinance 92, March 6, 2006.

- a. Overall maximum PUD density range.
- b. General location of major streets and pedestrian ways.
- c. General location and extent of public and common open space.
- d. General location of residential and non-residential land uses with approximate type and intensities of development.
- e. Staging and time schedule of development.
- f. Other special criteria for development.

(2) Schedule.

- a. Applicant shall meet with the Building Inspector to discuss the proposed developments.
- b. The applicant shall file the concept stage application together with all supporting data and filing fee as established by Council resolution.
- c. Within thirty (30) days after verification by the City that the required plan and supporting data is adequate, the request shall be processed in accordance with the applicable procedures and schedules as defined by §300 or §400 of this Chapter.

(3) Optional Submission of Development Stage Plan. In cases of single stage PUDs or where the applicant wishes to begin the first stage of a multiple stage PUD immediately, he may, at his option, initially submit Development Stage Plans for the proposed PUD. In such case, the Planning Commission and City Council shall consider such plans and grant or deny Development Stage Plan approval in accordance with the provisions of this section.

(4) Effect of Concept Plan Approval. Unless the applicant shall fail to meet time schedules for filing Development Stage and Final Plans or shall fail to proceed with development in accordance with the plans as approved or shall in any other manner fail to comply with any condition of this Chapter or any approval granted pursuant to it, a General Concept Plan which has been approved shall not be modified, revoked or otherwise impaired pending the application of Development Stage and Final Plans by any action of the City without the consent of the applicant.

(5) Limitation on General Concept Plan Approval. Unless Development Stage Plans covering at least ten (10) dwelling units or the area designated in the General Concept Plan as the first stage of the PUD, whichever is greater, has been filed within six (6) months from the date Council grants General Concept Plan approval, or in any case where the applicant fails to file Development Stage and Final Plans and to proceed with development in accordance with the provisions of this Chapter and of an approved General Concept Plan, the approval shall lapse. Upon request of the applicant, the City Council, at its discretion, may extend, for additional periods not in excess of six (6) months each, the filing deadline for any development stage plan, when for good cause shown such extension is necessary.

(d) Development Stage.

- (1) Purpose. The purpose of the Development Stage Plan is to provide a specific and particular plan upon which the Planning Commission will base its recommendation to the Council and with which substantial compliance is necessary for the preparation of the Final Plan.
- (2) Submission of Development Stage. Upon approval of the General Concept Plan, the applicant shall file with the Planning Commission a Development Stage Plan consisting of the information and submissions required by this Chapter for the entire PUD or for one or more stages thereof in accordance with a staging plan approved as part of the General Concept Plan. The Development Stage Plan shall refine, implement and be in substantial conformity with the approved General Concept Plan.
- (3) Review and Action by Planning Commission.
  - a. Immediately upon receipt of a completed Development Stage Plan, said plan shall be referred to the following City staff and/or official bodies for the indicated action:
    1. The City Attorney for legal review of all documents.
    2. The City Building Inspector and/or consulting engineering firm for review of all engineering data and the City/Developer Agreement.
    3. The Building Inspector for review of all building plans.
    4. The Building Inspector or their agent for review of all plans for compliance with the intent, purpose and requirements of this Chapter and conformity with the General Concept Plan and Comprehensive Plan.
    5. The Planning Commission for review and recommendation to the Council.
    6. When appropriate, as determined by the Building Inspector to other special review agencies such as the Watershed Districts, Soil Conservation Services or other review agencies and governmental jurisdictions.
  - b. The review and action by City staff and/or official bodies or agencies so designated shall be completed within ninety (90) days of receipt of a completed development stage plan.
- (4) Council Action. Within one hundred fifty (150) days of the receipt of a completed Development Stage Plan, the City Council shall act to deny or approve the request.
- (5) PUD Enactment. Final approval of a PUD conditional use permit or PUD overlay district map amendment shall be considered granted only at the time of Development Stage Plan approval by the City Council.
- (6) Limitation on Development Stage Plan Approval. Unless the Final Plan covering the area designated in the Development Stage Plan as the first stage of the PUD has been filed within six (6) months from the date Council grants Development Stage Plan for approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this Chapter and/or an approved Development Stage Plan, the approval shall expire. Upon application by the applicant, the Council at its discretion

may extend for not more than six (6) months, the filing deadline for any Final Plan when, for good cause shown, such extension is necessary.

- (7) Site Improvements. At any time following the approval of Development Stage Plan by the Council, the applicant may, pursuant to the applicable City Code provisions, apply for, and the City Building Inspector may issue, grading permits for the area within the PUD for which Development Stage Plan approval has been given.

(e) Final Plan.

- (1) Purpose. The Final Plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other City Code provisions as the land use regulation application to the PUD. The Final Plan is intended only to add detail to, and to put in final form, the information contained in the Development Stage Plan and shall conform to the Development Stage Plan in all respects.

- (2) Schedule.

- a. Upon approval of the Development Stage Plan, and within the time established in this Chapter, the applicant shall file with the Building Inspector a Final Plan consisting of the information and submissions required of this Chapter for the entire PUD or for one or more stages. This plan will be reviewed and approved or denied by City staff.
- b. Within thirty (30) days of its approval, the applicant shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County Recorder of Registrar of Titles. The applicant shall provide the City with a signed copy verifying County recording within forty (40) days of the date of approval.

- (3) Building and Other Permits. Except as otherwise expressly provided herein, upon receiving notice from the Building Inspector that the approved Final Plan has been recorded and upon application of the applicant pursuant to the applicable City Code provisions, all appropriate officials of the City may issue building and other permits to the applicant for development construction and other work in the area encompassed by the approved Final Plan provided, however, that no such permit shall be issued unless the appropriate official is first satisfied that the requirements of all codes and City Code provisions in which are applicable to the permit sought, have been satisfied.

- (4) Limitation of Final Plan Approval. Within one (1) year after the approval of a Final Plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension shall have been granted as hereinafter provided, automatically render void the PUD permit and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of this Chapter and other City Code provisions, applicable in the district in which it is located. In cases involving PUD rezoning, the Council shall forthwith adopt an ordinance repealing the PUD and all PUD approvals and re-establishing the zoning and other City Code provisions that would otherwise be applicable. The time limit established by this Item (4) may, at the discretion of the Council, be extended for not more than one (1) year.

(5) Inspections During Development.

- a. Compliance with Overall Plan. Following Final Plan approval of a PUD, or a stage thereof, the Building Inspector shall, at least annually until the completion of the development, review all permits issued and construction undertaken and compare actual development with the approved development schedule.
- b. If the Building Inspector finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plan as finally approved, the City shall: by ordinance revoke the PUD permit, and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take such steps as it deems necessary to compel compliance with the Final Plans as approved; or shall require the landowner or applicant to seek an amendment to the Final Plan.

## **§3600 - "S" SHORELAND OVERLAY DISTRICT**

<a href="#">§3600.1</a>	<a href="#">Purpose</a>
<a href="#">§3600.2</a>	<a href="#">District Application</a>
<a href="#">§3600.3</a>	<a href="#">Boundaries</a>
<a href="#">§3600.4</a>	<a href="#">Shoreland Management Classification</a>
<a href="#">§3600.5</a>	<a href="#">Shoreland Overlay Districts</a>
<a href="#">§3600.6</a>	<a href="#">Zoning Regulations and Development Provisions</a>
<a href="#">§3600.7</a>	<a href="#">Shoreland Alterations</a>
<a href="#">§3600.8</a>	<a href="#">Sewage Treatment and Water Supply</a>
<a href="#">§3600.9</a>	<a href="#">Subdivisions</a>
<a href="#">§3600.10</a>	<a href="#">Planned Unit Development</a>
<a href="#">§3600.11</a>	<a href="#">Variances</a>
<a href="#">§3600.12</a>	<a href="#">Effect of Permit</a>
<a href="#">§3600.13</a>	<a href="#">Notification Procedures</a>

### §3600.1 Purpose.

The uncontrolled use of shoreland areas affects the public health, safety and general welfare by contributing to the pollution of public waters, causing over-crowding of surface waters and impairing the local tax base. The shorelands within the City of Medicine Lake are hereby designated as "S" Shoreland Overlay Districts and the requirements set forth in this Chapter shall govern development and other activities within these districts. The classification of the shoreland areas shall govern the use, alteration and development of these areas according to said classification.

### §3600.2 District Application.

The "S" Shoreland Overlay District shall be applied to and superimposed (overlaid) upon all zoning districts as contained herein as existing or amended by the text and map of this Chapter. The regulations and requirements imposed by the "S" Shoreland Overland District shall be in addition to those established for districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

### §3600.3 Boundaries.

The boundaries of the Shoreland District are established within one thousand (1000) feet from the ordinary high water mark of the surfaced water depending on the size of the surface water as indicated on the Medicine Lake Zoning Map.

### §3600.4 Shoreland Management Classification.

The protected waters of the City of Medicine Lake have been classified by the Commissioner of Natural Resources as a General Development Lake.

### §3600.5 Shoreland Overlay Districts.

The shorelands of the City of Medicine Lake are hereby designated as Shoreland Overlay Districts. All permitted uses allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District as indicated on the official Zoning Map of the City, and any subsequent changes thereto.

§3600.6 Zoning Regulations and Development Provisions.

- (a) Setback requirements from the ordinary high water mark shall not apply to docks. Location of docks shall be controlled by applicable state and local regulations.
- (b) Exceptions to the structure setback requirements as set forth in §3600.6 herein above may be allowed pursuant to §3600.10.

§3600.7 Shoreland Alterations.

- (a) The removal of natural vegetation shall be restricted to prevent erosion into protected waters, to consume nutrients in the soil, and to preserve shoreland aesthetics. Removal of natural vegetation in the Shoreland Overlay District shall be subject to the following provisions:
  - (1) Selective removal of natural vegetation is allowed, provided that sufficient vegetation cover remains to screen cars, dwellings, and other structures when viewed from the water.
  - (2) Clear-cutting of natural vegetation is prohibited.
  - (3) Natural vegetation shall be restored insofar as feasible after any construction project is completed to retard surface runoff and soil erosion.
  - (4) The provisions of this section shall not apply to permitted uses which normally require the removal of natural vegetation.
- (b) Grading and filling in shoreland areas or any alteration of these natural topography where the slope of the land is toward a protected water or watercourse leading to a protected water must be authorized by a grading and filling permit and is subject to the provisions of §1800 and §1900 of this Chapter. The grading and filling permit may be granted by the City subject to the conditions of §1800 and §1900 and the following:
  - (1) No more than one-third (1/3) of the surface area of a lot shall be devoid of vegetative ground cover at any time.
  - (2) Temporary ground cover such as mulch shall be used and permanent cover such as sod shall be planted as soon as possible.
  - (3) Methods to prevent erosion and trap sediment shall be employed.
  - (4) Fill shall not be placed in areas lower in elevation than the normal (ordinary) high water mark except for beach sand blankets as regulated by the DNR.
  - (5) Fill shall be stabilized according to accepted engineering standards.
  - (6) No grading or filling shall be permitted within twenty (20) feet of horizontal distance to the normal high water mark of water body. Sand beaches are exceptions to this provision under the following conditions:
    - a. The sand material shall be clean, free of pollutants and nutrients, inorganic sand or gravel.
    - b. A sand beach shall be placed in the lesser of:

1. An area no wider than fifty (50) feet as measured at the rear lot line or ordinary high water mark and extending no more than twenty (20) feet landward of the ordinary high water mark, or
  2. An area no wider than two-thirds (2/3rd) of the lot width as measured at the rear lot line or ordinary high water mark and extending not more than twenty (20) feet landward of the ordinary high water mark.
- c. Sand beaches shall not be placed in bluff impact zones.
- d. Sand beaches shall not be placed on slopes exceeding ten (10) percent. Slopes exceeding ten (10) percent may not be altered to allow for the placement of a sand beach. (c) Any work which will change or diminish the course, current, or cross section of a public water must be approved by the Department of Natural Resources before the work is begun. This includes construction of channels and ditches, lagooning, dredging of the lake bottom for the removal of muck, silt or weeds, and filling in the lake bed, including low lying marsh areas. Approval shall be construed to mean the issuance, by the Commissioner of the Department of Natural Resources, of a permit under the procedures of Minnesota Statute, 1974, §4 and other related statutes.
- (c) Excavations on shorelands where the intended purpose is to connect to a public water, such as boat slips, canals, lagoons, and harbors, shall require a permit from the Building Inspector prior to commencement of construction. Such permit shall be obtained only after the Commissioner of the Department of Natural Resources has approved the proposed connection to public waters. Approval will be given only if the proposed work is consistent with applicable State regulations for work in beds of public waters.<sup>1</sup>

§3600.8 Sewage Treatment and Water Supply.

- (a) Any premises intended for human occupancy shall be provided with hook-up to the municipal sewage treatment system. Private on-site sewage treatment facilities are prohibited.
- (b) Water Supply. Public or private supplies of water for domestic purposes shall conform to Minnesota Department of Health standards for water quality. Public or municipal water supplies shall be used where available and where feasible. Private wells shall be located in a manner to be free from flooding and the top shall be so constructed and located as to be above all possible sources of pollution. Wells already existing in areas subject to flooding shall be flood-proofed. No private wells shall be located closer than three (3) feet to the outside basement wall of a dwelling. The outside basement footings shall be continuous across the opening of the well alcove. No well shall be located closer than fifteen (15) feet from a property line.
- (c) High Water Elevation. For lakes, ponds, or flowages, no structure, except docks, shall be placed at an elevation inconsistent with the minimum elevation requirements of the flood plain management

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<sup>1</sup> Section §3600.7 amended by Ordinance 78, April 7, 2003.

regulations. When fill is required to meet this elevation, the fill shall be allowed to stabilize, and construction shall not begin until the property has been inspected by the Building Inspector. Plans shall also be submitted to the Department of Natural Resources and Bassett's Creek Watershed Management Association. Instances where flood plain elevations are not available, the lowest floor including basement, of structures shall be at a level at least one (1) foot above the 100 year flood elevation.

#### §3600.9 Subdivisions.

No land shall be subdivided which is held unsuitable by the City for the proposed use because of flooding, inadequate drainage, soil and rock formations, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

#### §3600.10 Planned Unit Development (PUD).

Altered zoning standards variances or conditional uses may be allowed as exceptions to this Chapter for PUD's provided preliminary plans have been submitted to the Commissioner of Natural Resources for recommendation to the City prior to their approval by the City and further provide:

- (a) Sewage collection facilities shall be installed which are connected to a municipal sanitary sewer.
- (b) Open space is preserved through the use of restrictive covenants, public dedications or other methods.
- (c) The following factors are carefully evaluated to ensure the increased density of development is consistent with the resource limitation of the protected water:
  - (1) Suitability of the site for proposed use.
  - (2) Physical and aesthetic impact of increased density.
  - (3) Level of current development.
  - (4) Amount of current development.
  - (5) Levels and types of water surface use and public accesses.
  - (6) Possible effects on overall public use.
- (d) The final plan for a Planned Unit Development shall not be modified, amended, repealed, or otherwise altered unless approved in writing by the developer and the municipality, after having received written approval from the Department of Natural Resources.
- (e) Shoreline recreation facilities, such as beaches, docks and boat launching facilities, shall be centralized for common utilization.

#### §3600.11 Variances.

- (a) Variances may be granted by the City Council upon application as required in §500 of this Chapter in extraordinary cases, but only when the proposed use is determined to be in the public interest and no variance shall be granted which the Council determines will or has a tendency to:

- (1) Result in the placement of an artificial obstruction which will restrict the passage of storm and flood water in such manner as to increase the height of flooding, except obstructions approved by the Watershed Districts in conjunction with sound floodplain management.
- (2) Result in incompatible land uses or which would be detrimental to the protection of surface and ground water supplies.
- (3) Be not in keeping with land use plans and planning objectives for the City of Medicine Lake or which will increase or cause damage to life or property.
- (4) Be inconsistent with the objectives of encouraging land uses compatible with the preservation of the natural land forms, vegetation, and the marshes and wetlands within the City of Medicine Lake.
- (5) No permit or variance shall be issued unless the applicant has submitted a Shoreland Impact Plan as required and set forth in this Chapter. In granting any variance, the Council may attach such conditions as they deem necessary to insure compliance with the purpose and intent of this Chapter.
- (6) In addition to the procedures and requirements for variances established in §500 of this Chapter, the Commissioner of Natural Resources shall be given a minimum of ten (10) day notice of any public hearing, and a review and written report must be obtained from the Minnesota Department of Natural Resources and any other governmental body or commission having jurisdiction for such changes, additions or modifications affecting a shoreland district. The Commissioner of Natural Resources shall be advised in writing within ten (10) days of all decisions made regarding variances.

#### §3600.12 Effect of Permit.

The granting of any permit, variance, or subdivision approval under provisions of this section shall in no way affect the owner's capability to obtain the approval required by any other statute, ordinance or legislation of any State agency or subdivision thereof. Approval may be expressly given in conjunction with other permits applied for, but no approval shall be implied from the grant of such permits nor from the necessity to apply for a permit as described herein.

#### §3600.13 Notification Procedures.

- (a) A copy of the notice of a public hearing to consider a variance, inconsistent plat, ordinance or amendment, conditional use, rezoning in the Shoreland Overlay Districts shall be sent to the Commissioner of Natural Resources for receipt at least ten (10) days prior to such hearing.
- (b) A copy of all amendments to this Chapter, all plats, and final decisions granting variances or conditional uses within the Shoreline Overlay Districts shall be sent to the Commissioner of Natural Resources for receipt within ten (10) days of the amendment or final action.

## **§3700 "W" WETLAND SYSTEMS OVERLAY DISTRICT**

- [§3700.1 Purpose](#)
- [§3700.2 District Application](#)
- [§3700.3 Prohibited Uses](#)
- [§3700.4 Development Regulations](#)

### **§3700.1 Purpose.**

The "W" Wetland Systems Overlay District is a district relating to low lands, marshes, wetlands, drainage ways, water bodies, water courses of irrigate alteration and the development of such lands and providing for them issuance of permits therefore, and specifically to:

- (a) Reduce danger to the health, safety and welfare of the residents of Medicine Lake by protecting surface and ground water supplies from the impairment which results from incompatible land uses and alterations, and by providing safe and sanitary drainage.
- (b) Restrict and control land development so it will not impede the flow of flood water or cause danger to life or property.
- (c) Designate suitable land uses that are compatible with the preservation of the natural vegetation and marshes which are a principal factor in the maintenance of constant rates of water flow through the year and which sustain species of wildlife and plant growth.
- (d) Regulate runoff of surface waters from developed areas to prevent pollutants such as motor oils, sand, salt and other foreign materials from being carried directly into the nearest natural stream, lake or other public or private waters.
- (e) Regulate the alteration of wetland systems to prevent excessive pollution, increased and rapid water runoff, excessive nutrient runoff pollution and to maintain the aesthetic appearance of the wetlands.
- (f) Prevent the development of structures in areas which will adversely affect the public passage and use of creeks, marshes, low lands and water courses within the City.

### **§3700.2 District Application.**

- (a) The "W" Wetland Systems District shall be applied to and superimposed (overlaid) upon all residential, commercial, or industrial districts contained herein existing or amended by the text and map of this Chapter. The regulations and requirements imposed by the "W" Wetland Systems Overlay District shall be in addition to "S" Shoreland Overlay District and those established for the districts that jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.
- (b) The "W" Wetland Systems District within the City of Medicine Lake is defined and established to include those areas which include any water course, natural drainage system, waterbody, or wetland, that may be subject to periodic flooding, overflow, or seasonally high water tables. The district boundary lines shall be established at the edge of the aforesaid areas as depicted on the Medicine Lake Wetland Systems Map.

### §3700.3 Prohibited Uses.

Except as may hereinafter be conditionally permitted, it shall be unlawful for any person to:

- (a) Place, deposit or permit to be deposited, fill or add any material including structures into, within or upon any water body, water course, or wetland or natural drainage system.
- (b) Dig, dredge, or in any other way alter or remove any material from water bodies, water courses, wetlands or natural drainage systems.
- (c) Erect structures for human habitation.
- (d) Create ponds, dam or relocate any water course, or change the natural drainage system.
- (e) Clear and/or cut trees or other vegetation.
- (f) Permanently store materials.
- (g) Erect signs.
- (h) Dispose in water materials, including but not limited to sewage, garbage, rubbish and other discarded materials.

### §3700.4 Development Regulations.

- (a) Land owners desiring to develop land or construct any dwelling or any other artificial obstruction on land located within any of the wetlands districts within the City of Medicine Lake shall first submit a conditional use permit application as regulated in § 400 of this Chapter and a plan of development, hereinafter referred to as a "Wetland Systems Impact Plan", which shall set forth proposed provision for sediment control, water management, maintenance of landscaped features, and any additional matters intended to improve or maintain the quality of the environment. Such a plan shall set forth proposed changes requested by the applicant and affirmatively disclosed what, if any, change will be made in the natural condition of the earth, including loss or change of earth ground cover, destruction of trees, grade changes and its effect, if any, upon lakes, streams, water courses and marshes, lowlands and wetlands in the area. The plan shall minimize tree removal, ground cover change, loss of natural vegetation and grade changes as much as possible, and shall affirmatively provide for the relocation or replanting of as many trees as possible which are proposed to be removed. The purpose of the Wetland Systems Impact Plan shall be to eliminate as much as possible potential pollution, erosion and siltation.
- (b) High Water Elevation for lakes, ponds, or flowages, no structure, except docks, shall be placed at an elevation such that the lowest floor, including basement floor, is less than one (1) foot above the highest known water level. In those instances where sufficient data on known high water levels are not available, the elevation of the line of permanent shoreland vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize, and construction shall not begin until the property has been inspected by the Building Inspector. Plans shall also be submitted to the Department of Natural Resources and Bassett's Creek Watershed Management Association.

Effect. This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

ADOPTED by the City Council of Medicine Lake this day of October 12, 1999.

This ordinance is to repeal ordinance 61 of the City of Medicine as adopted.