

## § 151.01 TITLE.

This Ordinance shall be referred to and cited as the Menahga Zoning Ordinance, except herein where it shall be cited as the Ordinance.

## § 151.02 INTENT AND PURPOSE

This Ordinance is established pursuant to the Authority granted by the Minnesota Statutes, in particular the Municipal Planning Act, Minnesota Statutes Sections 462.351 to 462.364, Minnesota Statutes Section 379, and Policies in Minnesota Statutes, Section 105, 115 and 116 and any Amendments thereto.

This Ordinance is adopted for the purpose of:

- 1) Protecting the public health, safety, comfort, convenience, and general welfare.
- 2) Promoting order in development by dividing the area of the city into zones.
- 3) Regulating therein the location, construction, reconstruction, alteration and use of the structures and land.
- 4) Conserving the natural and scenic beauty and attractiveness of the city, for the health of the public.
- 5) Providing for adequate light, air, and access to property by regulating the use of the land and buildings and the bulk of structures in relation to surrounding properties.
- 6) Providing for the administration of the provisions of the ordinance and defining the authority and duties of the Administrator, Planning Commission, Board of Adjustment and City Council and this Ordinance.
- 7) Conserving the natural and scenic beauty and attractiveness of the city for the health and welfare of the public.
- 8) Inauguration and effectuating the goals of the comprehensive plan.

## § 151.03 RULES

- 1) The provisions of this Ordinance shall be held to be the minimum requirements for the maintaining of the public health, safety, morals, and welfare.
- 2) Where the provisions of this Ordinance are either more restrictive or less restrictive than applicable provision of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive shall prevail.

- 3) Except as this Ordinance specifically provides, with provision for variances granted thereto, no structure shall be erected, converted to another use, or enlarged, and no structure or land shall be used for any purpose nor in any manner that does not conform with this Ordinance.

## § 151.04 DEFINITIONS.

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

**ANS/TIA/EIA:** American National Standard; Telecommunication Industry Association; Electronic Industrial Association.

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

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

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

**ADULT USE:** The offering of merchandise or recreation, whether for sale or rental or loan, characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment.

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

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

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

**ANIMALS:**

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

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

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

**AUTO OR MOTOR VEHICLE REDUCTION YARD:** A lot or yard where one or more licensed motor vehicles, or the remains thereof, are kept for more than seven (7) days for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage or abandonment.

**AUTOMOBILE REPAIR, MAJOR:** The general repairable building or reconditioning of engines, motor vehicles or trailers, including bodywork, framework, welding and major painting service.

**AUTOMOBILE REPAIR, MINOR:** The replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor painting and upholstering service when said service above stated is applied to passenger automobiles and trucks not in excess of seven thousand (7,000) pounds gross vehicle weight.

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

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

**BEST MANAGEMENT PRACTICES (BMPs):** Erosion and sediment control and water quality best management practices that are the most effective and practical means of controlling, preventing and minimizing degradation of surface water including avoidance of impacts, construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by State or designated area wide planning agencies. Best Management Practices referenced in this ordinance are from the Minnesota Storm Water Manual as amended from time to time, published by the Minnesota Pollution Control Agency.

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

above the ordinary high water level averages thirty percent (30%) or greater; and d) the slope drains toward the water body.

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

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

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

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

**BUILDING HEIGHT:** The vertical distance from: a) the average elevation of the adjoining ground level; or b) the established grade adjacent to the building, whichever is lower, to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the highest gable on a pitched or hip roof.

**BUILDING INTEGRATED SOLAR ENERGY SYSTEM:** A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, active photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights, and awnings, or passive systems that are designed to capture direct solar heat.

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

**CANNABIS:** As defined by the State of Minnesota.

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

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

**CHILD CARE, CENTER:** A facility that is maintained, for the whole or part of the day, for the care of five or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator or manager thereof, whether such facility is

operated with or without compensation for such care and with or without stated educational purposes. The term shall not include any facility licensed as a foster care home or any facility defined as a Child Care, Family Home.

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

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

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

**COLOCATION:** The act of siting telecommunications facilities in the same location of the same support structure as other telecommunications facilities. "Colocation" also means locating telecommunications facilities on an existing structure (for example buildings, water tanks, towers, utility poles, etc.), without the need to construct a new support structure.

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

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

**COMMERCIAL FEEDLOT:** An area where fifteen (15) or more animals per acre are fed solely for purpose of wholesale or retail sale.

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

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

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

**COMMISSION:** The Planning Commission of the City.

**COMMUNITY SOLAR GARDEN:** A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system, consistent with Minnesota Statutes 216B.1641 or successor statute. A community solar garden may be either an accessory or a principal use.

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

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

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

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

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

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

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

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

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

**DEWATERING:** Removal of water for construction activities.

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

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

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

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

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

**DWELLING, GUEST QUARTERS:** A structure used as a dwelling unit that may contain sleeping spaces and/or kitchen and/or bathroom facilities in addition to those provided in the primary dwelling unit on a lot; dependent upon the principal structure for primary utilities, services, entrance, parking, and accesses; and not for rent or lease. Any accessory structure containing kitchen or bathroom facilities or plumbing.

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

**FAA:** Federal Aviation Administration.

**FCC:** Federal Communications Commission.

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

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

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

**FINAL STABILIZATION:** All soil disturbing activity is completed, and exposed soils have been stabilized with a permanent vegetative cover with a density of seventy percent [70%] over the entire site.

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

**FLOOR AREA RATIO:** The numerical value obtained through dividing the floor area of a building or buildings by the lot area on which such building or buildings are located.

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

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

**GARAGE, PRIVATE:** A detached accessory building, or portion of the principal building, including a carport, which is used primarily for storing passenger vehicles, trailers or trucks.

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

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

**GROUND MOUNTED SOLAR ENERGY SYSTEM:** A solar energy system with a supporting framework that is placed on, or anchored in, the ground and that is



independent of any building or other structure. Garages, carports, or similar structures that incorporate building-integrated or building-mounted solar energy systems shall not be classified as ground-mounted solar energy systems and shall instead be subject to regulations governing accessory structures.

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

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

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

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

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

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

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

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

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

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

**INTENSIVE VEGETATION CLEARING:** The substantial removal of more than twenty five percent (25%) of trees or shrubs in a contiguous patch, strip, row, or block within one hundred feet (100') of the ordinary high-water mark of a river.

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

**LAND DISTURBING ACTIVITY:** Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City of Menahga's jurisdiction including construction, clearing, grubbing, grading, excavating, transporting, and filling of land.

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

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

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

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

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

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

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

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

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

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

direct access to the lot shall not be deemed a front lot line for the purposes of building or structure setback requirements.

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

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

**LOT OF RECORD:** A parcel of real property in separate ownership as shown by the real estate records of the Wadena County Recorder as of January 1, 1981.

**LOT, THROUGH:** A lot which has a pair of opposite lot lines abutting two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lines for applying this chapter.

**LOT WIDTH:** The horizontal distance between the side lot lines of a lot measured parallel to the front lines of the lot at the front building setback line.

**MANUFACTURED HOME:** A manufactured home used for living purposes that is transportable in one or more sections and is less than twenty four feet (24') in width, with or without a permanent foundation.

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

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

**MANUFACTURING, LIGHT:** All uses which include the compounding, processing, packaging, treatment or assembly of products and materials, provided such use will not generate offensive odors, glare, smoke, dust, noise, vibrations, or other objectionable influences that extend beyond the lot on which the use is located. Generally, these are industries dependent upon raw materials refined elsewhere. Such uses include, but are not limited to, the following: lumberyards, machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair, bodywork and painting, contractors' shops and storage yard, food and nonalcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles, and used auto parts.

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

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

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

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

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

**MPCA:** Minnesota Pollution Control Agency.

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

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

**NONCONFORMING USE:** The use of land, buildings, or structures legally existing at the time of adoption of this chapter, which does not comply with all the regulations of

this chapter, or any amendments hereto, governing the zoning district(s) in which such use is located.

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

**NPDES:** National Pollutant Discharge Elimination System.

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

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

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

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

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

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

**OPEN USE:** The use of a lot without a building or including a building incidental to the open use with a ground floor area equal to five percent (5%) or less of the area of the lot.

**ORDINARY HIGH-WATER LEVEL/MARK:** The highest level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The DNR has determined the OHWL at 1383.75 on Spirit Lake. The ordinary high-water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high-water level is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, backwaters, and sloughs.

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

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

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

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

**PERMANENT COVER:** Final stabilization.

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

**PLANNED UNIT DEVELOPMENT (PUD):** An urban development having two (2) or more principal uses or structures on a single lot and developed according to an approved plan.

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

**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.

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

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

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

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

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

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

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

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

**RETAIL SHOPPING:** Stores and shops selling goods and services to the general public.

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

**ROOF MOUNTED SOLAR ENERGY SYSTEM:** A solar energy system affixed to a principal or accessory building.

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

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

**SEMI-NUDE:** Means a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple of the female breast, as well as portion of the body covered by supporting straps or devices.

**SETBACK:** The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high-water level, sewage treatment system, top

of bluff, road, highway, property line or other facility. Three feet of roof overhang, stoops not exceeding thirty (30) square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

**SETBACK INTERIOR LOT:** The closest horizontal distance between the lot line and the foundation or wall of a structure when the lot line is not the exterior boundary of the development. Three feet of roof overhang, stoops not exceeding thirty (30) square feet and not protruding over six feet from the foundation and steps from stoop to ground not over four feet wide may protrude into the setback.

**SETBACK SIDE, EXTERIOR:** The closest horizontal distance between the exterior boundary side lot line and the foundation or wall of a structure. This setback takes precedence over setback, interior lot, where any conflict exists. Three feet of roof overhang, stoops not exceeding thirty (30) square feet and not protruding over six feet from the foundation and steps from stoop to ground not over four feet wide may protrude into the setback.

**SETBACK ROAD:** The closest horizontal distance between the road right of way line and the foundation or wall of a structure. Three feet of roof overhang, stoops not exceeding thirty (30) square feet and not protruding over six feet from the foundation and steps from stoop to ground not over four feet wide may protrude into the setback.

**SETBACK WATERFRONT:** The closest horizontal distance between the ordinary high-water mark and the foundation or wall or edge of a structure. Three feet of roof overhang, stoops not exceeding thirty (30) square feet and not protruding over six feet from the foundation and steps from stoop to ground not over four feet wide may protrude into the setback.

**SETBACK PUMP:** The distance from the street right-of-way line to the centerline of the motor fuel station pump island measured as perpendicular distance from the right-of-way.

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

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

**SIGN:** Any written announcement, declaration, demonstration, display, illustration, insignia, or illumination used to advertise or promote the interest of any person when the same is displayed or placed out of doors in view of the general public and shall include every detached sign.



**SIGN, FLASHING:** An illuminated sign on which the artificial light is not maintained constant in intensity and color at all times in which such sign is in use.

**SIGN, GROSS AREA OF:** The area within the frame shall be used to calculate the gross area, except that the width of the frame in excess of twelve inches (12") shall be added thereto. When letters or graphics are mounted without a frame, the gross area shall be the area bounded by straight lines six inches (6") beyond the periphery of said letters or graphics. Each surface utilized to display a message or to attract attention shall be measured as a separate sign. However, only one side of double faced signs shall be measured in computing the gross area thereof.

**SIGN ILLUMINATED:** Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes.

**SIGN, NAMEPLATE:** Any sign which states the name or address or both, of the business or occupation of the lot where the sign is placed, or may be a directory listing the names, address, and business of occupants.

**SIGNIFICANT CULTURAL SITE:** Any archaeological or historic site, standing structure or any other property that: a) is listed on the National Register of Historic Places; b) is listed in the State Register of Historic Sites; c) is determined to meet the qualifications for listing on the National Register of Historic Places or the State Register of Historic Sites after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society; or d) is determined by the City Council to be a significant local heritage preservation landmark.

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

**SOLAR COLLECTOR SURFACE:** Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.

**SOLAR ENERGY:** Radiant energy received from the sun can be collected in the form of heat or light by a solar collector.

**SOLAR ENERGY SYSTEM:** A device or structural design feature intended to provide for the collection, storage, and distribution of solar energy for heating or cooling, electricity generating, or water heating.

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

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

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

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

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

**STORMWATER MANAGEMENT PLAN:** The plan that a designer formulates to manage urban stormwater runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the site development grading plan; peak rates of runoff, flow duration, runoff volumes for various return frequencies; locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is usually submitted to regulatory officials for their review for adoption.

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

**STREET:** A public right-of-way not less than sixty feet (60') in width which affords a primary means of access of abutting property, and shall also include avenue, highway, or road, excepting existing public rights-of-way of lesser width.

**STREET SIDE GROUND FLOOR DWELLING UNITS:** A dwelling unit contained within a larger building structure which is designed or used for purposes of permanent or temporary residency.

**STRUCTURE:** Anything erected, the use of which requires more or less permanent location on the ground or attached to something having permanent location on the ground. This shall include signs whose highest point is more than seven feet (7') above the adjacent ground surface.

**SURFACE WATER OR WATERS:** All streams, lakes, rivers, ponds, marshes, wetlands, reservoirs, springs, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial public or private.

**TELECOMMUNICATIONS FACILITIES:** Cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of

telecommunications located or installed on or adjacent to a tower or antenna support structure. The term does not include: a) a satellite earth station antenna two meters (2 m) in diameter or less located in an Industrial or Commercial District; b) a satellite earth station antenna one meter (1 m) or less in diameter, wherever located; and c) a tower.

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

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

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

**TOWER HEIGHT:** The total height of a wind energy conversion system exclusive of the rotor blades.

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

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

**VARIANCE:** A legally permitted deviation from the provisions of this Ordinance as deemed necessary by the Board of Adjustment when the applicant has demonstrated there are practical difficulties in complying with the code. Variances cannot create a land use not permitted in a zone.

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

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

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

**WETLANDS:** Lands in transition between terrestrial and aquatic systems where the water table is at or near the surface or the land is covered by shallow water. "Wetlands" are characterized by hydric soils, saturated, or inundated with surface water, have a

frequency or duration of hydrophytic vegetation or support a prevalence of such vegetation under normal circumstances. Wetlands may be counted toward green space in a planned unit development.

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

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

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

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

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

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

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

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

## § 151.05 DISTRICTS ESTABLISHED

- A. For the purpose of this chapter, the city is divided into the following districts:
- 1) R-R, rural residential district;

- 2) R-1, one or two-family residential district;
- 3) R-2, three or more multi-family residential district;
- 4) C-B, central business district;
- 5) C-1, commercial district;
- 6) I, industrial district;
- 7) S-D, shoreland overlay district;
- 8) C-2, highway commercial district
- 9) M-H, manufactured
- 10) C-U community use

B. The boundaries of the district established by this chapter are delineated on the zoning map and all notations, references and date shown thereon are hereby adopted and made part of this chapter and will be on permanent file and available for public inspection, in the Office of the Zoning Administrator. It shall be the responsibility of the Zoning Administrator and staff to maintain the map and amendments thereto shall be recorded thereon within 30 days after official publication of amendments.

C. The boundaries between districts are, unless otherwise indicated, either the center lines of streets, alleys or railroad rights-of-way or the lines extended or lines parallel or perpendicular thereto. Where figures are shown on the zoning map between a street and a district boundary line runs parallel to the street at a distance there from equivalent to the number of feet stated, unless otherwise indicated.

## § 151.06 APPLICATION OF THIS ORDINANCE

- 1) The provisions of this Ordinance shall be held to be the minimum requirements for the maintaining of the public health, safety, morals, and welfare.
- 2) Where the provisions of this Ordinance are either more restrictive or less restrictive than applicable provision of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive shall prevail.
- 3) Except as this Ordinance specifically provides, with provision for variances granted thereto, no structure shall be erected, converted to another use, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this Ordinance.

## § 151.07 ENVIRONMENTAL DOCUMENTS AND CONCURRENT PERMITS

- 1) It shall be the property owner's responsibility to secure necessary concurrent permits, such as the MPCA's National Pollutant Discharge Elimination System (NPDES) and other State Waste Disposal Permits, Planned Unit Development Permits, Corp or Engineers Permits, and Public Water Permits.

- 2) The proposer of any project exceeding the limits defined in the Environmental Quality Council's rules and regulations for Environmental review program shall submit a draft Environmental Assessment Worksheet for the City to review with other pertinent data.

## § 151.08 NONCONFORMING USES AND STRUCTURES

- 1) Allowed to Continue. Any use or structure lawfully existing prior to the effective date of this Ordinance, or subsequent amendment which made the use or structure nonconforming, may be continued, including through repair, replacement, restoration, maintenance, or improvement, at the size and in the manner of operation existing upon such date, subject to the following conditions:
  - a. A nonconforming use or structure shall in no way be expanded, enlarged or extended either on the same property or onto an adjoining lot of record except as expressly allowed in this section. Prohibited expansion, enlargement, or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use that increases the height, volume and/or area dimensions of the nonconforming use. The City Council may allow an expansion or extension of a nonconforming structure without a variance if the expansion or extension does not increase the nonconforming aspect of the structure. To the extent the expansion or enlargement of a nonconforming principal or accessory structure is allowed by this section, no such expansion or enlargement may occur except upon issuance of the appropriate permits and provided that the use of the property conforms to the zoning district regulations, that the expansion or enlargement meets current zoning district regulations, and no other nonconformities are created. All other expansions of nonconforming structures shall require a variance; and
  - b. Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this section prevents the placing of a structure into a safe condition after it has been declared unsafe by the City.
- 2) Alterations. Alterations may be made to a building containing nonconforming dwelling units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be approved by the City.
- 3) Damaged. Whenever a nonconforming structure or use is damaged by fire, collapse, flood, explosion, earthquake, war, riot, act of God or public enemy or to the extent of 50 percent (50%) or less of its estimated market value as indicated in the County Assessor's records at the time of damage, it may be reconstructed upon receipt of all required permits. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent (50%)

of the estimated market value as indicated in the County Assessor's records at the time of damage.

- 4) Replaced Use or Structure. When any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Ordinance, and it shall not thereafter be changed to any nonconforming use or structure.
- 5) Discontinued. If the nonconforming use of land is discontinued for a period of twelve (12) months, the subsequent use of the land or the structure shall be in conformity with the provisions of this Ordinance.
- 6) Public Nuisances. Nonconforming uses or structures which are declared by the City to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures.
- 7) Nonconformities in Floodplains. No repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.
- 8) Nonconformities in Shorelands. Nonconformities located within the Shoreland Overlay District are subject to the provisions of Minnesota Statutes, section 462.357, subdivision 1e, paragraphs (d) to (j). Section 6.2.

## § 151.09 NONCONFORMING LOTS

- 1) Lots of Record. All lots of record, existing as of the date of this Ordinance and all prior zoning ordinances in the City, that do not meet the minimum lot area and lot width requirements, may be allowed as building sites without a variance from lot size or width requirements provided that it satisfies all of the following:
  - a. The use is permitted in the zoning district and is not precluded by any applicable overlay district;
  - b. The lot was created compliant with official controls in effect at the time;
  - c. The setback requirements of this Ordinance are met; and
  - d. The applicable wastewater regulations are met.
- 2) Lots of Record in Shorelands. Lots of record in the office of the County Recorder as of the date shoreland regulations were adopted for the City that are located within a shoreland and do not satisfy the requirements of this Ordinance for lot size or lot width are subject to the following:
  - a. A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

- i. All structure and septic system setback distance requirements can be met;
  - ii. A Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and
  - iii. The impervious surface coverage does not exceed thirty (30%) percent of the lot.
- b. In a group of two or more contiguous lots of record under a common ownership, an individual lot shall be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
  - i. The lot must be at least sixty-six (66%) percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
  - ii. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;
  - iii. Impervious surface coverage must not exceed thirty (30%) percent of each lot; and
  - iv. Development of the lot must be consistent with the City's comprehensive plan.
- c. A lot not meeting the requirements to be considered a separate parcel of land for the purpose of sale or development as set out above must be combined with one or more contiguous lots so they equal one or more conforming lots as possible.
- d. Notwithstanding the requirements to be considered separate parcel of land for the purpose of sale or development as set out above, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.
- e. In evaluating all variances, zoning and land use permit applications, or conditional use requests, the City shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed mitigation actions.
- f. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.



## § 151.10 BUILDING STANDARDS

All structures and appurtenances shall be constructed in accordance with the general standards of the building industry.

- 1) One family residential structure shall be placed on a permanent foundation, have a ground floor area of not less than 700 square feet of livable space, and the minimum dimension of the main body of the dwelling unit shall not be less than 20 feet in width.
- 2) Two Family structures (duplex) shall be placed on a permanent foundation, have a ground floor area of not less than 600 square feet of livable space per unit, and the minimum dimension of the main body of the dwelling unit shall not be less than 20 feet in width.
- 3) Three Family structures and above shall be placed on a permanent foundation, have a floor area of not less than 500 square feet of livable space per unit, and the minimum dimension of the main body of the dwelling unit shall not be less than 20 feet in width.
- 4) Sanitary facilities shall conform to Minnesota Pollution Control Agency Standards. "Individual Sewage Treatment Systems Standards- 6 MCAR and 4.8040". including Appendix A (Except E-3 Sewage Osmosis and E-4 Seepage Pits), B and E. Further, all sanitary systems shall be constructed by installers licensed by the State of Minnesota to install onsite disposal systems.

## § 151.11 ALLOWED USES

Only those uses specifically listed in this Ordinance as being allowed as a permitted, conditional, interim, or accessory use may occur within the City. All other uses not expressly allowed by this Ordinance are prohibited, except that the City Council may allow a use not specifically listed upon submission of an application and a finding by the City Council that the proposed use is substantially similar to an allowed use as provided in this Ordinance. The uses allowed on lots located within the Shoreland Overlay District or the Floodplain Overlay District are further restricted by the regulations contained with the Shoreland Management Ordinance or the Floodplain Management Ordinance. No use allowed within the City shall be established or expanded without first obtaining all required permits and complying with all applicable standards and regulations set out in this Ordinance and all other City ordinances.

## § 151.12 USES ALLOWED BY STATE STATUTE

The legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition of uses not expressly allowed by this Ordinance, this Ordinance shall be interpreted as also allowing those uses the legislature expressly requires the City to allow. Such uses shall

be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute and only to the extent and scope as prescribed in the statute. For example, Minnesota Statute, section 462.357, subdivision 7 requires a licensed day care facility serving 12 or fewer persons to be considered a permitted single family residential use of property. As such, this Ordinance shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of 12 persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly allowed by this Ordinance. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the City. All mandated uses shall obtain a land use permit and all other permits and permissions as required by this Ordinance and all other applicable laws.

### § 151.13 SUBSTANTIALLY SIMILAR USES

An owner proposing to undertake a use he or she believes is substantially similar to a use expressly allowed by this Ordinance in the same zoning district may submit an application to the City to request a finding that the use is allowed. Such application shall be on the form supplied by the City and it must fully explain the proposed use and how it is similar to an allowed use. The City Council shall act on complete applications to determine whether the proposed use is substantially similar to an allowed use in the same zoning district. If the City Council does find the proposed use is substantially similar, it shall also determine whether the use shall be deemed a permitted, interim, conditional, or accessory use for the purpose of this Ordinance. The owner must then apply for and obtain all required permits based on the City Council's classification of the use and any other applicable regulations. The City Council shall maintain a record of all uses it expressly finds to be substantially similar and will make a good faith effort to include those uses in this Ordinance the next time it is amended. If the City Council finds the proposed use is not substantially similar to an allowed use, the owner may submit a separate application for a Conditional Use Permit.

### § 151.14 USE OF ACCESSORY STRUCTURES

All accessory structures or uses require the establishment of a principal structure when placed on a lot less than 2.5 acres in size.

### § 151.15 ZONING DISTRICT AND DISTRICT PROVISIONS

- 1) The City of Menahga is hereby divided into zoning districts as shown on the official zoning district map, which may be subsequently amended.
- 2) The boundaries are generally on the center of streets, on lot lines, on shorelines, on the center of streams, or rivers, and following the contour of the land.
- 3) The following Districts are hereby established:
  - a. R-R, rural residential

- b. R-1, one or two-family residence
- c. R-2, three or more multiple-family residence
- d. C-B, central business
- e. C-1, commercial
- f. C-2, highway commercial
- g. I, industrial
- h. S-D, shoreland
- i. M-H, manufactured home residence
- j. C-U, community use

## § 151.16 RURAL RESIDENTIAL

- 1) Purpose: To establish and maintain a district that is semi-rural and rural in character and to prevent the occurrence of premature urban development.
- 2) Permitted Uses:
  - a. Agriculture, including farm dwellings and agricultural buildings;
  - b. Forest and production of woodland products including portable sawmills for cutting timber grown on the premises;
  - c. One or two-family dwellings; and
  - d. Public and private parks.
  - e. Residential and nonresidential programs as regulated by Minnesota Statutes 245A.11 and 245A.14, as amended, except where such programs are considered a multifamily residential use by said statutes.
  - f. All home occupations shall comply with the following general provisions and standards:
    - i. Machine shops, body shops, repair of internal combustion engines (other than small engine repair), welding, manufacturing, or any other objectionable use as determined by the City Council shall not be permitted as a home occupation.
    - ii. No manufacturing business shall be allowed.
    - iii. Home occupations shall be clearly incidental and subordinate to the residential use of the dwelling.
    - iv. Exterior alterations or modifications that change the residential character or appearance of the dwelling, any accessory buildings, or the property itself shall be prohibited.
    - v. Home occupations shall meet all applicable Fire and Building Codes.
    - vi. Exterior display or storage of equipment or materials is prohibited.
    - vii. Signage is permitted as allowed in the sign section of this ordinance, for the zoning district in which the home occupation is located.
    - viii. No home occupation shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.

- ix No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- x Frequent shipment and delivery of products, merchandise, or supplies shall be limited to between 8:00 a.m. and 6:00 p.m. and shall occur only in single rear axle straight-trucks or smaller vehicles normally used to serve residential neighborhoods.
- xi No home occupation shall be conducted between the hours of nine o'clock (9:00) PM and seven o'clock (7:00) AM unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities. The City Council shall have the authority to further restrict the hours of operation as necessary to meet the purpose of this section.
- xii On the premises, retail sales shall be prohibited except for the retail sales of products or goods produced or fabricated on the premises as a result of the home occupation, except for the occasional sale of items that are primarily sold mail order or sold over the Internet or incidental to the products or goods produced or fabricated on the premises.
- g. Solar Energy System, roof-mounted
- h. Keeping of farm animals, horses and chickens per the performance standards outlined in this ordinance.

3) Conditional Uses:

- a. Churches
- b. Planned Unit Development, which are individually owned or rental units, medical, hospital or extended care facilities.
- c. Other residential, institutional, or government service uses determined by the City Council to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses, or the public health, safety, and welfare of the public.

4) Accessory Uses:

- a. Normal uses accessory to principle uses are allowed except the principal use must first be established.

5) Performance Standards:

Minimum Lot width	200-feet
Minimum Lot area square feet	2.5 Acres
Front setback measured from the property line	30-feet
Rear yard setback	20-feet
Side yard setback	20-feet
Corner side yard setback	30-feet
Sheds under 200 sqft setback (side or rear)	5-feet
Maximum Impervious Surface Coverage	varies by parcel

Building Height Maximum  
Maximum Density

45-feet  
One Unit / 25,000-sqft

## § 151.17 R-1 ONE-OR-TWO FAMILY RESIDENCE

- 1) Purpose: The R-1 district is intended for low density residential development in those areas where development fits the land use plan and policies.
- 2) Permitted uses:
  - a. One or two-family unit dwellings;
  - b. Public and private parks, playgrounds, athletic fields and other recreation uses of a supporting nature to parks and playgrounds.
  - c. Residential and nonresidential programs as regulated by Minnesota Statutes 245A.11 and 245A.14, as amended, except where such programs are considered a multifamily residential use by said statutes.
  - d. Parks and recreational areas owned or operated by governmental agencies;
  - e. Public elementary or high schools or private schools with an equivalent curriculum;
  - f. Churches, parish houses, convents, children's nurseries and schools;
- 3) Conditional Uses:
  - a. Planned Unit Developments
  - b. Commercial childcare facilities
  - c. Vegetation removal, clear cutting
  - d. Nursing home, or home for the aged, including assisted living, memory care or similar.
  - e. Accessory Dwelling Units
  - f. Other residential, institutional, or government service uses determined by the City Council to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses, or the public health, safety, and welfare of the public.
- 4) Accessory Uses Permitted:
  - a. Normal uses accessory to the principle uses are allowed except that the principal use must first be established.
- 5) Performance Standards:

Minimum lot width (1 – 2 Family Units)	75-feet
Minimum lot area square feet (with sewer)	7,500-sqft
Minimum lot area square feet (without sewer)	20,000-sqft
Front setback measured from the property line	20-feet
Rear yard	10-feet
Side yard	10-feet
Corner side yard	20-feet
Sheds under 200 sq ft - setback (side or rear)	5-feet

Maximum Impervious Surface Coverage	varies by parcel
Building Height Maximum	35-feet
Maximum Density (with sewer)	One Unit / 7,500-sqft
Maximum Density (without sewer)	One Unit / 20,000-sqft

## § 151.18 R-2 MULTIPLE FAMILY RESIDENCE

- 1) Purpose. The R-2 district is intended for apartments, row houses, townhouses, dormitories and other buildings of three or more dwelling units. Any use permitted in the R-1 district is permitted in the R-2 district.
- 2) Permitted Uses:
  - a. Any use permitted in the R1 District
  - b. Single family, duplex, triplex, fourplex or greater structures
  - c. Municipal administration buildings, police and fire stations, libraries, museums, art galleries, post offices and other municipal service buildings,
- 3) Conditional Uses:
  - a. Planned Unit Developments
  - b. Commercial childcare facilities
  - c. Medical facilities
  - d. Vegetation removal, clear cutting
  - e. Licensed residential and non-residential programs considered a permitted multi-family use by Minnesota Statutes 245A.14, as amended.
  - f. Nursing home, or home for the aged, including assisted living, memory care or similar.
  - g. Accessory Dwelling Units
  - h. Other residential, institutional, or government service uses determined by the City Council to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses or the public health, safety, and welfare of the public.
- 4) Accessory Uses:
  - a. Normal uses accessory to the principle uses are allowed except that the principal use must first be established.
- 5) Performance Standards:
 

Minimum lot width (1 – 2 Family Units)	75-feet
Minimum lot width (3 – 4 Family Units or more)	150 feet
Lot Area (with Sewer)	7,500 square feet, plus 3,000 square feet for each additional dwelling units over two.
Lot Area (without sewer)	15,000 square feet, plus 3,000 square feet for each additional dwelling unit over two.
Front setback measured from the property line	20-feet
Rear yard	10-feet

Side yard	10-feet
Corner side yard	20-feet
Sheds under 200 sq ft - setback (side or rear)	5-feet
Maximum Impervious Surface Coverage	varies by parcel
Building Height Maximum	40-feet

## § 151.19 C-B CENTRAL BUSINESS

- 1) *Purpose.* The C-B district is intended for retail stores and offices that are mutually compatible and can benefit from and contribute to a compact shopping area serving the city and surrounding area.
- 2) *Permitted Uses:*
  - a. Retail establishments - the sale of goods to the public
  - b. Food service establishments - bakeries, grocery store, catering, etc.
  - c. On and/or off-sale liquor establishments
  - d. Personal services - beauty shop, barber shop, massage therapy, etc.
  - e. Professional services - medical, dental, optical, insurance, law, etc.
  - f. Entertainment and amusement services
  - g. Lodging services, including hotels and motels.
  - h. Gas stations, light repair shops
  - i. Professional office buildings.
  - j. Recreational centers
  - k. Theaters
  - l. Restaurants, taverns, distillery, microbrewery with taproom
  - m. Public buildings
  - n. Churches
  - o. Commercial childcare facility.
  - p. Libraries
  - q. Dwelling(s) on the second floor or above, or behind, provided there is a separate entrance and at least 1 off-street parking stall provided per unit.
- 3) *Conditional Uses:*
  - a. Other commercial uses determined by the City Council to be of the same general character as the permitted use above and found not to be detrimental to existing uses, or to the public health, safety, and welfare of the public.
- 4) *Performance Standards:*

Lot Width Minimum	25-feet
Lot Size	2,250-sqft
Property Line Setback Front	0-foot
Property Line Setback Side	0-feet
Property Line Setback Rear yard	0-feet
Impervious Coverage	varies by parcel
Building height Maximum	45-feet

All Artificial Lighting and glare shall be directed away from the public right-of-way and any residential district.

## § 151.20 C-1 COMMERCIAL

- 1) Permitted Uses: *Purpose.* The C-1 district is intended to provide suitable locations for commercial retail and wholesaling administrative servicing and related activities dealing more in convenience goods and services.
- 2) Permitted Uses:
  - a. Those uses as permitted in the C-B district shall be permitted uses
  - b. Cabinet, carpenter, upholstering or furniture repair shops and services
  - c. Dry cleaning, dyeing and laundry establishments
  - d. Electrical contractors and equipment repair and services establishments
  - e. Greenhouses, nurseries and garden supply stores
  - f. Mortuaries, vault and casket establishments
  - g. Municipal and government buildings and structures
  - h. Newspaper printing and distribution agencies
  - i. Public utility structures
  - j. Plumbing, heating and air conditioning shops, service and showrooms
- 3) Conditional Uses:
  - a. Other commercial uses determined by the City Council to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general health, safety, and welfare of the public.
- 4) Performance Standards:

Lot Width Minimum	75-feet
Lot Size	10,000-sqft
Property Line Setback Front	10-feet
Property Line Setback Side	5-feet
Property Line Setback Rear yard	10-feet
Impervious Surface Coverage	varies by parcel
Building height Maximum	45-feet

All Artificial Lighting and glare shall be directed away from the public right-of-way and any residential district.

## § 151.21 C-2 HIGHWAY COMMERCIAL

- 1) *Purpose.* The purpose of the C-2 district is to develop highway-oriented business areas without detriment to the flow of traffic on any arterial highway or street.



- 2) Permitted Uses:
  - a. Those uses as permitted in the C-B & C-1 districts shall be permitted uses
  - b. Automobile sales and display area.
  - c. Farm implement dealers with enclosed showrooms and sales areas.
  - d. Engraving, printing, publishing, cartographic and bookbinding establishments.
  - e. Lumber sales and yards.
  - f. Marine and boat sales display and servicing establishments.
  - g. Monuments, processing and sales.
  
- 3) Conditional Uses:
  - a. Outside storage and commercial storage units or facilities.
  - b. Other commercial uses determined by the City Council to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general health, safety, and welfare of the public.
  
- 4) Performance Standards:
 

Lot Width Minimum	100-feet
Lot Size	25,000-sqft
Property Line Setback Front	30-feet
Property Line Setback Side	10-feet
Property Line Setback Rear yard	20-feet
Setback, Corner Side	20-feet
Impervious Surface Coverage	varies by parcel
Building height Maximum	45-feet

All Artificial Lighting and glare shall be directed away from the public right-of-way and any residential district.

## § 151.22 INDUSTRIAL

- 1) Purpose: the purpose of the industrial district is to establish the appropriate location for the manufacturing, distribution, wholesaling, or storage of raw material, partially finished products or finished products.
  
- 2) Permitted Uses:
  - a. Any permitted or conditional use allowed in the CB, C1 & C2 Districts
  - b. Fabrication
  - c. Commercial storage
  - d. Manufacturing
  - e. Automobile painting, upholstery, tire recapping and major repair when conducted within a completely enclosed building
  - f. Bus terminals and maintenance garage
  - g. Ice, cold storage plants, bottling works

- h. Laundries
  - i. Machine Shops
  - j. Paint Mixing
  - k. Paper products from previously processed paper
  - l. Radio and television studios
  - m. Research laboratories
  - n. Warehousing and wholesaling
  - o. Restaurants
  - p. Creamery
  - q. Open storage when incidental to a principal use and conducted within a completely fenced area
- 3) Conditional Uses
- a. Airports, truck and freight terminals and open sales lots
  - b. Radio or Television transmission towers
  - c. Cement, concrete, stone cutting, brick, glass, batteries (wet cells), ceramic products, mill working, metal polishing and plating, paint (pigment manufacturing), vinegar works, rubber products, plastics, meat packing, flour, feed, grain milling, coal, or tar asphalt distillation, rendering works, distillation of bones, saw mill, lime, gypsum, plaster of paris, glue, size, cloth, paper mill, creosote plant, acid manufacture, refuse and garbage disposal and similar uses.
  - d. Crude oil, gasoline, or other liquid storage tanks
  - e. Storage, utilization or manufacture of materials or products which could decompose by detonation
  - f. Auto wrecking, junk yard, used auto parts, open storage and similar uses.
  - g. Incineration or reduction of waste material other than customarily incidental to the principal use.
  - h. Poison, fertilizer, fuel briquettes manufacture or processing
  - i. Kilns or other heat processes fired by means other than electricity
  - j. Open storage
  - k. Other commercial or industrial uses determined by the City Council to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses or public health, safety, and welfare of the public.
- 4) Performance Standards:
- Whenever an "I" District abuts an "Residential District, a fence or compact evergreen screen not less than 50 percent opaque nor less than 6 feet in height, except adjacent to a street where it shall be not less than 3 or more than 4 feet in height, shall be erected and maintained in the front portion of the lot, along the side or rear property line that abuts the Residential District.

All Artificial Lighting and glare shall be directed away from the public right-of-way and any residential district.

Lot Width Minimum	100-feet
Lot Size	40,000-sqft
Property Line Setback Front Yard	40-feet
Property Line Setback Side	20-feet
Property Line Setback Rear yard	20-feet
Building height Maximum	45-feet
Impervious Coverage	varies by parcel

## § 151.23 SHORELAND OVERLAY DISTRICT

1. Purpose: Provide for the wise development of Shoreland Overlay District of public waters by establishing minimum lot size, width, and water frontage for lots suitable as building sites; regulating the placement of structures in relation to shorelines and roads; regulating the type and placement of sanitary and waste disposal facilities; and the regulation of Shoreland grading and filling.
2. Statutory Authorization-Shoreland Management:  
The Shoreland of the City of Menahga, Minnesota are hereby designated as a Shoreland Overlay District pursuant to the authorization contained in the laws of the State of Minnesota Chapter 379, and in furtherance of the policies declared in Minnesota Statutes Chapters 105, 115, 116, and 462.
3. Public Waters Classification:  
The public waters of the State of Minnesota located within the City of Menahga, County of Wadena, State of Minnesota, have been classified and numbered by the Minnesota Department of Natural Resources and that classification shall apply for all purposes under this Ordinance.
  - a. Blueberry River – Forested (FT) River Classification (300-feet from the Ordinary High-Water Level)
  - b. Spirit Lake – General Development (GD) The Shoreline overlay district zone shall be established at 1,000-feet from the OHWL (DNR has determined the OHWL on Spirit Lake to be 1383.75 feet) or the Menahga Shoreland Standard, whichever is closer to the water body on the undeveloped shoreline.
4. Permitted Uses in Shoreland:  
All permitted uses allowed and regulated by the applicable zoning district underlying this Shoreland overlay district as indicated on the official “Zoning District Map”.
5. Conditional Uses in Shoreland Overlay District:

All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this Shoreland overlay district as indicated on the official “Zoning District Map.”

6. Permitted Accessory Uses in Shoreland Overlay District:  
Any use permitted as accessory by the applicable zoning district underlying this Shoreland overlay district as indicated on the official “Zoning District Map”.
7. Performance Standards:  
The following dimensional requirements shall apply to all shorelands of all public waters within the City of Menahga. Where the requirements of the underlying zoning district, as shown on the official zoning map, are more restrictive than those set forth herein, then the more restrictive standards shall apply. For lots newly platted or created by metes and bounds description after the effective date of this Ordinance, the following shall apply:

**Blueberry River – Forested (FT)**

Lot Area, Height, Lot Widths, and Yard Requirements:

Lot Area SQFT	20,000
Water frontage and building line lot width Single Family Sewered	200'
Water frontage and building line lot width Single Family Unsewered	200'
Water frontage and building line lot width Duplex Sewered	300'
Water frontage and building line lot width Duplex Unsewered	300'
Building setback from Ordinary High Water Level (sewered)	150'
Building setback from Ordinary High Water Level (unsewered)	150'
Elevation of lowest floor above Highest known water level	3'
Sewage system setback from ordinary High-water mark	100'
Sewage system elevation above highest Ground water level or bedrock	4'

Impervious Surface Coverage	30%
Height Structure Maximum	35'
Top, toe, and sides of bluff	30'

Substandard lots: see chapter 151.09 of this ordinance.

**Spirit Lake (General Development Lake):**

Lot Area, Height, Lot Widths, and Yard Requirements:

Lot Area SQFT (Unsewered)	25,000
Lot Area SQFT (Sewered)	15,000
Water frontage and building line lot width Single Family (Unsewered)	150'
Water frontage and building line lot width Single Family (Sewered)	75'
Water frontage and building line lot width Duplex (Unsewered)	150'
Building setback from Ordinary High-Water Level	75'
Elevation of the lowest floor above the Highest known water level	3'
Impervious Surface Coverage	30%
Height Structure Maximum	35'
Top, toe, and sides of bluff	30'

Setbacks. Height, depth, yard and street setback regulations will be those of the applicable zoning district.

8. General Provisions:

1. Deck Additions: deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level if all of the following criteria are met:
  - a. The structure existed on the date the structure setbacks were established.

- b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
  - c. The deck encroachment toward the ordinary high-water level does not exceed 15 percent of the existing setback of the structure from the ordinary high-water level or is no closer than 30 feet from the OHWL, whichever is more restrictive; and
  - d. The deck is constructed primarily of wood and is not roofed or screened.
2. Placement and Design of Roads, Driveways, and Parking Areas. These facilities must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters. They must be constructed to minimize and control erosion to public waters consistent with the MPCA's National Pollutant Discharge Elimination System (NPDES) requirements and the Minnesota Stormwater Manual and comply with the following standards:
  - a. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
  - b. Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met;
  - c. Private watercraft access ramps, approach roads, and access-related parking areas are prohibited.
  - d. For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters.
3. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts, and landings must meet the following design requirements:
  - a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments.
  - b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public-space recreational uses, and planned unit developments.
  - c. Canopies or roofs are not allowed on stairways, lifts, or landings;
  - d. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they

are designed and built in a manner that ensures control of soil erosion.

- e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - f. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of sub items 1 and 2 of this section and the requirements of Minnesota Rules, Chapter 1341.
4. Water-oriented Accessory Structures or Facilities. Each residential lot may have one water-oriented accessory structure or facility if it complies with the following provisions:
- a. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 200 square feet. The structure or facility may include detached decks not exceeding eight feet above grade at any point or at-grade patios;
  - b. The structure or facility is not in the Bluff Impact Zone;
  - c. The setback of the structure or facility from the ordinary high-water level must be at least twenty feet;
  - d. The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;
  - e. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
  - f. The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or sidewalls or used as a storage area;
  - g. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
  - h. Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in shoreland overlay district. If the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
5. Shoreland Alterations, the removal of natural vegetation shall be restricted to prevent erosion into public 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:

- a. Selective removal of natural vegetation shall be allowed provided that sufficient vegetative cover remains to screen cars, dwellings and other structures when viewed from water.
- b. Clear cutting of natural vegetation shall be prohibited.
- c. Natural vegetation shall be restored insofar as feasible after any construction project is completed in order to retard surface runoff and soil erosion.
- d. The provisions of this section shall not apply to permitted uses which normally require the removal of natural vegetation.
- e. Grading and filling in shoreland areas or any alterations of the natural topography where the slope of the land is toward public water or a watercourse leading to a public water must be authorized by a conditional use permit. The permit may be granted subject to the conditions that:
  - i. The smallest amount of bare ground is exposed for as short a time as feasible;
  - ii. Temporary ground cover, such as sod, is planted
  - iii. Methods to prevent erosion and trap sediment are employed;
  - iv. Fill is stabilized to accepted engineering standards.
  - v. Excavations on shoreland where the intended purpose is connection to public water shall require a permit from the City Zoning Administrator before construction is begun and must comply with the rules of the Commissioner of Natural Resources (DNR).

## § 151.24 M-H MANUFACTURED HOME RESIDENCE - NEW

1. General. Manufactured housing development shall be considered a form of P.U.D. and administered as a Conditional Use in the zoning district where said use is allowed. Development of this type creates a heavy demand and reliance on municipal type facilities including roads, sewer, water and fire protection. In addition, these developments are often the most dense in a community requiring heavier streets, more public recreation facilities and nearby shopping.
2. The following minimum requirements shall be observed, subject to additional requirements, exceptions and modifications contained in this chapter.
  - a. Minnesota Statutes 327.10 - 327.28 Manufactured Home Parks and Camping Area.
  - b. Minnesota Rule 4630 governing manufactured home parks and recreational camping area.
3. Minimum standards:
  - a. A Minnesota Department of Health Permit shall be required.



- b. Parcel size shall be a minimum of 10 acres.
- c. At least two (2) acres shall be set aside for green space.
- d. Minimum individual lot dimensions shall be 60' x 140'.
- e. At least 20% of the land shall be in common ownership and not used for individual lots.
- f. There shall be a minimum of 2 and a maximum of three parking spaces for each unit.
- g. All units must be skirted, unless placed on an enclosed foundation.
- h. Sufficient storm shelter shall be provided to accommodate all residents of the development.
- i. When served by public utilities, there shall be individualized sewer, water and electrical connection for each site.

## 151.25 MANUFACTURED HOMES STANDARD

- 1) Manufactured homes shall comply with the standards contained within this Section.
- 2) Seal or Label Requirement. A manufactured home installed in the City must have a seal or label on it issued by the Minnesota Commissioner of Administration or by the United States Department of Housing and Administration signifying that the home is in compliance with the regulations applicable to such homes.
- 3) Anchoring. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists floatation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state anchoring requirements for resisting wind forces.
- 4) Installation. A manufactured home shall be installed by an installer licensed by the State of Minnesota. The installation shall be in accordance with Minnesota Rules Chapter 1350 and the manufacturer's instructions.
- 5) Non-Compliant Homes. Manufactured homes not meeting the definition in Minnesota Statutes, section 327.31, subdivision 6 or that do not comply with the standards of the Minnesota Manufactured Home Building Code are prohibited and shall not be placed within the City. No alterations to the structural components of a manufactured home are allowed unless made in full compliance with Minnesota Manufactured Home Building Code and all other applicable laws, rules, and regulations.

151.26 M-H MANUFACTURED HOME RESIDENCE - EXISTING

- 1) Purpose: The M-H District is intended for the manufactured home residential development, with the main objective being the separation of manufactured homes from permanent housing developments.
- 2) Permitted Uses.
  - a. Manufactured homes.
  - b. Home occupations and offices of professional persons when the use does not exceed one-third of a dwelling or accessory building and does not employ more than one person not residing on the premise.
- 3) Accessory Buildings are allowed once a principal residence is established.
- 4) Height, yard and lot requirements.
  - a. Height - 20 feet
  - b. Setbacks:
    - Front – 20 feet
    - Rear – 10 feet
    - Side – 10 feet

151.27 COMMUNITY USE

- 1) Purpose: To establish and maintain a land use district that is publicly owned for public buildings, land and public facilities.
- 2) Permitted uses:
  - a. Campgrounds.
  - b. Community Centers
  - c. Cultural facilities, such as museums, art centers or cultural education.
  - d. Essential services, governmental use buildings and storage.
  - e. Temporary Festivals/Carnivals, Sales and Promotional Event.
  - f. Public or semi-public/club parks, playgrounds, sport courts, beaches, swimming pools, recreation areas, hiking trails and historic monument.
  - g. Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Commission

§ 151.28 RESERVED THROUGH § 151.35 RESERVED

§ 151.36 CANNABIS SALES

- 1. The purpose of this provision is to protect the general welfare and safety of the City by providing a policy to adopt reasonable restrictions on the time, place, and manner of the operations of a cannabis business. Cannabis businesses are prohibited within the following:
  - a. 1,000 feet of a school
  - b. 500 feet of a licensed daycare
  - c. 500 feet of residential treatment facility
  - d. 500 feet of a public park or athletic field regularly used by minors

§ 151.37 SIGN REGULATIONS

- 1) The purpose of this provision is to protect the general welfare and safety of the City by providing a policy of aesthetic development to prevent signs from intruding on the rural character of the City; to provide adequate signs for property identification purposes and to provide adequate signage.
- 2) All free-standing signs such as, but not limited to a monument or pylon signs are considered structures and require an approved permit before being erected.
- 3) Residential signage under 4-sqft do not require a permit, however all other performance standards of this section shall apply.
- 4) Non-residential signage when attached flat against a building or wall do not require a permit, however all other performance standards of this section shall apply.
- 5) No Sign shall be erected or maintained at any angle to a building or structure which sign extends or projects over the street or highway, or within the public right of way.
- 6) Noncommercial Speech: Notwithstanding any other provisions of this section, the noncommercial speech exemption provided by Minnesota Statutes section 211B.045 (or successor statute) is hereby incorporated by reference or as amended, and the timeframe shall also be the same as used for special elections.
- 7) The changing of the display surface on a sign(s), or complete replacement of a sign(s), when such change or replacement would be consistent with a previously issued permit or a sign considered to be a legal nonconformity would not require a new permit.
  - b. The following signs shall be exempt from the requirements of this section.
  - c. Signs which are affixed on property owned by a County, State or Federal governmental body or a public school district unless specifically prohibited by this section
  - d. Interior Signs

- e. Signs which are integrally attached to or part of:
  - i. Waste roll-offs, dumpsters, garbage cans, portable storage units or other similar equipment owned and maintained by a commercial business for the purpose of waste collection or temporary storage;
  - ii. Signs which are affixed on City owned property, which have been approved by the City Council or their designee.
  - iii. Murals located on a building used primarily for commercial or industrial purposes which are maintained by the property owner or his/her designee.
  - iv. Signs required by law.

8) Setbacks as measured from the property line.

	Residential	Commercial (C-2 & C1)	Central Business (CB)	Industrial	Rural Residential (RR)
Front Yard	5'	5'	0'	10'	10'
Side Yard	5'	5'	0'	10'	10'
Rear	5'	5'	0'	10'	10'

9) Residential Zones

- a. Signs shall not be internally lighted but may be of a reflective material.
- b. No sign area shall be larger than four (4) square feet for a residence.
- c. The maximum cumulative total of signage shall not exceed 12 square feet.
- d. No sign shall be placed in the public right-of-way.
- e. No sign shall be greater than 5-feet in height.

10) Multi-Family Residential District: Within any multi-family residential zoning district, a property containing three (3) or more dwelling units may have one sign up to thirty-two (32) square feet in size, which may be externally illuminated and have a maximum height of eight feet (8').

11) Non-Residential Zones

- a. Any free standing, monument or pylon sign shall first obtain an approved permit from the City.
- b. Performance standards:

Zoning District	Maximum sign area for one sign	Maximum Sign Height (measured from the top of the sign)	Cumulative Maximum sign area
Commercial (C-1 & C-2)	200 sq.ft	30'	50 sq. ft. or 3 sq. ft. per front foot of lot which abuts a public right-of- way, whichever is greater, but not to exceed 1,200 sq. ft.
Central Business	100 sq.ft	25'	50 sq. ft. or 2 sq. ft. per front foot of lot which abuts a public right-of- way, whichever is greater
Industrial	300 sq.ft	30'	4 sq.ft per front foot of a lot which abuts a public right-of- way

**NOTE:** For buildings where more than 2 sides abut a public right-of-way or which can be accessed from a parking lot, seating area or secondary entrance available to customers on a side not abutting a public right-of-way, an additional 50 square feet of signage shall be allowed beyond what would otherwise be allowed.

## § 151.38 FENCE REGULATIONS

- 1) The requirements of this subchapter shall apply to all new or replacement fences, walls, or shrubbery erected or installed from and after the effective date of this subchapter but shall not apply to the mere repair of existing fences.
- 2) General Requirements:
  - a. All fencing over 30 inches shall require a permit.
  - b. No fence shall contain barbed wire or charged with electric current, except where specifically allowed in this ordinance.
  - c. No fence, wall or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.
  - d. Fences must be maintained so as not to endanger life or property and any fence which, through lack of repair, type of construction or otherwise, that imperils health, life or property or the well-being of a neighborhood shall be deemed a nuisance.
  - e. All fences must be located on the private property of the person, firm or corporation constructing the fence.
  - f. All fences must comply with all other requirements of law or this code as it applies to fence installation and materials.
    - i. All Zoning Districts Regulations:
      - a) Prohibited material. No fence or wall shall be constructed of any electrically charged element or barbed wire, unless specifically allowed in this section.
      - b) Approved material. Allowable Materials. Fences must be made of stone, brick, finished wood, rigid plastic, chain link, treated or cedar wood, split rail fences, or other materials commonly used for fencing. Materials not expressly listed above may only be authorized by conditional use permit, except that the following types of fences are prohibited: barbed wire (except as authorized in section 5 of this Section), electrical fencing, razor wire, creosote lumber, chicken wire (unless used for the enclosure of gardens), concrete block or poured concrete, plastic webbing, plywood or pressed wood. Notwithstanding the above prohibitions, commercially available snow fencing may be allowed between November 1 and March 15 of each calendar year.
      - c) Maximum height. Height. No fence shall exceed six (6) feet in height on any property, measured from six inches above the adjacent ground surface.
      - d) Maintenance. Every fence or wall shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence or wall shall be prepared or replaced in a timely manner.

- e) Setbacks. 2 feet unless fence can be maintained entirely from 1 side, and then 0 feet measure from the property line. All fences along property boundary lines shall be located entirely upon the property of the person constructing or causing the construction of the fence. The property owner shall maintain both sides of the fence. Fences shall be installed with the finished side(s) facing the neighboring property or properties. No fence shall be installed so that it obstructs the view of vehicular or pedestrian traffic on adjacent streets or public ways. All fences shall be installed in a manner that allows necessary maintenance to be performed without trespass on a neighboring property. All fences shall be placed, a minimum of 10 feet from the ordinary high-water mark of a lake, two (2) feet from an alley lot line unless the fence can be maintained entirely from the non-alley side, and 10 feet from any city, county or state road surface or out of the road right-of-way, whichever is more restrictive.
- ii. Submission Requirements. When requesting a certificate of compliance for a fence, a certificate of survey from a licensed surveyor showing the parcel and proposed fence must be submitted to the city, unless any of the following exceptions apply:
  - a) The proposed fence will clearly be located entirely on the subject property and meet all required setbacks, in the sole discretion of the City;
  - b) Stakes from a previously completed survey are still in place and appropriately marked, in the sole discretion of the City; or
  - c) A signed, written statement from all neighboring property owners adjacent to the proposed fence is provided and indicates that said neighbors do not dispute the proposed fence location.
- iii. Industrial Districts:
  - a) Approved material. Approved fencing materials include stone, brick, finished wood, rigid plastic, chain-link, treated of cedar wood, split rail fences or other materials commonly used for fencing. Other materials may only be approved by conditional use permit, except that the following types of fences are prohibited unless specifically allowed otherwise: barbed wire electrical fencing, razor wire, creosote lumber, chicken wire (unless used for the enclosure of gardens), concrete block or poured concrete, plastic webbing, plywood or pressed wood. Notwithstanding the above prohibitions, commercially available snow fencing may be allowed between November 1 and March 15 of each calendar year. The use of barbed wire is allowed on the top portion of fencing on Industrial zoned property not to exceed 18-inches of barbwire.
  - b) Maximum height. Fences not exceeding 84 inches (7') in height may be constructed, As measured from 6 inches above the adjacent ground level.

- c) Setbacks. 2 feet unless fence can be maintained entirely from 1 side, and then 0 feet measure from the property line.

## § 151.39 PARKING AND LOADING

- 1) General Requirements:
  - a. Onsite parking shall be provided in all zones, except in the central business district, with adequate drive access to prevent the need to back onto collector streets or highways.
  - b. All parking shall be paved or provided with an all-weather surface, such as compacted Class 5 gravel, and be adequately drained.
  - c. Parking shall be provided at the minimum following ratios.
  - d. Residential Parking Requirements: 2 stalls per residential unit (1, 2, 3, 4 unit), 1.5 stalls per dwelling unit over 4 units
  - e. C1 and C2 Commercial Parking Requirements: No parking ratio, however all parking shall be onsite.
  - f. Central Business Parking Requirements: No parking ratio
  - g. Industrial: No parking ratio, however, all parking shall be onsite.
  - h. Onsite parking shall not be closer than 5 feet from a lot line.
  - i. The following handicap parking shall be applied:

<b>Total Parking Spaces</b>	<b>Accessible Parking Spaces Required</b>	<b>"Van-Accessible" Spaces Required</b>
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1

- 2) Loading:
  - a. All required loading berths shall be off street and shall be located on the same lot as the principal use served. Loading shall not occupy front yard space. Berths shall not be used for storage.

## § 151.40 DRAINAGE

- 1) All development shall contain provisions for adequate surface or subsurface runoff of storm water and snow melt directed to natural drainage ways. A storm



frequency of a five-year return period shall be provided for with no structural flooding or ponding.

- 2) All development shall provide for the continuance of natural drainage ways and shall be so constructed as to be one foot above the water level in the drainage way created by a storm of a 100-year return period of a one percent chance of occurrence.
- 3) All drainage structures provided shall be sufficient in size to pass a ten-year storm along a natural drainage way and to pass a 100-year storm along a drainage way.
- 4) The use of natural or manmade stormwater storage areas is encouraged. These areas should be vegetated and designated to naturally lower after a storm.

## § 151.41 SHEDS, PORCHES AND ACCESSORY BUILDINGS

- 1) All Zones - Sheds of 200 square feet or less will not require a zoning permit. This pertains to stationary and moveable sheds. No additions or accessory structures shall be allowed on properties that do not conform with the City of Menahga Zoning Ordinance.
- 2) All Zones – A porch is defined as a covered or enclosed structure used as an entrance to an existing building and does not protrude over 8 feet from the foundation. Porches of 200 square feet or less will not require a zoning permit. The porch must be stationary and constructed in a manner which is similar or compliment the existing building.
- 3) All Zones - If the property is in the Shoreland Overlay District (from Spirit Lake from Blueberry River) the addition of the shed or porch, must be figured in for impervious surface calculations as determined by the Menahga Shoreland Standard.
- 4) All Zones - All sheds must be constructed in a manner which is similar or complement the existing buildings.
- 5) Residential Zone - No shipping containers will be allowed. Temporary use of shipping containers will be allowed when used in conjunction with an original active building permit, but no longer than 365 days. No extensions will be allowed.

**NOTE:** Some areas of the city may have private development covenants that may prohibit their use, even temporarily. Please check your property documents for covenants prior to using shipping containers.

- 6) Residential Zones - Sheds will only be allowed on parcels that have a permanent primary structure on the property.

- 7) Residential Zones—The shed must be in the rear or side of a property with a setback of 5 feet from the property line.
- 8) Business Zones (CB, C1, C2, and Industrial) Accessory buildings may be used for purposes, which are permitted in the district where the business is located. Any retail business that sells accessory buildings and sheds, may occupy their commercial property for display and sales purposes.
- 9) Business Zones (Industrial and C-2 ONLY) - Shipping containers will be allowed for storage of business supplies and necessary equipment.

## § 151.43 SOLAR ENERGY SYSTEMS

- 1) Roof-mounted Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated.
- 2) Ground-mounted systems total collector (panels) area shall not exceed half the building footprint of the principal structure.
- 3) Ground-mounted systems shall be exempt from impervious surface standards if the soil under the collector (panel) is maintained and in a non-compacted vegetation state.
- 4) Ground-mounted systems are considered structures and shall meet setback and height requirements.
- 5) Solar collectors and solar energy systems with a cumulative area of sixteen (16) square feet or less are permitted in all zoning districts. They are exempt from the provisions of this section. Examples of these systems include outdoor accent lighting systems, power supply for traffic control systems, powering a water pump for water gardens, telecommunication systems, backup power systems during power outages, and similar solar energy systems if the system has a cumulative area of sixteen (16) square feet or less.

## § 151.44 STORAGE CONTAINERS

1. The use of semitrailers, shipping containers, and other similar structures or containers for storage on residentially zoned property for more than 90-days in any one calendar year period is prohibited. This prohibition shall not apply to construction storage trailers or other similar containers used on-site during a construction project for up to 365 days, provided all required permits are obtained for the project, the project remains in compliance, and the trailer is removed from the lot upon completion of the project. The use of semitrailers, shipping

containers, and other similar structures or containers for storage is allowed in the C2 and Industrial zones; other ordinance provisions may apply.

## § 151.45 PLANNED UNIT DEVELOPMENTS

- 1) General: Planned Unit Development requires the assistance of professional planning and usually involves the approval of multiple agencies or other governmental bodies. The City will allow these types of developments to use community wells and sewer systems, whenever access to the City Water and Sewer infrastructure will not be economically feasible. Where circumstances are favorable, Planned Unit Developments (P.U.D.'s) provide more latitude in land use than normal development to allow for planning, clustering facilities, consolidating green space and internal recreational amenities.
- 2) Types of PUDs Permissible. Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of zoning district of this ordinance is allowed if the standards in this Section are met.
- 3) Processing of PUDs. Planned unit developments must be processed as a conditional use and the application, review, and cost reimbursement procedures applicable to a major subdivision as expressed of this code, shall be followed to consider and act on a PUD. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 10. Approval cannot occur until all applicable environmental reviews are complete.
- 4) Application for a PUD. The applicant for a PUD must submit the following documents:
  - a. Site plan and/or plat.
  - b. Locations of property boundaries.
  - c. Surface water features.
  - d. Land proposed structures and other facilities.
  - e. Land alterations.
  - f. Sewage treatment and water supply systems (where public systems will not be provided).
  - g. Topographic contours at two-foot intervals or less; and
  - h. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).
  - i. Covenants and incorporating documents providing for a homeowner's association, where appropriate.
  - j. Vegetation removal, select cutting.
  - k. Internal private access roads on common property.
  - l. Maintenance of all facilities by the association.

- m. Parking for two vehicles per unit.
- n. Screened or inside storage areas.
- o. Subdivision by plat or condominium plan.
- p. Recreation facilities as required by the Planning Commission.
- q. Screening and landscaping as required by the Planning Commission.
- r. DNR must be contacted before final City approval if within shoreland area.

5) Minimum Density Requirements: New Development

**RR**

Minimum Land Acre Required

5 acres

Minimum lot size for dwelling  
Single family per unit

3,200 sq ft

- 6) New multi-family buildings shall be designed by an architect and shall be compatible in appearance with the surrounding land use.
- 7) New multi-family building shall have two-hour fire rated party floors and party walls.
- 8) Preliminary Submission All PUD's
  - a. Boundary Survey
  - b. 2 ft. contour interval topography
  - c. Specimen tree location
  - d. Locations of existing structures
  - e. Locations of structures on adjoining property
  - f. Onsite soils data
  - g. Proposed facilities
  - h. Buildings
  - i. Recreation facilities
  - j. Drives and parking
  - k. Grading limits
  - l. Planting
  - m. Lighting and signing
  - n. Sewage disposal system concept
  - o. Water supply system concept
  - p. Preliminary drainage and stormwater management plan
  - q. Additional plans as necessary to define project
  - r. Phasing should also be indicated
  - s. Preliminary plat or preliminary condominium plan
  - t. Floor plans and elevation views of new structures
  - u. Operation concept
- 9) Final Submission All PUD's

- a. Multi-family building and other structure plans by architect.
- b. Clustered sewage disposal plans by engineer.
- c. Clustered water supply system concept by engineer.
- d. Drive and parking plans with elevations.
- e. Drainage, stormwater, and erosion and sediment control plans.
- f. Planting plans.
- g. Recreational facilities plan.
- h. DNR approval as required.
- i. MPCA, Minnesota Health Department and Corp of Engineers approval where appropriate.
- j. Title opinion, or title company commitment, or owner's title policy.
- k. Surveyors plat check on plat or condominium plan.
- l. Final covenants.
- m. Final plat or final condominium plan by surveyor.
- n. Financial assurance of 125 percent of the construction cost of common facilities.
- o. Development contract.

10) As Built Plans

- a. As built plans shall be filed with the City on sewer and water systems and stormwater drainage systems.

## § 151.47 EXTRACTIVE USES

1. There are no commercial extractive uses allowed in the City of Menahga. Extractive Use means the use of land and/or Buildings or Structures for the removal of gravel, stone, sand, earth, clay, fill, mineral, or other similar substances for construction, industrial, or manufacturing purposes.

## § 151.48 LANDFILLS

1. No landfills are allowed in the City of Menahga. Land fill means a site for the disposal of waste materials such as rubbish, garbage, trash, or similar materials.

## § 151.49 BED AND BREAKFASTS

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

- 1) The bed and breakfast inn shall be part of an owner-occupied residential structure and shall be owner-operated.
- 2) The use shall comply with applicable Federal, State, County and City rules and regulations.

- 3) The exterior appearance of the structure shall not be altered from its single-family character.
- 4) All guestrooms, and access to guestrooms, shall be located within the principal residential structure.
- 5) The total number of units shall be limited to four (4), not including owner.
- 6) The property must meet all density requirements of the ordinance as a single-family dwelling.
- 7) Guests are limited to a length of stay of no more than 14 consecutive days.
- 8) No food preparation or cooking facilities shall be conducted within any of the guestrooms.
- 9) All requirements of the zoning district must be followed.
- 10) Owner shall provide licensure information to the City before operation shall begin.
- 11) No property may be leased or rented to individuals greater than a ratio of two people per bedroom, plus one person. (e.g. 4 bedrooms would allow 9 people).

## § 151.50 PROPOSED TELECOMMUNICATION TOWERS

- 1) Purpose and Intent. To establish predictable and balanced regulations that protect the public health, safety, and general welfare of the City.
  - a. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in Menahga.
  - b. Minimize adverse visual effects of towers through careful design standards.
  - c. Avoid potential damage to adjacent properties from tower or antenna failure and weather-related occurrences through structural standards, careful siting, and setback requirements.
  - d. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the city.
- 2) Permits Required. It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect any tower, unless it shall replace a like tower, without first making application to the City and securing a permit. A change in construction, dimension, lighting design or design type shall also require a permit. The placement of antennae on previously approved towers may be administratively approved by the City Zoning Administrator, once it is reviewed by the Planning and Zoning Commission.
- 3) Tower and Antenna Design Requirements. Proposed or modified towers and antennas shall meet the following design requirements:
  - a. Only permitted in the Rural Residential (R-R) zoning district.
  - b. Towers and antennas shall blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities.

- c. No tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.
  - d. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to applicable state structural building standards.
  - e. Towers and their antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
  - f. Metal towers shall be constructed of, or treated with, corrosive resistant material.
- 4) Tower Setbacks. Towers and all accessory structures or buildings shall conform to the following minimum setback requirements:
- a. Towers shall be set back from all property lines and existing structures an amount equal to the height of the structure.
  - b. Guy wires for towers shall be located no closer than twenty-five (25) feet to any property line and shall meet the setback of the underlying land use district with respect to the public road right of way.
  - c. Suitable protective anti-climbing fencing, with a minimum height of six (6) feet shall be provided around any tower and guy wires.
- 5) Co-Location Requirements. All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:
- a. Documentation of the area to be served including maps demonstrating the size of communication cells and a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.
  - b. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:
    - i. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.
    - ii. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.
    - iii. Existing or approved towers and buildings within the search radius that are sixty (60) feet or over in height that cannot accommodate the

- planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
- iv. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
  - c. Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 99 feet in height, or for at least one additional user if the tower is between 35 and 99 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept mounting at varying heights.
  - d. An agreement stating that the site will be designed for not less than three users with applicant and property owner commitment to co-location, whereby, any prohibition of additional users on a tower will be considered a violation of the permit and city policy. The agreement shall also include a statement that any unused or abandoned tower shall be removed by the property owner and/or applicant. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.
- 6) Antennas Mounted on Existing Buildings or Towers. The placement of telecommunication antennas including wireless telecommunication antennas on existing buildings, towers or structures, shall meet the requirements of the underlying land use district and this section. A site plan and building plan must be submitted to the City as part of the land use permitting process. Where a tower is non-conforming due to the requirements of this section additional telecommunication antennas may be permitted to be placed on the tower after being reviewed by the Planning and Zoning Commission and City Zoning Administrator.
- 7) Accessory Utility Buildings. All buildings and structures accessory to a tower shall:
- a. Be architecturally designed to blend in with the surrounding environment and shall meet the height and setback limitations as established for each land use district.
  - b. Have ground mounted equipment screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- 8) Tower Lighting. A tower shall not be illuminated by artificial means and shall not have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission or state agency. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.



- 9) Abandoned or Unused Towers. Abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within the 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.
- 10) Public Safety Telecommunications Interference. Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All applications shall include adequate information that will be reviewed by the Planning & Zoning Commission before a permit may be issued. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the City at least ten (10) calendar days in advance of any changes and allow the City to monitor interference levels during the testing process.
- 11) Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- 12) Non-conforming Towers. In order to avoid requiring new towers and to minimize the number of towers needed to serve the city, the following provisions shall apply to non-conforming towers. Telecommunication towers in existence at the time of this Ordinance may be permitted to increase tower height after being issued a conditional use permit. The Planning & Zoning Commission shall consider the following criteria as part of the conditional use permit process:
  - a. Tower safety concerns including tower collapse, falling ice, and airplane traffic.
  - b. Land use character and history of tower(s).
  - c. Comparative visual impact to the surrounding lands of the proposed tower height increase.
  - d. Disturbance or conflict with agricultural uses on the property.
  - e. Other factors which tend to reduce conflicts or are incompatible with the character and need of the area.
- 13) Screening and Landscaping Requirement. A screening and landscaping plan designed to screen the base of the tower, accessory utility buildings, utility structures, and security fencing shall be submitted. The plan shall show the location, size, quantity, and type of landscaping materials. Landscape materials shall be capable of screening all year and must be six (6) feet in height by the end of the second growing season. Gravel or other durable surface or other weed prevention measures shall be applied within the fenced area to prevent the growth of weeds. A maintenance plan for landscaped materials shall also be submitted.
- 14) Additional Submittal Requirements. In addition to the information required elsewhere, applications shall include the following information:

- a. A report from a licensed professional engineer that describes the commercial wireless telecommunication service tower's capacity, including the number and type of antennas that it can accommodate.
  - b. A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
  - c. The location of all public and private airports within a three (3) mile radius of the tower site.
  - d. Applicant must obtain FAA approval and/or provide documentation that FAA approval is not needed.
  - e. Applicant must obtain FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed.
  - f. An intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems, only if that is the basis for not co-locating.
  - g. The applicant must submit proof of Liability and Worker's Compensation.
  - h. For towers over five hundred (500) feet, an Environmental Assessment Worksheet (EAW) is required, and the applicant shall be responsible to provide the city with all information required to complete the EAW prior to the issuance of a permit from the city.
  - i. The owner of the tower shall provide the city with an acceptable financial guarantee in an amount equal to one and one-half (1&1/2) times the cost to remove the tower and related infrastructure, including footings and other underground improvements to a depth of thirty-six (36) inches below existing grade, and to restore the site. Failure to remove the structure shall be cause for the City to remove the tower and associated equipment at the expense of the property owners.
- 15) Towers Not Requiring a Permit. Permits are not required for the following:
- a. A satellite earth station antenna four (4) feet in diameter or less, located in an industrial or commercial district, meeting required setbacks.
  - b. A satellite earth station antenna three (3) feet or less in diameter, meeting the required setbacks.
  - c. A tower less than fifty (50) ft. as measured from the ground.
- 16) Personal Communication Towers
- a. Placement: Communications towers such as television antennas, HAM radio towers, etc., shall be situated in the rear or side yard without encroaching on the front yard area.
  - b. Setbacks: Minimum setbacks of a tower from any lot line shall be ten feet (10'). If a tower and/or antenna are not rigidly attached to a building, then the minimum setback shall be equal to the height of the tower and/or antenna. However, if a tower and antenna are rigidly attached to a building and the tower base is on the ground, the minimum setback may be equal to the

distance from the highest point of attachment to the top of the tower and/or antenna.

- c. Tower Height: The maximum height of the tower and/or antenna shall be forty feet (40') from average grade around the principal structures, or twenty feet (20') above the roof ridgeline of the principal structure on said lot. There shall be no more than one communication tower per parcel.

## § 151.51 AUTO SALVAGE YARDS

- 1) Auto salvage yards are to be allowed in industrial-zoned property.
- 2) Performance Standards:
  - a. Parts salvage is allowed.
  - b. Screening sufficient to block view from 100 feet away is required,
  - c. A defined perimeter must be approved and maintained.
  - d. Stacking is not allowed.
  - e. This facility shall not be allowed in any drainage way or wetland.
  - f. Public road access is required.
  - g. Fencing in addition to the screening may be required by the Planning Commission.
  - h. Crushing of vehicles or similar uses shall be limited to the following hours of operation: Monday – Friday, 8 AM to 6 PM, Saturday, 8 AM – 12 PM.
  - i. Crushing of vehicles or similar uses shall be prohibited on Federally recognized holidays.

## § 151.52 KEEPING OF CHICKENS

- 1) Definitions.
  - a. “Chicken” means a female chicken or hen. A rooster or male chicken is expressly excluded from the definition of chicken and is prohibited.
  - b. “At Large” shall be intended to mean a chicken out of its chicken run, off the premises or not under the custody and control of the owner, or other person, either by leash, cord, or chain, or otherwise controlled or restrained.
  - c. “Chicken Coop” means a structure providing housing for chickens made of wood or other similar materials that provides shelter from the elements.
  - d. “Chicken Run” means a fenced outside yard for the keeping and exercising of chickens.
  - e. “Owner” shall mean the resident, property owner, custodian or keeper of any chicken.
  - f. “Premises” means any platted lot or group of contiguous lots, parcels or tracts of land.
- 2) Allowed Zoning Districts:
  - a. The keeping of chickens is allowed in the Rural Residential (R-R) zoning district.

- b. The keeping of chickens is allowed in all other zoning districts however, a minimum parcel size of 2.5 acres is required.
- 3) Chickens Limited. It is unlawful for any person to own, control, keep, maintain or harbor hen Chickens on any residential premises in the City unless issued a permit to do so as provided herein.
  - a. Residential Tenants. In the case of rental residential property, including multi-family residential property, the property owner must obtain a permit and written permission must be given by the property owner to the tenant in order for a tenant to keep or harbor chickens on said residential premises.
  - b. Number Limited. No permit shall be issued for the keeping or harboring of more than 12 hen chickens.
  - c. Roosters Prohibited. The keeping of roosters or male chickens is prohibited.
- 4) Permit. The granting of a permit under this ordinance shall be in the sole discretion of the City. No person shall maintain a Chicken Coop and/or Chicken Run unless granted a permit by the City. The permit shall be subject to all terms and conditions of this Section and any additional conditions deemed necessary by the City to protect the public health, safety and welfare, including any state or federal laws. The necessary permit may be obtained from the City Clerk's office. Included with the information required prior to issuance of the permit must be a scaled diagram that indicates the location of any Chicken Coop and Chicken Run, and the approximate size and distance from adjoining structures and property lines. The owner must also obtain written approval of the keeping of chickens from all abutting property owners. Such written approval from abutting property owners must be submitted to the City before a permit is granted. A permit for the keeping of chickens may be revoked or suspended by the Council for any violation of this Section following written notice and a public hearing.
- 5) Chicken Confinement.
  - a. Every person who owns, controls, keeps, maintains or harbors hen chickens must keep them confined on the premises at all times in a Chicken Coop or Chicken Run while in the city. Any Chicken Coop and/or Chicken Run shall be screened with a solid fence or landscaped buffer with a minimum height of four (4) feet. Any Chicken Coop and Chicken Run shall be at least 20 feet from any residential structure or any other premises on any adjacent lots.
- 6) Chicken Coops and Chicken Runs.
  - a. All Chicken Coops and Chicken Runs must be located within the rear yard subject to the required setbacks for the principal building and at least 20 feet from any dwelling or any other premises or any adjacent lots. All Chicken Coops must be a minimum of 4 square feet per chicken in size and must not exceed 6 feet in total height. Attached fenced-in Chicken Runs must not exceed 20 square feet per chicken and fencing must not exceed six feet in total height. Chicken runs may be enclosed with wood and/or woven wire materials and may allow chickens to contact the ground. Chicken feed must be

kept in metal, predator proof containers. Chicken manure shall not be placed in yard compost piles.

- b. Chicken coops must either be:
    - i. Elevated with a clear open space of at least 24 inches between the ground surface and framing/floor of the coop; or,
    - ii. The coop floor, foundation and footings must be constructed using rodent resistant construction.
  - c. Chicken Coops are not allowed to in any part of a home and/or garage.
  - d. Chickens must be secured in a Chicken Coop from sunset to sunrise each day.
- 7) Conditions and Inspection. No person who owns, controls, keeps, maintains or harbors Chickens shall permit the premises where the Chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any Chicken Coop and Chicken Run authorized by permit under this Section may be inspected at any reasonable time by the City Zoning Administrator or other agent of the city. Slaughter and breeding of Chickens on any premises within the city is prohibited.
- 8) Violations. Any person who owns, controls, keeps, maintains or harbors Chickens in the city limits without obtaining or maintaining a current permit or after a permit has been suspended or revoked by Council action shall be guilty of a petty misdemeanor. Violations of this ordinance may also constitute a nuisance and a person in violation may be liable for civil damages, including costs and attorney fees to remedy the nuisance.

## § 151.53 KEEPING OF HORSES

### General Standards:

- 1) All animals shall be fenced in and the owner shall provide site plans depicting locations on an aerial photograph. Any animals allowed to free range shall be considered a violation of this ordinance.
- 2) There shall be no pollution of any waters of the state.
- 3) There shall be no manure accumulation that constitutes a public nuisance or threat to any water of the state.
- 4) On parcels sized five (5) acres or larger, two horses shall be allowed.
- 5) The ratio of two horses per (5) acres shall apply.

## § 151.54 KEEPING OF FARM ANIMALS

### General Standards:

- 1) The keeping of farm animals is allowed in the Rural Residential zoning district. however, a minimum parcel size of 20 acres is required.

## § 151.55 RECREATIONAL VEHICLES AND CAMPING

The intent of this is to allow for temporary recreational use or camping on privately owned property.

- 1) All recreational vehicles (RV) must be designated to operate on roads without a special permit and must have a current license. These provisions apply to all recreational vehicles, including fish houses that are licensed as such.
  - a. RV's must meet dwelling setbacks requirements for the zone they are located in.
  - b. Prior to placing an RV, the occupant must have the permission of the property owner. The permission must be written when the property owner is not available on site while the RV is present.
- 2) Properties with principal dwelling.
  - a. Any owner or tenant on a lot may use a recreational vehicle for guests for a period of up to (14) consecutive days or a total, not to exceed (28) cumulative days in a calendar year.
- 3) Properties where a dwelling is being constructed.
  - a. A recreational vehicle is allowed in conjunction with a land use permit for construction of a principal structure.
  - b. A recreational vehicle is allowed during construction, with an approved land use permit.

## § 151.56 ACCESSORY DWELLING UNIT (ADU)

An accessory dwelling unit (ADU) is a self-contained residential unit that meets the requirements of the Minnesota State Building Code. ADUs are permanent homes that are legally part of a larger property that includes a standard single-family house. ADUs can be part of the principal building or they can be in a detached accessory building on the same property.

- 1) Accessory Dwelling Unit (ADU) requires a permit on a conforming residential lot shall comply with the following standards:
  - a. One ADU is allowed per parcel.
  - b. Maximum square footage of the ADU shall be 700-sqft.
  - c. All required setbacks of the underlying zone shall be met.
  - d. Impervious coverage limits of the underlying zone shall be met.
  - e. An ADU must be located on the same parcel as the primary dwelling. If the proposed ADU is on a vacant adjacent lot, it shall be consolidated into one parcel to construct the ADU.
  - f. Maximum height shall not exceed the maximum height of the underlying zone.
  - g. Detached ADU shall not be constructed closer than 10 feet to the main dwelling.

- h. Conversion of garage space to an ADU shall require replacement of the garage space. Space within a garage that exceeds what is necessary for two vehicles may be converted without replacement.
- i. Onsite parking shall be required for the occupants of the ADU.

## § 151.57 COMMERCIAL STORAGE (MINI STORAGE)

Commercial Storage is allowed in the C-1 District, C-2 District and Industrial (I) District. For this section, the following definitions are applicable: Mini-Warehouse or Self-Service Storage Facility – a business facility other than a storage warehouse, with buildings divided into separate compartments or a building with open storage for lease that may include climate-controlled units exclusively used for the storage of non-explosive and non-volatile materials and used to meet the temporary storage needs of households and small businesses, with no commercial transactions permitted other than the rental of the storage units or facility. This does not include the rental of trucks or equipment as an accessory use.

All commercial storage shall be permitted by Conditional Use Permit (CUP)

## § 151.58 SHORT-TERM RENTALS

Dwelling units used as short-term rentals must be registered with the city prior to operation. Short-term rentals are defined as dwelling units rented for a period of less than 30 consecutive days, for tourist or transient use. New owners must re-register and registration cannot be transferred from one property owner to the next. Each unit must have its own registration. All units must have the appropriate licensure from the State of Minnesota Department of Health. Occupancy limits are 3 occupants per bedroom plus 1 occupant per unit, which may be adjusted from time to time by the City Council resolution. Registrations expire each year on Dec 31st.

## § 151.59 ZONING ADMINISTRATOR

- 1) The City Council shall appoint the Zoning Administrator.
- 2) Duties and responsibilities of the Zoning Administrator:
  - a. Determine if applications are complete and comply with the terms of the Ordinance.
  - b. Direct or conduct inspections of sewage systems and other uses of the land to determine compliance with the terms of the Ordinance.
  - c. Maintain permanent and current records of the Ordinance including, but not limited to, maps, amendments, Zoning or Use Permits, Conditional Use Permits, Variances, appeals and applications, and a separate file for future conditions or expiration of permits.
  - d. Review, file, and forward applications for appeals, Variances, Conditional Uses, and Zoning amendments.
  - e. To review and approve all metes and bounds property divisions within the City.

- f. Enforce the provisions of this Ordinance by reviewing complaints and pursuing contacts with any violator by standard procedures as adopted and modified from time to time.
- g. Mail notices concerning public hearings for Variances, Conditional Uses, and Zoning Changes.
- h. Under the direction of the Chairperson of the Planning Commission, prepare and distribute meeting agendas at least one week before the meeting.
- i. Attend meetings and provide research and findings to the Board of Adjustment/Planning Commission.
- j. Issue permitted Land Use/Zoning Permits upon application for structures on lots conforming to this Ordinance when the conditions of the Ordinance are met; to issue Conditional Use Permits when directed by the City Council; to issue notices of a Zoning change when directed by the City Council.
- k. To mail a copy of the findings to applicants.
- l. To file copies of Conditional Use Permits and Variances with the County Recorder.
- m. To provide notice of public hearings and supporting documentation to the DNR when required by this Ordinance or State Law or where shoreland management controls are to be considered.
- n. To ensure that the City Council, Planning Commission, and Board Adjustment review land use applications or public hearing applications as prescribed by State Statutes.
- o. To conduct periodic and final inspections with a member of the Planning & Zoning Committee of property subject to conditions of approval relating to variances, conditional use permits, and other land use applications.
- p. Keep the City updated regarding state and county land use regulation changes.

## § 151.60 CONDITIONAL USE PERMITS (C.U.P)

- 1) Conditional Use Permits shall run with the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council.
  - a. All applications for a Conditional Use Permit shall be submitted to the Zoning Administrator 30 days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application.
  - b. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days before the public hearing.
  - c. The Zoning Administrator shall send the same notice and supporting documentation at least ten days before this hearing to the DNR, if the proposed is in shoreland.
  - d. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days'



notice thereof to the Zoning Administrator, meeting time permitted. The city requires that before any major development project that it would be best for the developer to meet with the City Engineer, Planning and Zoning Commission, people from the highway departments (County Engineer, Minnesota Department of Transportation and City Street Supervisor, whichever applies), and the City Water and Sewer Supervisor to discuss how the development will affect all the parties involved. This group will be referred as the Design Review Team (DRT) and will continue through the development process at stages at 30% and 60% completion.

- e. Submissions for C.U.P. The applicant shall complete the Conditional Use Permit application approved by the Planning Commission. The application shall contain submittal requirements, approval criteria, consideration procedure, and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
- f. The Zoning Administrator shall accept no Conditional Use Permit application from a contractor or property owner having outstanding violations. Conditional Use Permits can only be requested by contractors or property owners with outstanding violations upon resolution of the violation to the satisfaction of the Planning Commission.
- g. In permitting a new Conditional Use or alteration of an existing Conditional Use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to, the following:
  - i. Increasing the required lot size or yard dimension.
  - ii. Limiting the height, size, or location of buildings.
  - iii. Controlling the location and number of vehicle access points.
  - iv. Increasing the street width.
  - v. Increasing or decreasing the number of required off-street parking spaces.
  - vi. Limiting signs' number, size, location, or lighting.
  - vii. Requiring berming, fencing screening, landscaping, or other facilities to protect adjacent or nearby property.
  - viii. Designating sites for open space.
  - ix. Stormwater runoff management treatment.
  - x. Reducing impervious surfaces.
  - xi. Increasing setbacks from the ordinary high-water level.
  - xii. Restoration of wetlands.
  - xiii. Limiting vegetation removal and/or riparian vegetation restoration.
  - xiv. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas.
  - xv. Other conditions the zoning authority deems necessary.

- h. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.
- 2) The Planning and Zoning Commission shall decide the issue considering the following. The following must be met:
- a. The use or development is an appropriate conditional use in the land use zone.
  - b. The use or development, with conditions, conforms to the comprehensive land use plan.
  - c. The use with the condition is compatible with the existing neighborhood.
  - d. The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance, or prosperity of the City.
  - e. For Conventional Subdivisions, the property contains physical constraints, which make it unable to be developed by the Conservation Subdivision method.
  - f. The following must be considered:
    - i. The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate area.
    - ii. The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominantly in the area.
    - iii. The conditional requirements at public cost for public facilities and services will not harm the community's economic welfare.
    - iv. The conditional use will have vehicular approaches to the property designed to avoid traffic congestion or indifference with traffic on surrounding public thoroughfares.
    - v. Adequate measures have been taken to provide sufficient off-street parking and loading space for the proposed use.
    - vi. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner that no disturbance to neighboring properties will result.
    - vii. The conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historical feature of major significance.
    - viii. The conditional use will promote the prevention and control of pollution of the ground and surface waters, including sedimentation and management of nutrients.
- 3) When costs to the City in processing and reviewing an application exceed the original application fees, the applicant shall reimburse the City for additional

costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees, and other professional services the City may need to retain in reviewing permits,

- 4) Violations of the conditions of a Conditional Use Permit shall automatically suspend the permit. The Planning Commission shall conduct a review of the violation. The Planning Commission shall recommend conditions for reinstating the access or revocation to the City Council. The City Council shall decide to reinstate or revoke the suspended permit.
- 5) A C.U.P. application that has been denied shall not be submitted, in an exact or substantially similar form, for at least 12 months from the date of denial.
- 6) Appeals from the action of the City shall be filed with District Court within 30 days after Council action.
- 7) The Conditional Use Permit shall be filed with the County Recorder within 45 days.
- 8) The conditional use permit runs with the land and applies to subsequent purchasers so long as the conditions are met.
- 9) Planned Unit Development Procedure and Submissions.
- 10) The applicant may submit a Sketch Plan to the Planning Commission for review and discussion at least 14 days before the meeting.
- 11) Based on the discussion, the applicant can formally apply by submitting preliminary documents, prepared with professional help, including, as a minimum, the C.U.P. application, and further shall contain the following:
  - a. Proposed concept of plan operation.
  - b. Proposed plat or floor plan, if applicable.
  - c. Proposed recreational amenities.
  - d. Proposed timing.
  - e. Proposed final security.
  - f. Proposed development contract.
- 12) The Planning Commission shall review the submissions and make a recommendation to the City Council within a reasonable timeframe with a complete finding of facts.
- 13) The City Council shall review the recommendations and decide within a reasonable time, subject to the 60-day Rule.
- 14) The applicant shall then proceed within the time frame accepted under the preliminary proposal to provide final documents as required, including:

- a. Financial security.
- b. Development contract.
- c. Title opinion.
- d. Final plat or floor plan.
- e. Surveyors plat check.
- f. Final covenants and associated documents.
- g. Final schedule.
- h. Final site plan, which will control development.
- i. MPCA/MDH approval letter on sewage system & water supply.

## § 151.61 VARIANCES

- 1) Variances shall only be granted when the applicant can demonstrate there are practical difficulties in complying with the code. Variances shall only be granted when it is demonstrated that granting of the variance will be in keeping with the spirit and intent of the ordinance.
- 2) Variances shall not create a use not provided for in a zoning district.
- 3) Variances shall run with the property and shall be transferable with the property. Variances shall not be transferred to other properties.
- 4) Variances shall run with the property for structures or other specified uses after a public hearing.
- 5) All applications for a Variance shall be submitted to the Zoning Administrator 30 days before the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the proposal's details, an accurate legal description, and the appropriate fee. The fee or contract owner of the property shall sign the application.
- 6) The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days before the public hearing.
- 7) The Zoning Administrator shall send the same notice, with supporting documentation, at least 10 days before this hearing to the DNR if the proposed is in shoreland.
- 8) At the applicant's option, the applicant may request a sketch plan review with no action by the Board of Adjustment and with no fee by giving 14 days' notice thereof to the Zoning Administrator, meeting time permitted.
- 9) Submissions for Variances. The applicant shall complete the Variance application approved by the Board of Adjustment. The application shall contain submittal requirements, approval criteria, consideration procedure, and City contact

information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.

- 10) Variances shall be decided within the required time frame with consideration for the following:
  - a. The applicant establishes that there are practical difficulties, as defined in this ordinance, in complying with the official control, and
  - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner, and
  - c. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the landowner, and
  - d. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance and the Comprehensive Plan, and
  - e. The variance will not create a land use not permitted in the zone, and
  - f. The variance will not alter the essential character of the locality, and
  - g. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.
  - h. The Board of Adjustment shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:
    - i. Advanced stormwater runoff management treatment.
    - ii. Reducing impervious surfaces.
    - iii. Increasing setbacks from the ordinary high-water level.
    - iv. Restoration of wetlands.
    - v. Limiting vegetation removal and/or riparian vegetation restoration.
    - vi. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
    - vii. Other conditions the zoning authority deems necessary.
  - i. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.
  - j. When costs to the City in processing and reviewing an application exceed the original application fees, the applicant shall reimburse the City for additional costs. Such expenses may include but are not limited to payroll, mailing costs, consultant fees, and other professional services the City may need to retain in reviewing permits.
  - k. The Zoning Administrator shall accept no Variance application from a contractor or property owner having outstanding violations. Variances can only be requested by contractors or property owners with outstanding

violations upon resolution of the violation to the satisfaction of the Planning Commission.

- I. A Variance application that has been denied shall not be submitted, in an exact or substantially similar form, for at least 12 months from the date of denial.
- m. Violations of the conditions of a Variance shall void the variance.
- n. Appeals from the action of the City Council shall be filed with the District Court within 30 days after Council action.
- o. The Variance shall be filed with the County Recorder within 45 days.

## § 151.62 INTERIM USE PERMIT

- 1) Interim Uses shall run with the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council. All interim uses are temporary and shall terminate on a specific date or at the occurrence of a specific event, which shall be designated when the permit is approved.
- 2) All applications for an Interim Use Permit shall be submitted to the Zoning Administrator 30 days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee.
- 3) The fee or contract owner of the property shall sign the application.
- 4) The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days before the public hearing. The Zoning Administrator shall send the same notice at least 10 days before this hearing to the DNR if the proposed is in shoreland.
- 5) Submissions for Interim Use Permit (IUP). The submissions for an IUP shall be the same as those required for a Conditional Use Permit, as detailed.
- 6) The Zoning Administrator shall accept no Interim Use Permit application from a contractor or property owner having outstanding violations. Interim Use Permits can only be requested by contractors or property owners with outstanding violations upon resolution of the violation to the satisfaction of the Planning Commission.
- 7) In permitting a new Interim Use or alteration of an existing Interim Use, the provisions of Section 151.60 shall apply to allow the Planning Commission to impose conditions on the approval.
- 8) The Planning and Zoning Commission shall decide the issue with consideration to the following:

- a. The use or development is an appropriate interim use in the land use zone.
  - b. The date or event that will terminate the use can be identified with certainty.
  - c. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
  - d. The user agrees to any conditions that the governing body deems appropriate for permission of the use.
- 9) The provisions of 151.60 must be considered as they would with a conditional use permit request.
  - 10) When costs to the City in processing and reviewing an application exceed the original application fees, the applicant shall reimburse the City for additional costs. Such expenses may include but are not limited to payroll, mailing costs, consultant fees, and other professional services the City may need to retain in reviewing permits. The City may require establishing an escrow account when the application is made.
  - 11) Violations of the conditions of an Interim Use Permit shall automatically suspend the permit. The Planning Commission shall conduct a review of the violation. The Planning Commission shall recommend conditions for reinstating the permit or revocation to the City Council. The City Council shall decide to reinstate or revoke the suspended permit.
  - 12) Failure by the owner to act on an Interim Use Permit within the approved time limit shall void the permit.
  - 13) Appeals from the action of the City shall be filed with District Court within 30 days after Council action.
  - 14) The Interim Use Permit runs with the land and applies to subsequent purchasers of the land so long as the conditions are being met.
  - 15) A change in this Code may terminate an interim use.

## § 151.63 LAND USE ZONING PERMITS

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

- 3) The City shall only accept applications where the applicant has past due fees or charges due to the City once the account is made current.
- 4) The Zoning Administrator shall accept no applications from a property having outstanding violations.
- 5) The required permits shall contain the parcel number of the property, the signature of the fee or contract owner, and any other reasonable information needed to determine compliance with this Ordinance.
- 6) Lot corners shall be visible on the lot. The Zoning Administrator may require a new survey when stakes are not visible or have been removed through erosion, construction, or other action and require a new certificate with existing and recorded dimensions. The decision of the Zoning Administrator may be appealed to the Planning and Zoning Commission and forwarded to the City Council for a final decision.
- 7) Where a Permit has been issued but no action has occurred within 24 months, the Zoning Permit shall be null and void. After that time a new application must be submitted, and a new fee must be paid.
- 8) Granting of a Permit shall occur when all requirements of the Ordinance have been met but shall not be considered a statement of compliance with regional, State, or Federal codes, statutes, or laws or approval of the design of the structure or accessories, or description of the property. Subsequent actions of the Zoning Administrator shall not be considered acceptance of structural components or quality but rather to determine general compliance with the Ordinance.
- 9) If the Zoning Administrator determines that any violation of the permit or other section of the Ordinance has occurred, the access shall become null and void.
- 10) As determined by the Zoning Administrator, additional permits may be required.

## § 151.64 FEES

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



## § 151.65 FINANCIAL REQUIREMENTS

- 1) Applications will not be accepted as complete where an applicant has any utility charges, delinquent taxes, delinquent assessments or other fees past due with the City or County. The past due account must be paid to bring the account current before an application will be accepted.
- 2) When costs associated with processing or reviewing an application exceed the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to hire in reviewing permits. Outstanding fees shall be paid before issuance of the permit and any construction of the project begins.
- 3) The developer may be required to provide for financial security of the project, prior to the project being started. The amount to be paid upfront will be decided on a case-by-case basis with input from the Design Review Team (DRT) and approved by the City Council.

## § 151.66 SEPARABILITY

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

## § 151.67 SUPREMACY

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

## § 151.68 EFFECTUATION

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

§ 151.69 AMENDMENT

The City Council may adopt amendments by a 2/3 vote to either the Zoning Ordinance or Zoning map in relation to the land uses within a district or the boundaries of the district(s). Such amendments shall not be issued indiscriminately but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the City.

§ 151.70 PROCEDURE

- 1) An amendment may be initiated by the Council, the Planning Commission or by any property owners.
- 2) If initiated by the City Council, the proposed amendment shall be referred to the Planning Commission for up to sixty (60) days for public hearing.
- 3) The Zoning Administrator shall review the proposed changes and make a recommendation to the Planning Commission.
- 4) The Planning Commission shall cause all property owners within a minimum of 350 feet of the proposed Zoning District change to be notified by regular mail and shall publish a hearing notice for either a Zoning District change or Zoning Ordinance change in the Legal Section of the official newspaper at least (10) days ahead of the public hearing.
- 5) The Planning Commission shall provide notice and proposed amendment to the DNR at least thirty (30) days ahead of the public hearing if the amendment includes the shoreland area or shoreland management controls.
- 6) The Planning Commission shall hold the hearing and make a recommendation within sixty (60) days of the date of application to the City Council. Adoption of a new zoning map shall require published notice only.
- 7) The City Council shall review the recommendations and shall make a timely decision. An amendment requires a majority vote to be enacted.
- 8) The City Clerk shall publish a summary of the text of the change or description of boundary change or a new zoning map (whichever is appropriate) in the official newspaper within one week after action by the Council and shall send a copy to the DNR.

§ 151.71 ORDINANCE DATES

Legal Notice of Hearing Published: \_\_\_\_\_

Public Hearing Held: \_\_\_\_\_

Adopted by the City Council: \_\_\_\_\_

FINAL DRAFT