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Chapter

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CHAPTER 150: BUILDING REGULATIONS

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§ 150.01 BUILDING CODE ADOPTED.

The Minnesota State Building Code (SBC), and the Individual Sewage Treatment Standards, Minn. Rule 7080, are adopted by reference as though set forth verbatim herein. One copy of the Code shall be marked CITY OF EAST GRAND FORKS – OFFICIAL COPY and kept on file in the office of the City Administrator where they shall be open to inspection and use by the public. The Building Official is authorized and directed to enforce the adopted provisions of the Codes. For such purposes, the Building Official shall have the power to issue citations to those who are in violation of the adopted provisions of the Codes.

(1981 Code, § 4.01) (Am. Ord. 189, 3rd Series, passed 12-5-1995; Am. Ord. 221, 3rd Series, passed 2-3-1998)

§ 150.02 FEES.

(A) *Permits, inspections and fees.* Fees for building permits and inspections shall be adopted by resolution of the Council and may be amended from time to time in the same manner; provided, that a schedule of the fees, together with the date of adoption of each fee, shall be kept on file in the office of the City Administrator and available for distribution upon request therefor. The fees shall be uniformly enforced upon the adoption or amendment.

(B) *Surcharge.* In addition to the permit fee required by division (A) of this section, and the fee required in § 150.06, the applicant shall pay a surcharge to be remitted to the Minnesota Department of Administration as prescribed by M.S. § 16B.70, as it may be amended from time to time.

(Ord. 85, 3rd Series, eff. 11-26-1987)

(1981 Code, § 4.03)

§ 150.03 PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMBINED MOVING PERMIT. A permit to move a building on both a street and a highway.

(Ord. 93, 3rd Series, eff. 6-24-1988)

FOUNDATION. A permanent solid base on which a building is raised, prepared from concrete, masonry, or treated wood extending below the frost line and constructed in compliance with the Building Code.

(Ord. 121, 3rd Series, eff. 10-12-1990)

HIGHWAY. A public thoroughfare for vehicular traffic which is a state trunk highway, county state-aid highway, or county road.

HIGHWAY MOVING PERMIT. A permit to move a building on a highway for which a fee is charged which does not include route approval, but does include regulation of activities which do not involve the use of the highway; which activities include, but are not limited to, repairs or alterations to a municipal utility required by reason of the movement.

MOVING PERMIT. A document allowing the use of a street or highway for the purpose of moving a building.

STREET. A public thoroughfare for vehicular traffic which is not a state trunk highway, county state-aid highway or county road.

STREET MOVING PERMIT. A permit to move a building on a street for which a fee is charged which does include route approval, together with use of the street and activities, including, but not limited to, repairs or alterations to a municipal utility required by reason of the movement.

(B) *Application.* The application for a moving permit shall state the dimensions, weight, and approximate loaded height of the structure or building proposed to be moved, the places from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and address of the mover, and the municipal utility and public property repairs or alterations that will be required by reason of the movement. All applications shall be referred to the Building Official. All applications for street and combined moving permits shall also be referred to the Police Department and the Water and Light Department and no such permits shall be issued until route approval has been obtained from all the Departments.

(C) *Permit and fee.*

(1) The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the state. Fees to be charged shall be separate for each of the following:

(a) A moving permit fee to cover use of streets and route approval; and

(b) A fee equal to the anticipated amount required to compensate the city for any municipal utility and public property (other than streets) repairs or alterations occasioned by such movement.

(2) All permit fees shall be paid in advance of issuance.

(D) *Building permit and code compliance.* Before any building is moved from 1 location to another within the city, or from a point of origin without the city to a destination within the city, regardless of the route of movement, it shall be inspected and a building permit shall have been issued for at least the work necessary to bring it into full compliance with the State Building Code.

(E) *Unlawful acts.*

(1) It is unlawful for any person to move a building on any street without a moving permit from the city.

(2) It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the city, and regardless of the route of movement, without having paid in full all real and personal property taxes, special assessments and municipal utility charges due on the premises of origin and filing written proof of the payment with the city.

(Ord. 93, 3rd Series, eff. 6-24-1988)

(3) It is unlawful for any person to move a building to a destination within the city, without first having constructed a foundation for the building at the point of destination. The foundation must be laid in compliance with the Building Code and must be inspected and approved by the Building Inspector before the building is moved to its point of destination.

(Ord. 121, 3rd Series, eff. 10-12-1990)

(1981 Code, § 4.04) (Am. Ord. 219, 3rd Series, passed 1-6-1997)

(F) *Relocated residential structures.*

(1) It is unlawful for any person to move or to contract to move any residential structure from 1 location to another within the city or from a point of origin without the city to a destination within the city without first meeting the requirements of this section.

(2) An energy audit shall be performed and submitted to the Building Official.

(3) The Building Official shall inspect the structure to determine code compliance.

(a) The residential structure shall be made available for inspection during normal duty hours.

(b) The applicant shall pay an inspection fee prior to the Building Official's inspection. The fee for this inspection shall be adopted by resolution of the Council and may be amended from time to time in the same manner. This fee is not a part of any additional required permit fees.

(c) The inspection report shall be based on code items that are visible. Other corrections may be required after this inspection.

(Ord. 153, 3rd Series, eff. 8-25-1994)

(d) Based upon the inspection, a demolition cost shall be computed by the Building Official by using a formula adopted by resolution of the Council. The formula may be amended from time to time in the same manner.

(4) The city shall be provided with security in the form of a compliance bond (license or permit) in an amount of at least \$5,000, or a guaranteed irrevocable line of credit assigned to the city, or cash deposited prior to the issuance of a moving permit for a relocated residential structure. The bond, guaranteed irrevocable line of credit or cash deposit shall be in an amount equal to the demolition cost as determined by the Building Official. If the structure is not completed and ready for occupancy within 1 year after the date of the issuance of the moving permit, the city may raze the structure, level the foundation and fill the excavation, if any, to grade. The city shall deduct its actual costs incurred in the razing of the structure, the leveling of the foundation, and the filling of the excavation from the bond proceeds after making claim to the surety for that amount, or from the irrevocable line of credit or cash deposit and shall refund from the balance, if any, to the appropriate party. The total liability of the surety

for all claims, regardless of the number of claims made against the bond or how long the bond remains in force shall in no event exceed the amount of the bond. Any revision of the bond amount shall not be cumulative. The surety shall not be liable for any punitive damages or civil or criminal penalties which may be asserted against the principal on the bond. The bond may be terminated at any time by the surety upon sending notice in writing to the city and to the principal by first class U.S. mail, and at the expiration of 30 days from the mailing of the notice, the bond shall terminate and the surety shall be relieved from any liability for any acts or omissions of the principal subsequent to that date.
(Ord. 168, 3rd Series, eff. 6-2-1994)

(5) Variances from divisions (A), (B) and (C) may be granted by the City Council up to and including but not after June 30, 1998.
(1981 Code, § 4.06) (Am. Ord. 219, 3rd Series, passed 1-6-1997) Penalty, see § 10.99

§ 150.04 ADOPTION OF THE MINNESOTA UNIFORM FIRE CODE.

(A) *Adoption.* The Minnesota Uniform Fire Code is adopted as though set forth verbatim herein. One copy of the Code shall be marked CITY OF EAST GRAND FORKS - OFFICIAL COPY and kept on file in the office of the City Administrator where it shall be open to inspection and use by the public. The Chief of the Fire Department is authorized and directed to enforce all of the provisions of the Code. For such purposes, the Chief of the Fire Department shall have the power to issue citations to those who are in violation of the Code. In the case of an emergency, the Chief of the Fire Department shall also have the power to arrest those who are in violation of the Code. The power to arrest shall not be delegated by the Chief of the Fire Department and shall not be extended to his designees.

(B) *Storage of flammable and explosive material.* No bulk plants for storage of flammable or combustible liquids, or bulk storage of liquefied petroleum gas, not established on the effective date of this section, shall be permitted. No storage of explosives or blasting agents shall be permitted.
(1981 Code, § 4.05) (Ord. 89, 3rd Series, eff. 3-4-1988; Ord. 114, 3rd Series, eff. 5-4-1990)

§ 150.05 PLUMBING PERMITS AND INSPECTIONS.

(A) *Permit required.* It is unlawful for any person to commence any plumbing construction, remodel, replacement, or repair, except minor repair work as the same may be defined by rule or regulation without first obtaining a permit therefor from the city and payment of the required fees.

(B) *Application.* Any licensed plumber, or other persons specifically excepted by law from licensing provisions, may apply for the permit.

(C) *Issuance of permit.* The plumbing permit shall issue upon approval of plans and specifications relating to the proposed construction.

(D) *Unlawful acts.* It is unlawful for any person to knowingly and willfully commit, or to order, instruct, or direct another to commit, any of the following acts:

(1) To make a false statement in an application for inspection or permit, certificate or other lawfully authorized or required form or statement;

(2) To perform plumbing work for another without a proper license to perform the work;

(3) To fail to file a request for inspection when required;

(4) To interfere with, or refuse entry to, an inspector lawfully engaged in the performance of his duties;

(5) To violate any lawful rule or regulation relating to plumbing.

(1981 Code, § 4.10) Penalty, see § 10.99

§ 150.06 PLUMBING PERMIT FEES.

Fees for plumbing permits and inspection shall be adopted by resolution of the Council and may be amended from time to time in the same manner; provided, that a schedule of the fees, together with the date of adoption of each fee, shall be kept on file in the office of the City Administrator and available for distribution upon request therefor. The fees shall be uniformly enforced upon the adoption or amendment.

(1981 Code, § 4.11)

§ 150.07 HOUSING CODE ADOPTED.

(A) *Housing Code adopted.* The Uniform Housing Code (UHC), 1982 Edition, published by the International Conference of Building Officials, is adopted by reference as though set forth verbatim herein. One copy of the Code shall be marked CITY OF EAST GRAND FORKS - OFFICIAL COPY and kept on file in the office of the City Administrator and open to inspection and use by the public.

(B) *Amendments to Uniform Housing Code.* The Uniform Housing Code (UHC), 1982 Edition, shall be subject to the following amendments, to-wit:

(1) Wherever the term "Health Officer" appears in this Code the words "Building Official" shall be substituted therefor.

- (2) Section 203 of the Uniform Housing Code, 1982 Edition, is amended to read as follows:

Section 203. In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of this code, hearings may be held subject to § 30.06 of the City Code. The Building Official shall be an ex officio member and shall act as secretary of the board. Appeals to the board shall be processed in accordance with the provisions contained in Section 1201 of this Housing Code. Copies of all rules or regulations adopted by the board shall be delivered to the Building Official, who shall make them freely accessible to the public.

- (3) The following definitions as found in Section 401 of the Uniform Housing Code, 1982 Edition, are amended or added, to read as follows, to-wit:

(a) **BUILDING CODE** is the Uniform Building Code, 1982 Edition, promulgated by the International Conference of Building Officials, as adopted by the Minnesota State Building Code and the city.

(b) **HEALTH OFFICER** is deleted in its entirety.

- (4) The following definition is added as follows:

BUILDING OFFICIAL is the officer or other designated authority charged with the administration and enforcement of this code, or his duly authorized representative.

(C) The Uniform Housing Code, 1982 Edition, Chapter 13 is deleted in its entirety. (1981 Code, § 4.20) (Ord. 35, 3rd Series, eff. 12-16-1983)

§ 150.08 FENCE REGULATIONS.

(A) *Definition.* For purposes of this section, the term **FENCE** means any partition, structure or gate erected as a dividing marker, barrier or enclosure.

(B) *Application.* Except as otherwise provided in § 110.27, it is unlawful for any person to construct or cause to be constructed or erected any fence without first obtaining a permit therefor from the city.
(Ord. 221, eff. 5-22-1969)

(C) *Application for permit.* Every application for a fence permit shall be submitted to the Building Official and shall set forth the type of fence, the material to be used in the construction thereof, its height, and its location, particularly as to its proximity to the lot lines of the applicant. The fee shall be

as required in § 150.02. If the Building Official determines that a variance from this section will be necessary before the permit can be issued, the Building Official will submit the application to the Planning Commission for its review and recommendation to the City Council.
(Ord. 85, 3rd Series, eff. 11-26-1987)

(D) *Standards.* All fences erected or maintained in the city shall meet and comply with the following requirements:

(1) All fences closer to the street line than the average set back in the area shall not exceed 3 feet in height, and all other fences shall not exceed 6 feet in height, and be placed not less than 1 foot from the respective property lines;

(2) All fences bordering the sides of any property and not facing or fronting on a street or alley shall be placed no less than 1 foot from the property line on which it borders and shall be no more than 6 feet in height;

(3) No fence shall be allowed to be constructed with solid sheeting and the Building Inspector's approval of the material and manner of construction and appearance shall be obtained;

(4) The Council shall have the power upon application, for cause shown, to waive the strict application of the preceding requirements and compliance therewith.

(E) *Barbed wire and other fences.* It is unlawful for any person to construct and maintain or allow to be constructed or maintained upon any property a barbed wire fence or any fence charged or connected with any electrical current in such a manner as to transmit the current to persons, animals or things which intentionally or unintentionally come in contact with same. Upon application duly made therefor to the Council, the Council may in its discretion permit the applicant upon proper showing to construct a barbed wire fence which will meet applicant's requirements for the purposes intended.

(F) *Maintenance.* All fences shall be painted and maintained so that the exposed, outer-face shall be smooth and in neat condition and appearance and so maintained at all times. In all cases the side of the fence facing the street or abutting property shall be finished as immediately above set forth.

(G) *Location.* All fences must be located entirely upon the private property of the person constructing the same or causing the fence to be so constructed and erected; provided, however, that adjoining property owners may agree in writing that the fence shall be located on the division line of their properties, and if such an agreement be made, the abutting property owners shall file an executed copy of the agreement with the Building Inspector, before the Building Inspector shall issue a permit therefor.

(H) *Construction.* Every fence, whensoever and howsoever constructed, shall be constructed in a substantial manner and of a substantial material reasonably suitable for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not

by reason of age, decay, accident or other cause be allowed to become and remain in a state of disrepair so as to be or tend to be a nuisance to the injury of the public or any abutting property owner. Any fence which is dangerous by reason of its construction or state of disrepair or is in any other way injurious to public safety, health or welfare, is a nuisance; the Building Inspector shall notify the owner of the property on which the fence is located, in writing, of the existence of the nuisance, and the nuisance shall be abated and corrected within 14 days after receiving the notice from the Building Inspector. (1981 Code, § 4.30) (Ord. 221, eff. 5-22-1969; Am. Ord. 250, 3rd Series, passed 8-8-2000) Penalty, see § 10.99

§ 150.09 RENTAL DWELLING CODE.

(A) General provisions.

(1) Statement of purpose.

(a) The purpose of the Rental Dwelling Code is to protect the public health, safety and general welfare of the people of this city. These objectives include, among others, the following:

1. To protect the character and stability of residential areas within the city;
2. To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health of the people of this city;
3. To prevent the overcrowding of dwellings;
4. To preserve the value of land and buildings throughout the city;

(b) With respect to disputes between owners and occupants, and except as otherwise specifically provided by the terms of this section, the City Council or city staff will not intrude upon the accepted contractual relationships between owners and occupants. The City Council or city staff will not advocate on behalf of either party, nor will it be an arbiter, nor will it be receptive to complaints from owners or occupants, which are not specifically and clearly relevant to the provisions of this section. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of city government, in enacting this section, the City Council does not intend to interfere or permit interference with legal rights to personal privacy.

(c) This section is governed by and complies with all provisions of the Housing Code, Building Code, and Fire Code, as adopted by the city, and all relevant Minnesota State statutes. If there is a violation of any of the codes or state statutes, the penalties as listed under division (H) of this section will be administered.

(B) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this section.

APARTMENT. A room or group of rooms located within a building which form a single habitable unit with facilities which are used or are intended to be used for living, sleeping, cooking or eating.

APPROVED. An indication that an item is in compliance with Building and Fire Codes.

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

BUILDING OFFICIAL and/or FIRE MARSHAL. Agent designated by the City Council to enforce provisions of this section.

CLEAN. The absence of rubbish, garbage, vermin, or other unsightly, offensive or extraneous matter.

DWELLING. A structure or portion thereof designed exclusively for residential occupancy, including boarding and lodging houses, but not including hotels and motels.

DWELLING UNIT. Dwelling unit has the same meaning as *APARTMENT* defined above.

DISORDERLY CONDUCT. For the purposes of this section, disorderly conduct in the registered rental dwelling unit shall mean disorderly conduct in the particular rental dwelling unit by the renters, occupants, or guests, and/or conduct which constitutes disorderly conduct anywhere on the property in which the rental dwelling unit is situated. ***DISORDERLY CONDUCT*** includes the following conduct:

(a) Conduct which constitutes a violation of M.S. §§ 609.74 and/or 609.745 relating to a public nuisance;

(b) Conduct which constitutes a violation of § 130.01 and/or M.S. § 609.72 relating to disorderly conduct;

(c) Conduct which constitutes a violation of § 130.03 relating to noisy parties;

(d) Conduct which constitutes a violation of §§ 131.20 through 131.25 for other laws relating to the possession of drug paraphernalia and/or controlled substances as defined in M.S. §§ 152.01 et. seq.;

(e) Conduct which constitutes a violation of this code and/or M.S. § 340A.503 relating to the possession or consumption of alcoholic beverages by minors; or a violation of M.S. §§ 340A.701, 340A.702, or 340A.703 relating to the sale of intoxicating liquor;

(f) Conduct which constitutes a violation of laws relating to prostitution or acts related to prostitution as defined in M.S. § 609.321, Subd. 9;

(g) Conduct which constitutes a violation of laws relating to weapons, or laws relating to unlawful use or possession of a firearm as defined in M.S. § 609.66 et. seq., on the registered premises;

(h) Conduct which constitutes a violation of laws relating to assaults, including domestic assaults, as defined in M.S. § 604.224;

(i) Conduct which constitutes a violation of laws relating to contributing to the need for protection or services or delinquency of a minor, as defined in M.S. § 260.315;

(j) Conduct which constitutes a violation of any other federal law, state law or local ordinance which would be likely to threaten, annoy or harass other tenants or other neighbors to the rental dwelling unit.

FIRE MARSHAL. See ***BUILDING OFFICIAL and/or FIRE MARSHAL.***

HABITABLE ROOM. Any room used for sleeping, living, cooking or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms, and similar spaces.

KITCHEN. A room within a dwelling unit intended to be used for the cooking of food or preparation of meals.

OCCUPANT. Any individual living, sleeping, cooking or eating within a dwelling unit listed on the rental contract.

OWNER. Any person, firm or corporation who, alone, jointly or severally with others, shall be in actual possession of, or have charge, care, control of any dwelling, dwelling unit, or rooming unit within the city as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder. Also, any person, firm or corporation who has the right to determine who occupies a rental dwelling unit (even though that right may be subject to a lease or rental agreement), or person, firm, corporation who shall have the power to rent or let to another for purpose of this section. The owner shall be the individual responsible for registration of the building and rental dwelling units.

PERSON. An individual, firm, partnership, association, corporation, company, or a joint venture or organization of any kind.

RENTAL CONTRACT. A written lease between the owner and occupant containing and listing the names of all permissible occupants of the dwelling unit.

RENTAL DWELLING UNIT. Any dwelling for hire which includes apartment, dwelling unit, and rooming houses. **RENTAL DWELLING UNIT** for purposes of this section does not include hotels, motels, hospitals, homes for the aged, or other licenced residential facilities.

REPAIR. To restore to a sound acceptable state of operation, serviceability or appearance. Repairs shall be expected to last as long as replacement by new items.

REPLACE or REPLACEMENT. To remove an existing or portion of a system and to construct or install a new item of a quality similar to that of the existing item when it is new. Replacement ordinarily takes place when repair of the item is impractical.

ROOMING HOUSES. Any group of rooms that form single habitable units used or intended to be used for living and sleeping but not for cooking or eating purposes, with the exception of other licenced residential facilities.

TEMPORARY GUEST. An individual other than an occupant, staying and residing with the occupant for less than 30 consecutive days.

UNSAFE. As applied to a structure, a condition or combination of conditions which are dangerous or hazardous to persons or property.

UNSANITARY. Conditions which are dangerous or hazardous to the health of persons.

(C) *Registration.*

(1) *Registration required.* No owner shall operate a rental dwelling unit in the city without having first obtained a registration as hereinafter provided from the Building Official. Each owner shall register annually with the Building Official. If the registration is denied, no occupancy of rental dwelling units then vacant or which become vacant shall be permitted until a registration has been issued. Rental dwelling units within an unregistered building for which a registration application has been made and which rental dwelling units are in compliance with this section may be occupied provided that the unregistered rental dwelling units within the building do not create a hazard to the health and safety of persons in occupied rental dwelling units.

(2) *Registration procedures.* Within 60 days after the passage of this section, the owner of any building and its rental dwelling units within the city shall apply to the Building Official for a rental registration in the manner hereafter prescribed.

(a) Application shall be made on forms provided by the city and accompanied by the initial fee in an amount set by resolution of the City Council. The owner of a building and its rental dwelling units constructed after the date of passage of this section shall obtain a registration prior to actual occupancy of any rental dwelling unit therein.

(b) Applicants shall provide the following information on registration applications:

1. The name, address, and telephone number of the owner of the building and the name, address, and telephone number of the operator or agent actively managing said building.
2. The legal description and address of the building.
3. The number of rental dwelling units, the floor area for each such rental dwelling unit, the total floor area of the building, and the total number of occupants per rental dwelling unit.
4. Name and address of person to whom owner/applicant wishes a notice to be sent.
5. Such other information as the city shall require.

(3) *Application and inspection.* Upon receipt of a properly executed application for a rental registration, the Building Official and/or Fire Marshal shall inspect the building and rental dwelling units to ensure that they are in compliance with this section.

(4) *Issuance of rental registration.*

(a) If the building and rental dwelling units are in compliance with this section, a registration shall be issued to the owner which shall state that the building and rental dwelling units have been inspected and are in compliance with this section. If the city finds that the circumstances of occupancy following the issuance of the registration involves possible violations, the city may again inspect the building and rental dwelling units during the registration period.

(b) The city will by Council resolution establish a re-inspection fee. If a building and its rental dwelling units are not currently registered, no registration may be issued until all outstanding fees have been paid. If a building and its rental dwelling units are registered, the registration shall expire 20 days after the owner or his agent is notified of the inspection fee that must be paid to maintain such registration in good standing, unless the fee is paid prior to the expiration of the 20 day period.

(5) *Registration display.* A registration issued under this section shall be conspicuously displayed on the building wherever feasible. The owner shall promptly produce the registration upon demand of a prospective occupant or the Building Official and/or Fire Marshal or his/her authorized representative.

(6) *Registration transfer.* The registration is transferable upon application to the Building Official and payment of the registration transfer fee by the prospective owner if the registered premises are in compliance with all applicable codes. The registration shall terminate if renewal or application for transfer is not made within 30 days after transfer of ownership of the building.

(7) *Registration renewal.* Renewal of the registration as required annually by this section may be made by filling out the required form furnished by the Building Official to the owner of a building and by mailing the form together with the required registration fee to the Building Official. Such renewal or registration may be made only when no change in the ownership, operation, agency or type of occupancy as originally registered has been made and where there has been an inspection within the last 2 years.

(8) *Registration fees.* Registration fees, registration transfer fees, inspection fees, and re-inspection fees shall be established by City Council resolution.

(9) *Revocation.* A registration issued or renewed under this section may be revoked upon a finding of noncompliance with the provisions of this section. Reinstatement of a revoked registration shall be accompanied by an amount equal to 50% of the registration fee. Issuance of a new registration after revocation shall be made in the manner provided for obtaining an initial registration.

(D) *Maximum density and maximum space for rental units.*

(1) The occupancy of any rental dwelling unit shall not exceed the following:

(a) For the first occupant, 150 square feet of habitable room floor space and for every additional occupant thereof, at least 100 square feet of habitable room floor space.

(b) In no event shall the total number of occupants of any rental dwelling unit exceed 2 times the number of habitable rooms.

(2) No owner shall rent or let to another for occupancy any rental dwelling unit in violation of division (C)(1)(b) of this section other than for temporary guests.

(3) No occupant shall allow a temporary guest to remain in the rental dwelling unit for more than 30 consecutive days. After 30 days the temporary guest must be included in the total number of occupants.

(E) *Prohibitions.*

(1) No owner shall own, maintain, operate, rent, or let to any other individual(s) for occupancy any rental dwelling unit in violation of this section.

(2) No owner shall operate a building and its rental dwelling units without registration issued pursuant to this section or accept rental payments from an occupant of any unregistered rental dwelling unit which payment is for occupancy for a period during which the rental dwelling unit is not registered pursuant to this section.

(3) No owner or occupant shall refuse or fail to allow the Building Official and/or Fire Marshal to enter a building and its rental dwelling units for purposes of inspection when authorized by this section.

(4) No person shall occupy an unregistered rental dwelling unit if such rental dwelling unit is required to be registered under this section.

(5) No person may occupy a rental dwelling unit in violation of this section.

(6) No person, firm, or corporation, including an owner, or occupant, shall remove or tamper with a placard used for posting property pursuant to this section.

(F) *Trespass over property to which public has some implicit right of access.*

(1) *Purpose.* The purpose of this section is to allow an owner of real property to which the public has some implicit right of access to exclude a person from that property if the person has committed a crime on the property or has violated the properly posted or otherwise provided rules of conduct for the property.

(2) *Definitions.* For the purpose of this division, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

COVERED PREMISES. Any improved real property, or portion thereof, within the city to which the public has an implicit right of access, including, but not limited to, places of worship, shopping malls, retail sales facilities, hotels, motels, nursing homes, restaurants, multiple dwellings, hospitals, medical and dental offices, clubs, lodges, office buildings, banks and financial institutions, transit stations, athletic and recreational facilities, personal service establishments, theaters, and day care facilities.

PRIVATE AREA. Areas within the covered premises not normally accessible to members of the public without explicit permission of the person in direct control of the area, including, but not limited to, individual apartment units, employee rest areas and facilities, banquet halls, meeting rooms, and private offices.

PRIVATE COMMON AREAS. Other common areas within the covered premises normally within the exclusive control of a tenant but subject to reasonable regulation by the property manager, including, but not limited to, sales floors, store restroom facilities accessible to customers or clients, checkout lanes, and customer service areas.

PROPERTY MANAGER. Any owner of a covered premises, or the agent of the owner or any tenant who is authorized by the owner to exercise control over the covered premises, including its public common areas.

PUBLIC COMMON AREAS. All areas of the covered premises, other than private common areas, maintained for the common use of its tenants or of the general public incidental to normal and legitimate activities upon the covered premises, including, but not limited to: the curtilage; parking lots and ramps; private roadways, sidewalks, and walkways; recreational facilities; reception areas; rotundas; waiting areas; hallways; restroom facilities; elevators; escalators; and staircases.

TENANT. Any authorized occupant of a covered premises, or the agent thereof, but excluding an occupant of a domestic use, such as a renter or lessee of a dwelling or apartment, resident in a nursing home, or a hotel or motel guest.

TRESPASS NOTICE. A written notice that contains minimally the following information:

1. Verbatim copies of divisions (D)(5) and (6) of this section;
2. The name, date of birth, and address of the person to whom the notice is issued and the name of the person's custodial parent or guardian if the person is a juvenile;
3. A description of the specific conduct that forms the basis for the issuance of the notice;
4. A description of the specific covered premises or portion thereof, to which the notice applies;
5. The period during which the notice is in effect, including the date of its expiration;
6. The name, title, address, and telephone number of a person with authority to modify, amend, or rescind the notice;

7. The method by which the notice was served upon the person to whom it was issued.

(3) *Issuance of trespass notice.* A property manager or tenant may issue a trespass notice to a person only if there is probable cause to believe the person has, no more than 30 days before the issuance of that notice:

(a) Committed an act prohibited by state statute or city ordinance while on the covered premises; or

(b) Violated any rule of conduct for the covered premises that has been conspicuously posted at all public entrances to the covered premises or that the property manager or tenant has provided to the person in writing.

(4) *Coverage of trespass notice.*

(a) If issued by a property manager, a trespass notice is effective only as to those public common areas and private areas within the property manager's exclusive control, except that a trespass notice may also cover private common areas and other private areas provided the tenant or tenants in control of such areas have agreed in writing to be precluded from inviting onto the premises any person to whom a trespass notice has been issued under this section. Such a trespass notice must state that the tenant or tenants of the covered premises are precluded from inviting onto the covered premises any person to whom a trespass notice has been issued under this section.

(b) If issued by a tenant, the trespass notice is effective only as to those private common areas and private areas over which the tenant has control.

(c) A notice broader in coverage than authorized by this section shall not be invalid, but shall be valid to the extent authorized by this section.

(5) *Prohibited conduct.*

(a) No person shall trespass in or upon any covered premises of another and, without claim of right, refuse to depart therefrom on demand of the property manager, or a tenant authorized to exercise control over the covered premises or portion involved.

(b) No person served with a trespass notice in conformity with this section shall enter in or upon the premises described therein during its effective period without the written permission of the notice issuer, agent, or assign.

(c) No person shall enter any public facility, utility, or grounds thereto, or any covered premises or portion thereof in violation of conspicuously posted signs prohibiting or restricting access thereto, including, but not limited to, the following: "No Trespassing," "Authorized Personnel Only," "Private," "Employees Only," "Emergency Exit Only."

(6) *Violations.* Any person violating any of the provisions of this section is guilty of an infraction.

(7) *Additional provisions.*

(a) No trespass notice shall be effective for more than 1 year.

(b) All trespass notices issued pursuant to this section must be properly served upon the person named therein as follows:

1. Personal service documented by either a receipt signed by the person to whom it was issued or an affidavit of the issuer; or

2. If the person is arrested or detained by a police officer, the officer may personally serve the notice on behalf of the property manager or tenant and document service in the officer's official police report detailing the incident.

(8) *Severability.* If any subsection or portion of this section is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of other subsections or portions of this section.

(G) *Conduct.*

(1) When the Building Official and/or Fire Marshal receive notice that an incident of disorderly conduct in a registered rental dwelling unit has occurred, the Building Official and/or Fire Marshal shall give notice of the violation to the owner and the occupants of the rental dwelling unit affected, and direct the owner to take steps to prevent further violation.

(2) If another instance of disorderly conduct in a registered rental dwelling unit occurs within 3 months of an incident for which a notice was given, the Building Official and/or Fire Marshal shall notify the owner and the occupants of the affected rental dwelling unit of the violation and the owner shall submit a written report of the actions taken, and proposed to be taken by the owner to prevent further disorderly conduct in the registered rental dwelling unit. This report shall be submitted to the Building Official and/or Fire Marshal within 5 days of receipt of the notice of disorderly conduct in the registered rental dwelling unit and shall detail all actions taken by the owner in response to all notices of disorderly conduct in the registered rental dwelling unit within the preceding 3 months. If an owner fails to submit a written report as required by this section, the Building Official and/or Fire Marshal shall revoke the rental registration.

(3) If another instance of disorderly conduct in the registered rental dwelling unit occurs within 3 months after the second instance of disorderly conduct in which notices were given to the owner, and the occupants of the affected unit, the Building Official and/or Fire Marshal shall revoke the owner's registration.

(H) *Penalties.* Any person, firm, corporation, occupant, or owner who violates or refuses to comply with any of the provisions of this section is guilty of a misdemeanor criminal offense. Each day that a violation exists shall constitute a separate offense.

(1981 Code, § 4.21)

§ 150.10 CONTRACTOR'S LICENSE REQUIRED.

No residential building contractor, residential remodeler, or other person who is required to be licensed by the state under the provisions of M.S. §§ 326.83 to 326.991, as they may be amended from time to time, and no person employing a residential contractor, who is required to be licensed, shall be issued a building, zoning or land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license but who does not have a state license shall be reported to the State Commissioner of Commerce, who may begin an action against the person.

Penalty, see § 10.99

§ 150.11 MANUFACTURED HOMES.

After the date of the adoption of this code, only manufactured homes which comply with the Manufactured Home Building Code established by M.S. § 327.31 may be located in and used as a dwelling within the city. A mobile home, manufactured home, house trailer or other mobile dwelling which does not comply with the Manufactured Home Building Code and which is used as a residence after the date of the adoption of this code is a nonconforming use, and this nonconforming use may be continued, including through repair or maintenance, but if the nonconformity or occupancy is discontinued for a period of more than 1 year, or the nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

Penalty, see § 10.99

Cross-reference:

Zoning, see § 152.295

§ 150.12 AMATEUR RADIO SUPPORT TOWERS.

Amateur radio support structures (towers) shall not exceed a height above ground level of 70 feet, unless a conditional use permit has been granted by the City Council. They shall be mounted on the roof

of a dwelling or other building or located in the rear yard unless there is not sufficient space to erect them in those locations. They shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

§ 150.13 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) *Findings.* The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendation of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* dated June 6, 1989. City Council accepts these recommendations evidenced by Ordinance 303, 3rd Series, adopted November 20, 2007.

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

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

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

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

(c) Increased transiency and decreased stability of ownership;

(d) Deteriorated neighborhood appearance from litter and graffiti;

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

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

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

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

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

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

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

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

(8) The concentration of sexually oriented businesses in 1 area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating: other businesses move out of the vicinity and residents flee from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

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

(B) *When no zoning regulations adopted.* If the city has not adopted zoning regulations for sexually oriented businesses, as defined this code, then a sexually oriented business may locate only in those areas of the city which the City Council determines that the predominant use of the land is for commercial or industrial purposes.

(C) *Not to operate in certain areas.* No person may operate a sexually oriented business on property, any part of which is within the area circumscribed by a circle that has a radius of 250 feet from any of the uses listed below. Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the property parcels where the 2 uses are located. This distance requirement applies to the following uses:

(1) Property used or zoned for residential uses;

(2) A day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution, or other public recreational facility;

(3) Premises licensed under Chapter 117, Alcoholic Beverages; and

(4) Another sexually-oriented business.

(Am. Ord. 303, 3rd Series, passed 11-20-2007)

§ 150.14 COMPLIANCE WITH CODE.

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

CHAPTER 151: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

§ 151.001 TITLE.

Chapter 151 of East Grand Forks City Code shall regulate the subdividing of land within the city and within an area extending 2 miles beyond the city limits, and will be referred to herein as the chapter.

(1981 Code, § 11.01, Subd. 1) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.002 PURPOSE.

This chapter is adopted for the following purposes:

(A) To protect and provide for the public health, safety, and general welfare of the city.

(B) To guide the future growth and development of the city in accordance with the goals and policies set forth in the City's Land Use Plan.

(C) To protect the character and the social and economic stability of all parts of the city and to encourage the orderly and beneficial development of the community by assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and non-residential areas with adequate public facilities, to assure proper urban form and open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development.

(D) To protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.

(E) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

(F) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the city, having particular regard to the avoidance of congestion in streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and widths of streets and building lines.

(G) To establish reasonable standards of design and procedures for subdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumentation of subdivided land.

(H) To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services through requiring the applicant to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facility needs generated by the development.

(I) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the city in order to preserve the integrity, stability, and beauty of the community and the value of the land.

(J) To preserve the natural beauty and topography of the city and to ensure appropriate development with regard to these natural features.

(K) To provide for open spaces through the most efficient design and layout of the land while preserving the density of development as established in the zoning regulations of the city.

(L) Require new subdivisions to provide financial support for infrastructure improvements that are necessary to support new growth.

(1981 Code, § 11.01, Subd. 2) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.003 JURISDICTION.

The provisions of this chapter shall apply to all lands within the city and within an area extending 2 miles beyond the city limits.

(1981 Code, § 11.01, Subd. 3) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.004 PLATTING AUTHORITY.

(A) Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the city's home rule charter. The applicant has the duty of compliance with reasonable conditions laid down by the city for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the city and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

(B) No land within the jurisdiction of this chapter may be subdivided through the use of any legal description other than with reference to a plat approved by the city in accordance with this chapter. No land shall be subdivided or sold, leased, transferred or developed until all provisions of this chapter have been met. No plat or replat shall be filed or accepted for filing by the Office of the Polk County Recorder or Registrar of Titles unless adopted by the affirmative vote of the majority of the members of the City Council approving such plat or replat.

(C) No building permit shall be issued for any parcel or plat of land created by subdivision after the effective date of, and not in conformity with the provisions of this chapter, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with this chapter and the approved plat is filed with the Polk County Records Office. (1981 Code, § 11.01, Subd. 4) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.005 ENACTMENT.

In order that land may be subdivided in accordance with these purposes and policies, these subdivision regulations are hereby adopted and made effective as of December 11, 2003. Upon the adoption of this chapter according to law, the previous subdivision regulations are hereby repealed, except as to those sections expressly retained in this chapter. All applications for subdivision approval, including final plats, pending on the effective date of this chapter shall be reviewed under this chapter except that this chapter will not apply if preliminary plat approval was obtained, and the period for submittal of a final plat has not expired, prior to the effective date of this chapter. (1981 Code, § 11.01, Subd. 5) (Ord. 273, adopted 12-11-2003)

§ 151.006 INTERPRETATION, CONFLICT AND SEPARABILITY.

(A) In the interpretation and application of the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This chapter shall be construed broadly to promote the purposes for which they are adopted. This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute, or other provision of law except as provided in this chapter.

(B) Where any provision of this chapter imposes restrictions different from those imposed by any other provision of this chapter or any ordinance, rule, or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

(C) If any part or provision of this chapter of the application of this chapter to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of this chapter or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this chapter even without any such part, provision, or application which is judged to be invalid. (1981 Code, § 11.01, Subd. 6) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.007 AMENDMENTS.

For the purpose of protecting the public health, safety, and general welfare, the Planning Commission, on its own initiative, on referral from the City Council, or from a petition from the public, may from time to time propose amendments to this chapter which shall then be approved or disapproved by the City Council. Approval shall require a 2/3-majority vote of the City Council. The Planning Commission, before forwarding any amendment to the City Council, shall hold a public hearing with public notice given 10 days in advance.

(1981 Code, § 11.01, Subd. 7) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.008 VARIANCES.

Where the city finds that extraordinary hardships or practical difficulties may result from strict compliance with this chapter and/or the purposes of this chapter may be served to a greater extent by an alternative proposal, it may approve variances this chapter so that substantial justice may be done and the public interest secured, provided that the variance, exception, or waiver of conditions shall not have the effect of nullifying the intent and purpose of this chapter; and further provided that the city shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

(A) The granting of the variances will not be detrimental to the public safety, health, or welfare or injurious to other property;

(B) The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;

(C) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of this chapter is carried out;

(D) The relief sought will not in any manner vary the provisions of Chapter 152 of the City Code or the Land Use Plan, except that those documents may be amended in the manner prescribed by law.

(E) In approving variances, the city may require such conditions as will, in its judgment, secure substantially the purposes described herein.

(F) A petition for a variance shall be submitted in writing by the applicant at the time of submitting an application for subdivision approval. The petition shall state fully the grounds for the petition and all of the facts relied upon by the petitioner.

(1981 Code, § 11.01, Subd. 8) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.009 FEES ESTABLISHED.

The City Council shall, from time to time establish by resolution, fees for review of subdivisions. No application for subdivision shall be considered filed with Planning staff, unless and until said application is accompanied by the fee, as established by resolution of the City Council, and as required by these regulations.

(1981 Code, § 11.01, Subd. 9) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.010 DEFINITIONS.

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

ALLEY. Means any strip of land publicly or privately owned, less than 24 feet in width between property lines, set aside for public vehicular access to abutting property and public utility uses.

APPLICANT. Means the owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

ARTERIAL STREET or HIGHWAY. Means a street or highway of considerable continuity; designed primarily to serve as travel corridors between various sectors of the area and beyond (such as from within a city to the outlying areas.)

BLOCK Means any property abutting on 1 side of a street and laying between the 2 nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

BUILDING. Means any structure having a roof that may provide shelter or enclosure of persons, animals or property of any kind.

COLLECTOR STREET. Means refers to a street designed to serve the internal traffic of an area (such as a neighborhood,) and which distributes and collects traffic from local streets and connects with highways and/or arterial streets. A **LOCAL STREET** as herein used means a street whose primary use is to serve abutting property.

CONCEPT PLAN. Means that map submitted in connection with a multi-phased or phased subdivision application which provides the information and graphics meeting the requirements of this chapter for the purpose of implementing an integrated development scheme for all phases of the proposed subdivision.

CUL-DE-SAC. Means a comparatively short street having but 1 end open to traffic and the other end being permanently terminated by a vehicular turn-around.

DEVELOPMENT. Means to improve or take overt action to alter real property.

DEVELOPMENT OBJECTIVE. Means those goals determined from time to time in plan or policy form as part of the city's comprehensive planning program that indicate how the city wishes to develop itself in line with orderly and logical direction.

EASEMENT. Means the right to use the land of another owner for a specified use. An **EASEMENT** may be granted for the purpose of constructing and maintaining walkways, roadways, individual sewage treatment systems, utilities, drainage, driveway, and other uses.

FLOOD FRINGE. Means that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term **FLOOD FRINGE** used in the Flood Insurance Study for the City of East Grand Forks. Unnumbered A Zones shall be the same as **FLOOD FRINGE** except in floodway areas which are determined as per Minn. Reg. 6128.5000.6120.6200 *Floodplain Management for Determining Floodways and Flood Fringe*.

FLOOD PLAIN. Means the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

FLOODWAY Means the channel of the watercourse and those portions adjoining flood plains which are reasonably required to carry and discharge the regional flood.

IMPROVEMENTS. Means changes to the land necessary to prepare it for development.

IMPROVEMENTS - PUBLIC. Means changes to the land necessary to prepare it for development including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, watermains, sewers, drainageways, and other public works and appurtenances.

LOCAL STREET. Means a street designed for access to abutting property and not intended to facilitate through traffic.

LOT. Means land occupied by, or to be occupied by a building and its accessory buildings; or by a dwelling group and its accessory buildings; together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area required by this chapter for a building site in the district in which such lot is situated, and having its principal frontage on a street.

MONEY IN LIEU OF LAND. Means payment of money into a municipally earmarked fund to provide for facilities off-site in place of dedicating land or providing such facility on site.

PERMANENT STRUCTURES AND BUILDINGS. Mean structures and building existing prior to the proposed plat will remain in place after the plat has been approved.

PLAT. Means the map, drawing or chart on which the applicant's plan of subdivision is presented to the City Council for approval.

PLAT - FINAL. Means the map of a subdivision, and any accompanying material as required, to be recorded after approval by the City Council.

PLAT - PRELIMINARY. Means the drawing or drawings, described in this chapter, indicating the proposed manner or layout of the subdivision to be submitted for approval.

REGIONAL FLOOD. Means a flood which is representative of large floods known to have occurred in the vicinity of East Grand Forks and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

REGULATORY FLOOD PROTECTION ELEVATION. Means that point not less than the water surface profile associated with the regional flood, plus any increase in flood heights attributable to encroachments on the flood plain.

RIGHT-OF-WAY. Means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil, or gas pipeline, water main, sanitary or storm sewer main, or for any other special use. The usage of the term **RIGHT-OF-WAY** for land platting purposes shall mean that every right of way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right of way and not included within the dimensions or areas of such lots or parcels. **RIGHT OF WAY** intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the applicant of the plat on which such right of way is established.

RIGHT-OF-WAY WIDTH. Means the distance between property lines measured at right angles to the center line of the street.

STREET. Means public property, not an alley, intended for traffic circulation. In appropriate context the term **STREET** may refer to the right of way bounded by the property lines of such public property, or may refer to the paving installed within such right of way.

STRUCTURE. Means anything constructed or erected.

SUBDIVISION. Means the division or redivision of a lot, tract, or parcel of land regardless of how it is to be used, into 2 or more lots either by plat or by metes and bounds description; or the division or redivision of land involving dedication of a new park, playground, street, or other public right of way facility, or the vacation, realignment, or any other changes in existing streets, alleys, easements, recreation areas, water, or other public improvements or facilities; provided, however, that the following classes shall be exempt:

(1) The division of land for agricultural purposes into parcels greater than 40 acres, where no new streets, roads, or other right of way is involved.

(2) The division of land is a court ordered action as a direct result of an inheritance from a deceased family member.

SUBDIVISION - MAJOR. Means any division of land not meeting the definition for a simple nor minor subdivision.

SUBDIVISION - MINOR. Means the division or redivision of a lot, tract, or parcel of land regardless of how it is to be used, into 2 but not more than 7 lots or parcels either by plat or by metes and bounds description, or the division or redivision of land involving dedication of a new park, playground, street, nor other public right of way facility, nor the vacation, realignment, nor any other changes in existing streets, alleys, easements, recreation areas, water, nor other public improvements nor facilities.

SUBDIVISION - SIMPLE. Means the division or redivision of a lot, tract, or parcel of land regardless of how it is to be used, into 2 lots either by plat or by metes and bounds description but not including the division or redivision of land involving dedication of a new park, playground, street, nor other public right of way facility, nor the vacation, realignment, nor any other changes in existing streets, alleys, easements, recreation areas, water, nor other public improvements nor facilities.

(1981 Code, § 11.01, Subd. 10) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.011 COMPLIANCE WITH COMPREHENSIVE PLAN, ZONING ORDINANCE AND OFFICIAL MAP.

No subdivision of land shall conflict with the provisions of the East Grand Forks Land Use Plan, Chapter 152 of the City Code, or Official Maps.

(1981 Code, § 11.01, Subd. 11) (Ord. 273, adopted 12-11-2003)

GENERAL SUBDIVISION PROCEDURES

§ 151.025 GENERAL SUBDIVISION PROCEDURES.

The following procedures shall be followed in the administration of this chapter and no real property within the jurisdiction area as identified in this chapter shall be subdivided and offered for sale until the final plat has been approved by the City Council as set forth in the procedures provided herein.

(1981 Code, § 11.02) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.026 CONCEPT PLAN MEETING AND CLASSIFICATION.

Prior to the submission of any application for subdivision plat approval under the provisions of this chapter, the applicant shall submit a concept plan and meet with the planning staff to discuss the platting application and process. Through the concept plan meeting, the planning staff will summarize the informational requirements and issues related to the specific platting request. The intention is to provide the developer with an advisory review of the subdivision without incurring major costs.

(1981 Code, § 11.02, Subd. 1) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.027 OFFICIAL SUBMISSION DATE.

(A) For the purposes of this chapter, the date a completed application for preliminary or final plat approval are submitted to planning staff, shall constitute the official submission date of the application on which the period required for formal approval, conditional approval or disapproval shall commence to run. The planning staff, upon receipt of the application, shall notify the applicant in writing within 10 city business days if the application is found to be incomplete, per M.S. § 15.99, as it may be amended from time to time.

(B) The City Council must take action on a completed application following referral by the Planning Commission within the time permitted by M.S. § 15.99, as it may be amended from time to time. The person making the application shall be notified of the action taken.

(1981 Code, § 11.02, Subd. 2) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.028 COORDINATION OF ZONING APPLICATIONS WITH SUBDIVISION APPROVAL.

It is the intent of this chapter that subdivision review be carried out simultaneously with the review of the zoning applications under the Chapter 152, Zoning Code. The plans required for the zoning applications shall be submitted in a form to satisfy the requirements of this chapter. Whenever zoning applications include the division or resubdivision of land as regulated by this chapter, subdivision plat approval shall be required prior to the issuance of a building permit.

(1981 Code, § 11.02, Subd. 3) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.029 COORDINATION OF SUBDIVISION PLAT APPROVAL WITH POLK COUNTY ZONING ORDINANCE.

It is the intent of this chapter that subdivision plat review be carried out simultaneously with the review of zoning applications under the Polk County Zoning Ordinance. Whenever a zoning application includes the division or resubdivision of land under the jurisdiction of this chapter, subdivision plat approval shall be required prior to the issuance of a building permit.

(1981 Code, § 11.02, Subd. 4) (Ord. 274, 3rd Series, adopted 12-11-2003)

PROCEDURE FOR SIMPLE SUBDIVISION PLATS**§ 151.045 PROCEDURE FOR SIMPLE SUBDIVISION PLATS.**

If, at the concept plan meeting, the proposed subdivision plat has been classified as a simple subdivision plat, the following procedures shall be followed.

(1981 Code, § 11.03) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.046 PRELIMINARY PLAT APPLICATION FOR SIMPLE SUBDIVISION PLATS.

(A) The applicant shall submit to the planning staff 5 copies of a preliminary plat and completed administrative application form for the proposed subdivision plat. The preliminary plat and application must be completed and provide all of the information as set forth in this chapter.

(B) The planning staff shall forward copies of the application form and preliminary plat to the appropriate review agencies for their recommendations on the proposal. Planning staff shall request the reviewing agencies to submit their recommendations.

(C) The applicant will be given staff comments and recommendations as to what if any changes that must be made. The applicant shall then revise the proposed subdivision plat as required.

(D) The applicant may appeal the recommendations made by the planning staff to the Planning Commission. All information regarding the proposed subdivision plat shall be forwarded to the Planning Commission for consideration at its next meeting. Following its review, the Planning Commission shall determine what recommendations shall be forwarded regarding the proposed subdivision plat.

(E) Approval of the preliminary plat is not an acceptance of the subdivision plat for record but is rather an expression of approval of a general plat as a guide to preparation to the subdivision plat for final approval and recording upon fulfillment of all requirements of this chapter.

(1981 Code, § 11.03, Subd. 1) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.047 FINAL PLAT APPLICATION FOR SIMPLE SUBDIVISION PLATS.

(A) A complete application for final plat shall be submitted no later than 90 days after the date which the applicant receives the notice of recommendations of final plat. Otherwise, the preliminary plat approval shall be considered void, unless an extension is requested in writing by the developer, and for good cause, is granted by the City Council.

(B) A complete final plat application consists of, a completed administrative application form, 5 paper copies and 1 electronic version of the final plat which shall conform to the preliminary plat as reviewed. The Final Plat shall show the features designated in §§ 151.090 *et seq.*

(C) The planning staff shall forward copies of the application form and final plat to the appropriate review agencies for their recommendations on the proposal. Planning staff shall request the reviewing agencies to submit their recommendations.

(D) Once planning staff has received all of the recommendations, they shall notify the applicant of the changes, if any, that must be made. The applicant shall then revise the proposed subdivision plat as required.

(E) When a final plat meets all the conditions of this chapter, planning staff shall forward the application and proposed final plat and any recommendations to the City Council for their action upon the proposal. Prior to the City Council giving consideration to said final plat, the Clerk-Treasurer shall cause notice to be published in the official newspaper of the city. The City Council shall consider said final plat, said notice of the time and place of said meeting to be published at least 10 days prior to the meeting of the City Council at which said final plat shall be considered by the City Council.
(1981 Code, § 11.03, Subd. 2) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.048 RECORDING FOR SIMPLE SUBDIVISION PLATS.

(A) Once the owner or applicant has received notice of the final action taken by the City Council, he or she shall have 90 days thereafter to submit the approved final plat that meets the conditions, if any, as set by the Council to the Planning staff. The planning staff shall review the final plat for conformance with the action taken by the City Council.

(B) Once planning staff has determined the final plat meets all requirements of this chapter, the Clerk-Treasurer shall sign the final plat.

(C) The owner or applicant shall then file the final plat together with a certified copy of the resolution with the Polk County Records Office. Any approval of the final plat by the City Council shall be null and void if the plat and resolution of the Council approving same are not recorded with the Records Office within 60 days after the date the Clerk-Treasurer signs the final plat, unless application for an extension of time is made in writing during said 60-day period to the City Council, and an extension is granted by the City Council.
(1981 Code, § 11.03, Subd. 3) (Ord. 274, 3rd Series, adopted 12-11-2003)

PROCEDURE FOR MINOR SUBDIVISION PLATS

§ 151.060 PROCEDURE FOR MINOR SUBDIVISION PLATS.

If, at the concept plan meeting, the proposed subdivision plat has been classified as a minor subdivision plat, the following procedures shall be followed.

(1981 Code, § 11.04) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.061 PRELIMINARY PLAT APPLICATION FOR MINOR SUBDIVISION PLATS.

(A) The applicant shall submit to the planning staff 5 copies of a preliminary plat and completed administrative application form for the proposed subdivision plat. The preliminary plat and application must be completed and provide all of the information as set forth in this chapter.

(B) The planning staff shall forward copies of the application form and preliminary plat to the appropriate review agencies for their recommendations on the proposal. Planning staff shall request the reviewing agencies to submit their recommendations.

(C) The applicant will be given staff comments and recommendations as to what if any changes must be made. The applicant shall then revise the proposed subdivision plat as required.

(D) The applicant may appeal the recommendations made by the planning staff to the Planning Commission. All information regarding the proposed subdivision plat shall be forwarded to the Planning Commission for consideration at its next meeting. Following its review, the Planning Commission shall determine what recommendations shall be forwarded regarding the proposed subdivision plat.

(E) Approval of the preliminary plat is not an acceptance of the subdivision plat for record but is rather an expression of approval of a general plat as a guide to preparation to the subdivision plat for final approval and recording upon fulfillment of all requirements of this chapter.

(1981 Code, § 11.04, Subd. 1) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.062 FINAL PLAT APPLICATION FOR MINOR SUBDIVISION PLATS.

(A) A complete application for final plat shall be submitted no later than 90 days after the date which the applicant receives the notice of recommendations of final plat. Otherwise, the preliminary plat approval shall be considered void, unless an extension is requested in writing by the developer, and for good cause, is granted by the City Council.

(B) A complete final plat application consists of, a completed administrative application form, 5 paper copies and 1 electronic version of the final plat which shall conform to the preliminary plat as reviewed. The final plat shall show the features designated in §§ 151.090 *et seq.*

(C) The planning staff shall forward copies of the application form and final plat to the appropriate review agencies for their recommendations on the proposal. Planning staff shall request the reviewing agencies to submit their recommendations.

(D) When a final plat meets all the conditions of this chapter, planning staff shall forward the application, proposed final plat, staff recommendations, and any review agency recommendations to the Planning Commission for their action upon the proposal. Prior to the Commission giving consideration to said final plat, the Clerk-Treasurer shall cause notice to be published in the official newspaper of the city. The City Council shall consider said final plat, said notice of the time and place of said meeting to be published at least 10 days prior to the meeting of the Commission at which said final plat shall be considered by the Commission.

(E) After receiving the recommendation of the Planning Commission together with all applicable information gathered upon the proposed subdivision, the City Council may take action upon said plat. The City Council may approve, approve with conditions, or deny the said plat. Following final action by the City Council, the planning staff shall notify the owner or applicant, and the appropriate review agencies, of the City Council's action.

(1981 Code, § 11.04, Subd. 2) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.063 RECORDING FOR MINOR SUBDIVISION PLATS.

(A) Once the owner or applicant has received notice of the final action taken by the City Council, he or she shall have 90 days thereafter to submit the approved final plat that meets the conditions, if any, as set by the City Council to the planning staff. The planning staff shall review the final plat for conformance with the action taken by the City Council.

(B) Once planning staff has determined the final plat meets all requirements of this chapter, the Clerk-Treasurer shall sign the final plat.

(C) The owner or applicant shall then file the final plat together with a certified copy of the resolution with the Polk County Recorders Office. Any approval of the final plat by the Council shall be null and void if the plat and resolution of the Council approving same are not recorded with the Recorders Office within 60 days after the date the Clerk-Treasurer signs the final plat, unless application for an extension of time is made in writing during said 60-day period to the Council, and an extension is granted by the Council.

(1981 Code, § 11.04, Subd. 3) (Ord. 274, 3rd Series, adopted 12-11-2003)

PROCEDURE FOR MAJOR SUBDIVISION PLATS**§ 151.075 PROCEDURE FOR MAJOR SUBDIVISION PLATS.**

If, at the concept plan meeting, the proposed subdivision plat has been classified as a major subdivision plat, the following procedures shall be followed.

(1981 Code, § 11.05) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.076 PRELIMINARY PLAT APPLICATION FOR MAJOR SUBDIVISION PLATS.

(A) The applicant shall submit to the planning staff 5 copies of a preliminary plat and completed administrative application form for the proposed subdivision plat. The preliminary plat and application must be completed and provide all of the information as set forth in this chapter.

(B) Planning staff shall forward copies of the application form and preliminary plat to the appropriate review agencies for their recommendations on the proposal. Planning staff shall request the reviewing agencies to submit their recommendations prior to the next scheduled Planning Commission meeting, which shall be noted in the request.

(C) When a preliminary plat meets all the conditions of this chapter, planning staff shall forward the application, proposed preliminary plat, staff recommendations, and any review agency recommendations to the Planning Commission for their action upon the proposal. Prior to the Commission giving consideration to said preliminary plat, the Clerk-Treasurer shall cause notice to be published in the official newspaper of the city. The Council shall consider said preliminary plat, said notice of the time and place of said meeting to be published at least 10 days prior to the meeting of the Commission at which said preliminary plat shall be considered by the Commission.

(D) The Commission may recommend approve, approve with conditions, or deny the said plat. Following final action by the Commission, the planning staff shall notify the Council, owner or applicant, and the appropriate review agencies of the Commission's action. The applicant shall then revise the proposed subdivision plat as required.

(E) All information regarding the proposed subdivision plat shall be forwarded to the Council for consideration at its next meeting. Following its review, the Council shall determine what recommendations shall be forwarded regarding the preliminary plat.

(F) Approval of the preliminary plat is not an acceptance of the subdivision plat for record but is rather an expression of approval of a general plat as a guide to preparation to the subdivision plat for final approval and recording upon fulfillment of all requirements of this chapter.

(1981 Code, § 11.05, Subd. 1) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.077 FINAL PLAT APPLICATION FOR MAJOR SUBDIVISION PLATS.

(A) A complete application for final plat shall be submitted no later than 90 days after the date which the applicant receives the notice of recommendations of final plat. Otherwise, the preliminary plat approval shall be considered void, unless an extension is requested in writing by the developer, and for good cause, is granted by the City Council.

(B) A complete final plat application consists of, a completed administrative application form, 5 paper copies and 1 electronic version of the final plat which shall conform to the preliminary plat as reviewed. The Final Plat shall show the features designated in §§ 151.090 *et seq.*

(C) The planning staff shall forward copies of the application form and final plat to the appropriate review agencies for their recommendations on the proposal. Planning staff shall request the reviewing agencies to submit their recommendations.

(D) When a final plat meets all the conditions of this chapter, planning staff shall forward the application, proposed final plat, staff recommendations, and any review agency recommendations to the Planning Commission for their action upon the proposal.

(E) After receiving the recommendation of the Planning Commission together with all applicable information gather upon the proposed subdivision, the Council may take action upon said plat. The Council may approve, approve with conditions, or deny the said plat. Following final action by the Council, the Planning staff shall notify the owner or applicant, and the appropriate review agencies, of the Council's action.

(1981 Code, § 11.05, Subd. 2) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.078 RECORDING FOR MAJOR SUBDIVISION PLATS.

(A) Once the owner or applicant has received notice of the final action taken by the Council, he or she shall have 90 days thereafter to submit the approved final plat that meets the conditions, if any, as set by the Council to the planning staff. The planning staff shall review the final plat for conformance with the action taken by the Council.

(B) Once planning staff has determined the final plat meets all requirements of this chapter, the Clerk-Treasurer shall sign the final plat.

(C) The owner or applicant shall then file the final plat together with a certified copy of the resolution with the Polk County Records Office. Any approval of the final plat by the Council shall be null and void if the plat and resolution of the Council approving same are not recorded with the Records Office within 60 days after the date the Clerk-Treasurer signs the final plat, unless application for an extension of time is made in writing during said 60-day period to the Council, and an extension is granted by the Council.

(1981 Code, § 11.05, Subd. 3) (Ord. 274, 3rd Series, adopted 12-11-2003)

PRESENTATION REQUIREMENTS**§ 151.090 CONCEPT PLAN.**

(A) *Concept plan information.* Prior to the formulation of a preliminary plat, applicants shall present a sketch plan to the Planning Department at the concept plan meeting.

(B) *Information to be included.* The sketch plan shall include the following information unless waived by planning staff:

- (1) Name and address of developer/owner.
 - (2) Date of plan preparation.
 - (3) Scale of plan (engineering scale only).
 - (4) North arrow indication.
 - (5) Legal description.
 - (6) Property location map illustrating the site location relative to adjoining properties and streets.
 - (7) Scaled drawing (engineering scale only) illustrating property boundaries using the City's GIS database.
 - (8) Scaled drawing of the proposed subdivision sketch plan including street patterns and lot layout related to the natural features of the site, and adjoining properties.
 - (9) Natural Features. A generalized drawing of natural features showing wetlands, lakes, drainage ways, and woodland areas.
 - (10) Any required zoning changes.
 - (11) Proposed timing and staging of development.
 - (12) Additional information as required by the Planning staff.
- (1981 Code, § 11.06, Subd. 1) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.091 PRELIMINARY PLAT PRESENTATION REQUIREMENTS.

The preliminary plat shall include the following information unless waived by planning staff. Additional information or modifications may be required by city staff, the Planning Commission or City Council and additional information may be requested during the review process. In certain cases some information required by these standards may not be appropriate or may need to be modified in order to provide an adequate basis for making a decision.

(A) *General information.*

- (1) The proposed name of the plat.
- (2) Date of application, name, address, phone number and applicable license number of the owner, developer, agent, applicant, engineer, surveyor or other principle involved in the development of the plat.
- (3) Proof of ownership or legal interest in the property in order to make application.
- (4) Existing zoning or any zoning changes needed, or reference to any zoning or similar land use actions that have already occurred that are pertinent to the proposed development.
- (5) Total acreage of the land to be subdivided.
- (6) Boundary line survey and legal description. Identify any property within the subdivision that is registered (torrens).
- (7) Five paper copies of the preliminary plat and supporting documents, plus any additional copies deemed necessary by the planning staff, plus 1 reproducible copy reduced to 11 inches by 17 inches along with 1 copy of preliminary plat and all related engineering plans in a digital format (DWG file in North Dakota (North) State Plane coordinates) compatible with city requirements.
- (8) North arrow and scale of 1 to 200 (1/200) to 1 to 50 (1/50) depending upon the size of the plat and the detail of the information to be shown.
- (9) Existing covenants, liens, or encumbrances.
- (10) Proposed street names.
- (11) Any additional information as requested by the planning staff.

(B) *Existing features to be shown.*

(1) Existing property lines and property lines extending 200 feet from the exterior boundaries of the parcel to be subdivided, including the names of the adjacent property owners shall be indicated.

(2) Existing roads, both public and private, showing width of road, type of construction, and any associated easements.

(3) Any and all existing public and private easements with purpose of easement and types and location of any facility or installation that is located in the easement.

(4) Location, size, and capacity of all existing and abandoned drainage, storm water, individual sewage treatment systems, wells, and utilities, including poles located on the property and to a distance of 200 feet beyond the property lines.

(5) Permanent buildings or other substantial land uses located on the property and to a distance of 200 feet beyond the property.

(6) Waterways, watercourses, lakes, and wetlands with ordinary high water level and 100-year flood elevations shown on the map and delineated in the field.

(C) *Proposed features to be shown.*

(1) Proposed lot lines and dimensions of all lots. When lots are located on a curve in a road or cul-de-sac, the lot width at the building setback line shall be shown.

(2) Proposed spot elevations.

(3) Proposed uses, including parks, storm water retention areas, and areas of common ownership.

(4) Location, grade, and width of proposed streets, pedestrian ways, bicycle paths, trails, walking paths and provision for extending streets to serve adjacent areas. Access and street classifications shall be consistent with the Grand Forks/East Grand Forks Transportation Plan, as amended.

(5) Location of proposed structures, driveways, percolation tests and soil borings, if applicable, and 2 sites suitable for individual sewer treatment systems with the method outlined for protecting the alternate individual sewage treatment system site for future use.

(6) Grading plans showing how the site will be graded and showing the final contours into the existing contours. Preliminary street grades and drainage plan shall be shown on a copy of the contour map.

(7) Proposed easements for drainage, slope protection, flood protection, and protection of wetlands and waterbodies, including stormwater retention areas and easements for the installation of utilities.

(8) A report, prepared by a Minnesota Pollution Control Agency (MPCA) licensed designer, on the feasibility of individual sewage treatment systems (ISTS) and water systems on each lot or a communal or shared sewage and water system serving the subdivision. The report shall follow the Minn. Rules Ch. 7080, as may be amended, and include soil boring analysis and percolation tests to verify report conclusions.

(9) The minimum setback requirements with resulting building envelope.

(D) *Additional information required.*

(1) A build out plan (ghost plat), when applicable, depicting how the land within the subdivision may be further subdivided in the future.

(2) Proposed title declarations for residential lots adjoining potential future development open spaces notifying the perspective homeowner of the intent to have the open space develop in the future.

(3) Any additional information as requested by the planning staff.
(1981 Code, § 11.06, Subd. 2) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.092 FINAL PLAT PRESENTATION REQUIREMENTS.

The final plat shall include the following information unless waived by planning staff. Additional information or modifications may be required by city staff, the Planning Commission or City Council and additional information may be requested during the review process. In certain cases some information required by these standards may not be appropriate or may need to be modified in order to provide an adequate basis for making a decision.

(A) Two mylar copies of the final plat.

(B) One reproducible copy reduced to 11 inches by 17 inches of the final plat.

(C) Five blue-line copies of the final plat and supporting documents, plus any additional copies deemed necessary by the planning staff plus 1 reproducible copy reduced to 11 inches by 17 inches along with 1 copy of the final plat in a digital format (DWG file in North Dakota (North) State Plane coordinates) compatible with city requirements.

(D) One up-to-date (within 3 months) title insurance or opinion, as the City Attorney or planning staff may require.

(E) One copy of any title declaration, deed restriction, restrictive covenant, or homeowner's association documents in recordable form.

(F) When an approved plat is located outside of the corporate boundaries of the city, the above certificates will be changed to more accurately reflect the name of the proposed subdivision plat and its location within Polk County.

(G) Other information as may be required by the City Council.
(1981 Code, § 11.06, Subd. 3) (Ord. 274, 3rd Series, adopted 12-11-2003)

DESIGN STANDARDS

§ 151.105 DESIGN STANDARDS.

Generally, design standards assure that the layout of the subdivision harmonizes with existing plans affecting the development and its surroundings, and shall be in conformity with the development objectives of the city. The following design standards shall apply.
(1981 Code, § 11.07) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.106 STREETS.

In order to provide for streets of suitable location, width, improvements to accommodate prospective traffic, satisfactory access to police, firefighting, snow removal, sanitation, road-maintenance equipment, to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are hereby required.

(A) *General street design.*

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

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

(3) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new subdivision adjoins unsubdivided land susceptible to being subdivided, then the new streets shall be carried to the boundaries of such unsubdivided land. The street arrangement shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(4) The right-of-way locations shall be as shown in the transportation element of the city's comprehensive plan and where not shown thereon locations for street rights-of-way shall be as follows:

(a) Arterial shall be located along all section lines.

(b) Collector shall be along all quarter section lines.

(c) All other rights-of-way may be located as per the applicant's plan provided they are not in conflict with other sections of this chapter or the Land Use Plan.

(B) *Street width and grade.*

(1) The following standards of right-of-way width and grade shall be observed by the subdivider:

<i>Types of Street</i>	<i>Minimum Width</i>	<i>Maximum Grade</i>	<i>Minimum Grade</i>
Trunk highways and Arterials	100 to 150 feet	5%	0.3%
Collector	80 feet	6%	0.3%
Local	80 feet	8%	0.3%

(2) Reverse curves shall have tangents of at least 100 feet in length shall be introduced between reverse curves on collector streets and 50 feet on local streets.

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

(4) Street jogs with centerline off-sets of less than 150 feet shall be avoided.

(5) Street intersections as practical, shall intersect at right angles and no intersection shall be at any angle less than 75 degrees. It must be evidenced that safe and efficient traffic flow is encouraged.

(6) Cul-de-sacs shall have a maximum length of 500 feet measured along the centerline from the intersection of origin end of right-of-way. Each cul-de-sac shall be provided at the closed end with a turn-around having a right-of-way diameter of 100 feet.

(7) Half-streets shall be prohibited except where the Council finds it to be practical to require the dedication of the other half when the adjoining property is subdivided.

(8) The name of streets obviously in alignment with existing and named streets shall bear the name of such existing streets. In no case shall the name for the proposed street duplicate existing street names, including phonetically.

(9) Private streets shall not be approved, unless approved as part of an approved Planned Unit Development (PUD), nor shall public improvements be approved for any previously existing private streets, unless authorized by Council.

(10) Street surfacing done by the applicant shall be approved by the Council.

(11) Local service drives maybe required by the Council when the proposed plat is adjacent to a principle arterial street or may require that the lots back onto the arterial street thus prohibiting a vehicle access between the 2.

(12) Sidewalks. Reserved. These will be developed when the City adopts installation guidelines for sidewalks. If you recall, the Pedestrian Plan was adopted by the City Council with the provision that these guidelines would be studied.

(1981 Code, § 11.07, Subd. 1) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.107 EASEMENTS.

(A) Easements shall be provided, where necessary and shall generally be 20 feet wide or 10 feet wide on each side of the lot line. They shall be centered on rear and other lot lines. They shall have continuity of alignment from block to block. At deflection points, easements for pole line anchors shall be provided.

(B) Where a subdivision is traversed by a watercourse, drainage way, or street, there shall be provided a storm-water easements or drainage rights-of-way substantially in line with such watercourse, together with additional width for construction and normal storm water run-off storage.

(C) The easement shall include not only the stream channel, but also adjoining areas that have been subject to flooding in years of heavy run-off.

(1981 Code, § 11.07, Subd. 2) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.108 BLOCKS.

(A) Block lengths shall not exceed 1,200 feet, and, if possible, shall not be less than 400 feet in length. In blocks longer than 800 feet, a pedestrian crossway easement with a minimum right-of-way of 10 feet shall be provided near the center of the block. The use of additional access easements to schools, parks and other destinations may also be required.

(B) Block arrangement shall be so designed as to provide 2 tiers of lots of appropriate depth unless it adjoins a railroad; a limited access highway; the rear lot line abuts a different land use; or topographic conditions necessitate a single tier of lots. In these cases the lot depth shall be at least 15 feet greater than minimum requirements.

(1981 Code, § 11.07, Subd. 3) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.109 LOTS.

(A) Where possible, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Lots with frontage on 2 parallel streets shall be permitted only under unusual circumstances such as being adjacent to controlled access highways.

(B) Minimum lot sizes within the City shall conform to the zoning ordinance in force. Corner lots shall be platted at least 15 feet wider than the normal minimum lot width required if no provision is so made in the zoning ordinance in force.

(C) There shall be no direct vehicular access from residential lots to trunk highways or arterial streets. All lots shall have access to a public street, or upon an approved private street in Planned Unit Developments (PUD), with a minimum frontage as required by the zoning ordinance in force as the minimum lot width.

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

(E) Residential lots shall be separated from trunk highways and arterial streets and railroad rights-of-way by a 25-foot buffer strip, which may be in the form of added depth or width of lots backing on or siding along the arterial or railroad right-of-way.

(1981 Code, § 11.07, Subd. 4) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.110 NATURAL FEATURES.

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

(1981 Code, § 11.07, Subd. 5) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.111 PUBLIC LAND.

Because subdivision activity creates a need for a full range of public facilities, the Council may require the dedication of a part of the subdivision for public use, or in lieu of such dedication the payment of a monetary fee, such fee to be deposited in a fund separate and distinct from the general fund, such funds to be used for the purpose of acquiring land for public use and for the development of such lands. The City Council may from time to time by resolution set the amount of land to be dedicated and/or the amount of the monetary fee.

(1981 Code, § 11.07, Subd. 6) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.112 FLOOD PLAIN LANDS.

No plat shall be approved for any subdivision which covers an area within the flood plain unless the applicant makes improvements which will assure that each lot contains a flood free site for location of structure; design roads so that the finished surface is not more than 2 feet below the regulatory flood protection elevation; and locates or designs public utilities and facilities, such as sewer, gas, electrical and water systems to provide protection to the regulatory flood protection elevation.

(1981 Code, § 11.07, Subd. 7) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.113 WATER FACILITIES.

(A) The applicant shall design the proposed subdivision so that connection to the city's water system is optimized and provides the most effective and efficient connection to the nearest water capable of carrying the needed water supply.

(B) In proposed subdivisions outside of the corporate limits and where connection to a public water system is not practicable, the applicant shall have an individual on-site water system for each parcel approved by the State of Minnesota and Polk County.

(1981 Code, § 11.07, Subd. 8) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.114 SEWER FACILITIES.

(A) The applicant shall design the proposed subdivision so that connection to the city's sanitary sewer system is optimized and provides the most effective and efficient connection to the nearest sewer line capable of carrying the sewage.

(B) In proposed subdivisions outside of the corporate limits and where connection to a public sanitary sewer system is not practicable, the applicant shall have a sewage treatment system for each parcel approved by Polk County.

(1981 Code, § 11.07, Subd. 9) (Ord. 274, 3rd Series, adopted 12-11-2003)

REQUIRED IMPROVEMENTS

§ 151.120 REQUIRED IMPROVEMENTS.

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

(A) *Monuments.* Steel monuments shall be placed at all lot and block corners, angle points of curves in streets and a intermediate points as shown on the final plat. All U. S., state, county, or other official monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

(B) *Streets.* All the streets shall be provided in accordance with engineering specifications established by the Council.

(C) *Water mains.* Public water shall be used and in accordance with Council specifications.

(D) *Sanitary sewer.* The applicant shall be required to install sanitary sewers and connect the same to trunk line sewers in a manner as prescribed by the Council.

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

(F) *Street name signs.* These shall be placed at all street intersections within or abutting the subdivision and shall conform to the standard of design accepted for all street name signs by the Planning Commission.

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

(1981 Code, § 11.08, Subds. 1-7) (Ord. 274, 3rd Series, adopted 12-11-2003)

PREMATURE SUBDIVISIONS

§ 151.130 PREMATURE SUBDIVISIONS.

Any preliminary plat/final plat and/or development deemed premature pursuant to the criteria listed below shall be denied by the City Council.

(1981 Code, § 11.09) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.131 CONDITION ESTABLISHING PREMATURE SUBDIVISIONS.

(A) A subdivision may be deemed premature should any of the provisions which follow exist:

(1) *Lack of adequate drainage.* A condition of inadequate drainage shall be deemed to exist if:

(a) Surface or subsurface water retention and runoff is such that it constitutes a hazard resulting in flooding, loss of life, property damage, or other losses.

(b) The proposed subdivision will cause pollution of water bodies or damage to other natural resources.

(c) The proposed site grading and development will cause damage from erosion, sedimentation, or slope instability.

(d) Factors to be considered in making these determinations may include: average rainfall for the area; area drainage patterns; the relationship of the land to floodplains; the nature of soils and sub-soils and their ability to adequately support surface water runoff and waste disposal systems; the slope and stability of the land; and the presence of woodlands, wetlands, water bodies, and/or other natural resources.

(2) *Lack of adequate potable water supply.* A proposed subdivision shall be deemed to lack an adequate potable water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation of existing water supplies for surrounding areas.

(3) *Lack of adequate roads or highways to serve the subdivision.* A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:

(a) Public roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and paved surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, and when, said roads are inadequate for the intended use.

(b) The traffic generated by the proposed subdivision would create or contribute to unsafe conditions on highways existing at the time of the application or proposed for completion within the next 2 years.

(4) *Lack of adequate waste disposal systems.* A proposed subdivision shall be deemed to lack adequate waste disposal systems if in subdivisions for which sewer lines are proposed, there is inadequate public or private sewer capacity in the present system to support the subdivision if developed

to its maximum permissible density, or if in subdivisions where sewer lines are neither available nor proposed, there is inadequate on-site sewer capacity potential to support the subdivision if developed to the maximum permissible density.

(5) *Inconsistency with land use plan.* A proposed subdivision shall be deemed inconsistent with the East Grand Forks Land Use Plan when the subdivision is inconsistent with the purposes, objectives and/or recommendations of the adopted Land Use Plan of East Grand Forks, as may be amended.

(6) *Public service capacity.* The city, county, township or school district lacks necessary public service capacity when services such as recreational facilities, schools, police and fire protection and other public facilities, which must be provided at public expense, cannot reasonably be provided for within the next 2 years.

(7) *Inconsistency with capital improvement plans.* A proposed subdivision shall be deemed inconsistent with capital improvement plans when improvements and/or services necessary to accommodate the proposed subdivision have not been programmed in the East Grand Forks or other regional capital improvement plans. The City Council may waive this criteria when it can be demonstrated that a revision to capital improvement plans can be accommodated.
(1981 Code, § 11.09, Subd. 1) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.132 BURDEN OF EVIDENCE.

The burden shall be upon the applicant to show evidence that the proposed subdivision or development is not premature.
(1981 Code, § 11.09, Subd. 2) (Ord. 274, 3rd Series, adopted 12-11-2003)

ACCESS SPACING STANDARDS

§ 151.145 ACCESS SPACING STANDARDS.

Priority access control streets are to be determined by the official East Grand Forks Access Control Map, as amended. The East Grand Forks Access Control Map is established by resolution of the City Council.

(A) *Local streets.* All uses may take direct access to local streets.

(B) *Low priority streets.* No single individual residential dwelling (established pursuant to this chapter) shall be permitted direct access to low priority streets. All uses with 150 feet or more of frontage may take direct access to low priority streets. Uses with less than 150 feet of frontage shall not

be permitted to take access directly to low priority streets and shall be required to share common drives. No use shall be permitted to take direct access to a low priority street at any point within 120 feet of any intersection.

(C) *High and medium priority streets (non-trunk highway)*. Access shall be permitted to medium priority streets provided that the point of access is more than 660 feet from any intersection or other point of access to that medium priority street. Access to high priority streets shall be permitted provided that the point of access is more than 880 feet from any intersection or other point of access to that high priority street.

(D) *Minnesota Department of Highways Access Spacing Guidelines*. High and medium priority streets that are Minnesota trunk highways shall follow the *Minnesota Department of Transportation Access Spacing Guidelines*, as amended.
(1981 Code, § 11.10) (Ord. 274, 3rd Series, adopted 12-11-2003)

§ 151.999 PENALTY.

Every person violates a section, subdivision, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.
(1981 Code, § 11.99) (Ord. 274, 3rd Series, adopted 12-11-2003)

CHAPTER 152: ZONING CODE

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GENERAL PROVISIONS**§ 152.001 TITLE.**

Per the November 2003 revision, this chapter shall be known, cited, and referred to as the East Grand Forks Zoning Regulations; and shall be referred to herein as Chapter 152. (1981 Code § 10.01, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.002 PURPOSES AND INTENT.

This chapter is enacted for the following purposes:

(A) To promote the health, safety, morals, convenience, and general welfare of the inhabitants of the city by lessening congestion in the public rights-of-way; securing safety from fire, panic, and other dangers;

(B) Providing adequate light and air;

(C) Preventing the overcrowding of land;

(D) Avoiding undue concentration of population;

(E) Facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;

(F) Conserving the value of property; and

(G) Encouraging the most appropriate use of land, minimizing losses due to flooding. (1981 Code § 10.01, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.003 APPLICATION.

(A) *Jurisdiction.* The provisions of this chapter shall apply to all lands within the incorporated areas of East Grand Forks.

(B) *Relation to the city land use plan.* Pursuant to M. S. § 394.24, as it may be amended, and city policy, the city's adopted Land Use Plan, as amended, shall serve as the basis upon which land use and development shall be regulated. This chapter shall not conflict with, and shall be based upon and implemented as the city's Land Use Plan.

(C) *Standard requirement.* Where the conditions imposed by any provision of this chapter are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the city, the ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

(D) *Conformity with this chapter.*

(1) No building or structure shall be erected, converted, enlarged, constructed, moved or altered; and no building, structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this chapter and without a building permit being issued.

(2) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(E) *Building compliance.* Except as herein provided, no building, structure or premises shall hereafter be used or occupied, and no building permit shall be issued that does not conform to the requirements of this chapter.

(F) *Uses not provided for within zoning districts.* Whenever, in any zoning district a use is not specifically permitted, the use shall be considered prohibited.

(G) *Separability.* It is hereby declared to be the intention of the city that the several provisions of this chapter are separable in accordance with the following:

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

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

(1981 Code § 10.01, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.004 STATUTE REFERENCE.

This chapter is enacted pursuant to the authority granted by M.S. §§ 394.21 to 394.37.
(1981 Code § 10.01, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.005 COMPREHENSIVE REVISION.

The City Council intends this chapter to be a comprehensive revision to the East Grand Forks Zoning Regulations. Any act done, offense committed, rights accruing or accrued, liability, or penalty incurred or imposed prior to the effective date of this chapter is not affected by its enactment. (1981 Code § 10.01, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

§ 152.006 DEFINITIONS.

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

ABANDONED SIGN. A sign which no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, product, activity conducted, or product available on the premises where such sign is displayed.

ACCESSORY USE or STRUCTURE. Means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ADULT USES. Uses which include a sexually oriented arcade; sexually oriented bookstore; sexually oriented video store; sexually oriented store; sexually oriented cabaret; sexually oriented conversation/rap parlor; sexually oriented massage parlor; sexually oriented motel; sexually oriented theater; sexually oriented steam room, bath house or sauna; or a nude model studio. Activities classified as obscene as defined by M.S., § 617.241, as it may be amended from time to time, are not included.

ADVERTISING MESSAGE. That symbol and/or wording on a sign describing products or services being offered to the public.

AGRICULTURAL USE. The use of land for the growing and/or production and wholesale distribution of field crops, livestock, and livestock products for the purpose of income or own use, including but not limited to the following:

(1) Field crops, including but not limited to, barley, beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.

(2) Livestock, including but not limited to, dairy and beef cattle, goats, sheep, hogs, poultry, game birds and other animals including deer, rabbits and mink.

(3) Livestock products, including but not limited to, milk, butter, cheese, eggs, meat, fur and honey.

(4) Trees, shrubs, bushes, and plants for wholesale distribution.

- (5) Sod farming.
- (6) Orchards.

ANIMAL UNIT. A unit of measure used to compare differences in the production of animal wastes which has a standard amount of waste produced on a regular basis by a slaughter steer or heifer. For the purpose of this chapter, the following equivalents apply:

(1) To determine the animal unit measure for any animal not specified below, divide the average adult weight by 1,000.

(2) The property shall have a minimum of 2 productive acres for the first animal unit and 1 productive acre for each additional animal unit.

	<i>Animal Unit</i>	<i>Animal Unit Per Acre</i>	<i>250</i>	<i>Equivalent Animal Units 500</i>
(1) Slaughter Steer or Cow Heifer	1.0	1.0	250	500
(1) Cow and Calf Pair	1.2	.8	208	417
Mature Dairy Cow				
(1) Over 1,000 lbs	1.4	.7	179	357
(1) Under 1,000 lbs	1.0	1.0	250	500
Swine				
(1) Over 300 lbs	.4	2.5	625	1,250
(1) Between 55-300 lbs	.3	3.3	833	1,667
(1) Under 55 lbs	.05	20.0	5,000	10,000
(1) Sheep	.4	2.5	625	1,250
(1) Duck	.01	100.0	25,000	50,000
Turkey				
(1) Over 5 lbs	.018	55.6	13,889	27,779
(1) Under 5 lbs	.005	200.0	50,000	100,000

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				<i>Equivalent Animal Units</i>
	<i>Animal Unit</i>	<i>Animal Unit Per Acre</i>	<i>250</i>	<i>500</i>
Chickens (Dry Manure)				
(1) Over 5 lbs	.005	200.0	50,000	100,000
(1) Under 5 lbs	.003	333.3	83,333	166,667
(1) Chicken (Liquid Manure)	.003	30.3	7,576	15,152
(1) Horse	1.0	1.0	250	500

ANIMATED SIGN. Any sign which includes action or motion. For purposes of this section, this term does not refer to flashing, indexing or rotating which are separately defined.

APPLICANT. The owner, their agent or person having legal control, ownership and/or interest in land for which the provisions of this chapter are being considered or reviewed.

AREA IDENTIFICATION SIGN. A free-standing sign which identifies the name of a neighborhood, a residential subdivision, a multiple residential complex consisting of 3 or more structures, a shopping center consisting of 5 or more separate businesses, an industrial area, an office complex consisting of 3 or more structures, or any combination of the above located on contiguous property.

ARTERIAL STREET. A street or highway of considerable continuity designed as a radial or cross-town traffic artery between various sectors of the city (such as from within the city to outlying parts thereof and beyond).

AWNING. A temporary hood or cover which projects from, and is entirely supported by the exterior wall of a building; is composed of non-rigid materials, except for the supporting framework; and is of a type which can be retracted, folded, or collapsed against the face of the supporting building.

AWNING SIGN. A non-illuminated identification sign affixed flat to the surface of an awning and which does not extend vertically or horizontally beyond the limits of such awning.

BANNER or PENNANT. A temporary sign composed of lightweight material, such as paper, cloth, or plastic; either enclosed or not enclosed in a rigid frame; secured or mounted so as to allow movement of the sign by movement of the atmosphere; and erected for the purpose of announcing open houses, grand openings, or special events.

BASEMENT (for ***FLOOD REGULATIONS ONLY***). Means any area of a structure, including crawl space, having its floor or base subgrade (below ground level) on all 4 sides, regardless of the depth of excavation below ground level.

BILLBOARD. A sign erected and used for the purpose of advertising a product, event, person or subject not related to the premises on which said sign is located.

BLOCK. The property abutting on 1 side of a street and laying between the 2 nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

BUFFER. The use of land, topography, difference in elevation, space, fences, or landscape plantings to screen or partially screen a use or property from another use or property, or to shield or mitigate noise, lights, or other impacts.

BUFFER YARD. A strip of land utilized to screen, or partially screen a use or property from another use or property, or to shield or mitigate noise, lights, or other impacts.

BUILDING. Any structure having a roof that may provide shelter or enclosure of persons, animals or property of any kind.

BUILDING FACADE, FACE, or WALL. That portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.

BUILDING HEIGHT. The vertical distance from the average finished grade of the building, to the top of the cornice of a flat roof, to the deck line of a mansard roof, or the mean distance of the highest gable on a pitched or hipped roof.

BULLETIN or ***BULLETIN BOARD***. A sign which accommodates changeable symbols and/or wording, and which displays information on activities and events on the premises or in the community.

BUSINESS. Any occupation, employment or enterprise wherein merchandise or associated equipment is exhibited, stored, sold, or where services are offered for compensation.

CANOPY or ***MARQUEE***. A permanent roof-like structure attached to and supported by a building, projecting from part or all of a building face over the entrance to a building and constructed of a durable material such as metal, glass or plastic, but is not the same as a projecting roof.

CANOPY or ***MARQUEE SIGN***. Any sign attached to, or constructed in or on a canopy or marquee, and which does not extend horizontally beyond the limits of such canopy or marquee.

COLLECTOR STREET. A street designed to serve the internal traffic of an area (such as a neighborhood), and which distributes and collects traffic from local streets and connects with highways and/or arterial streets. A local street as herein used means a street whose primary use is to serve abutting property.

COMMERCIAL. Means activity involving the retail sale of goods or services carried out for profit.

COMMON OPEN SPACE. Any open space including parks, nature areas, playgrounds, trails, and recreational buildings and structures, which are intended for use by, and are an integral part of a development, and are not owned on an individual basis by each owner of a dwelling unit.

CONDOMINIUM. A form of individual ownership within a building that entails joint ownership and responsibility for maintenance and repairs of the land and other common property of the building.

CONSTRUCTION SIGN. A non-illuminated sign placed at a construction site identifying the project and/or names of architects, engineers, developers, contractors, or other individuals or firms involved with the project.

CO-LOCATION OF WIRELESS COMMUNICATION FACILITIES. Means when 2 or more providers place their wireless communication facilities together on the same wireless communication tower.

DAY CARE FACILITY. Any state licensed facility, public or private, which for gain or otherwise, regularly provides 1 or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. **DAY CARE FACILITIES** include, but are not limited to, family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and other non-residential programs as defined by M.S. § 245A.02, Subd. 10, as it may be amended from time to time.

DAY CARE, IN HOME. A day care service that takes place in, and is an accessory use in a principal dwelling that is occupied by the owner or operator of the service, which for gain, or otherwise, regularly provides 1 or more persons with care, training, supervision, habilitation, rehabilitation, or development guidance on a regular basis for periods of less than 24 hours per day.

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

DEED RESTRICTION/TITLE RESTRICTION. A stipulation recorded on the property deed/title stating that the property may be used, or may not be used for a particular purpose or purposes.

DWELLING UNIT. Means a building or portion thereof arranged or designed for occupancy by not more than 1 family for living purposes, and which has cooking facilities.

ELECTRICAL SIGN. Any sign containing electrical wiring, which is attached, or intended to be attached, to an electrical energy source.

EQUAL DEGREE OF ENCROACHMENT. Means a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

EASEMENT. The right to use the land of another owner for a specified use. An easement may be granted for the purpose of constructing and maintaining walkways, roadways, individual sewage treatment systems, utilities, drainage, driveway, and other uses.

ESSENTIAL SERVICES - GOVERNMENTAL USES, BUILDINGS AND STORAGE. Governmental services such as office buildings; garages; temporary open space; open storage, when not a principal use; fire and police stations; solid waste facilities; household hazardous waste facilities; recreational areas; training centers; correctional facilities; or other essential uses proposed by federal, state, city, local, special districts; and school districts, except that schools shall not be permitted under this provision.

ESSENTIAL SERVICES - PUBLIC UTILITY USES, TRANSMISSION SERVICES, BUILDINGS AND STORAGE. Transmission service such as electrical power lines of a voltage of 35 KV or greater, or bulk gas or fuel being transferred from station to station and not intended for enroute consumption or other similar equipment and accessories.

EXTERIOR STORAGE (INCLUDES OPEN STORAGE). The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

EYE LEVEL VIEW. For the purposes of this Chapter, ***EYE LEVEL VIEW*** will be measured 6 feet above the grade of the site to be screened.

FEEDLOT. A lot or building, or combination of lots and buildings, intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure.

FENCE. Any partition, structure, wall or gate erected as a divider, marker, barrier or enclosure and located along the boundary, or within the required yard setback.

FINISHED FLOOR AREA. Any portion of a structure that is actively used for living space.

FLOOD. Means a temporary rise in stream flow, or stage, which results in inundation of the areas adjacent to the channel.

FLOOD FREQUENCY. Means a temporary increase in the flow, or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FRINGE. Means that portion of the flood plain outside of the floodway. **FLOOD FRINGE** is synonymous with the term **FLOOD FRINGE** used in the Flood Insurance Study for the City of East Grand Forks. Unnumbered A Zones shall be the same as **FLOOD FRINGE** except in floodway areas which are determined as per Minn. Reg. 6128.5000.6120.6200 *Floodplain Management for Determining Floodways and Flood Fringe*.

FLOOD PLAIN. Means the areas adjoining a watercourse, which have been, or hereafter may be covered by the regional flood.

FLOOD PROOFING. Means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages.

FLOOD PROTECTION ELEVATION. Means an elevation not less than 2 feet above the water surface profile associated with the regional flood. It is the elevation to which uses regulated by this chapter are required to be elevated or flood proofed. Structures built prior to Dec. 31, 1998 may continue as allowable non-conforming uses subject to §§ 152.040 *et seq.*

FLOODWAY. Means the channel of the watercourse, and those portions of the adjoining flood plains, which are reasonably required to carry and discharge the regional flood.

FLOOR AREA, FINISHED. The sum of the finished areas of all floors of the building measured from the exterior walls.

FREESTANDING SIGN. Any self-supporting sign not attached to any other structure.

FREIGHT TRANSPORTATION TERMINAL. A building or area in which freight brought by motor truck is transferred and/or stored for movement by motor truck.

FRONTAGE. That boundary of a lot which abuts a publicly maintained road.

GROUND SIGN. A freestanding sign not exceeding 9-feet in height resting on the ground in or on a structure such as a frame, posts, or poles.

GROUP CARE FACILITY. A facility licensed by the State of Minnesota to provide 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation or treatment outside a patient's own home.

HOME OCCUPATION. Any use customarily conducted entirely within a dwelling and carried on by the inhabitants therein, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Clinics, hospitals, barber shops, beauty shops and animal hospitals shall not be deemed to be home occupations.

IDENTIFICATION SIGN. A sign that is limited to the name, address, and number of a building, institute or person and to the activity carried on in the building or institution, or the occupancy of the person.

ILLUMINATED SIGN. Any sign illuminated by artificial light, either directly from a source of light incorporated in or connected with such a sign, or indirectly from a light source separate from the sign but intentionally directed upon it.

IMPERVIOUS. An artificial or natural surface that is highly resistant to infiltration by water. It includes surfaces such as standing water, compacted sand or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

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

INFORMATIONAL SIGN. Any sign intended to display information of interest to the public, such as directions, time, temperature, date, atmospheric conditions, news, traffic control, instructions, etc.

INTEGRAL BUILDING SIGN. A sign bearing the name of a building, dates of construction, commemorative tablets and the like, which are an integral part of the building or structure.

JUNK YARD. The use of any land for the storage or keeping of junk, including scrap metal; or for the dismantling or wrecking of automobiles or other vehicles or machinery; provided, however, that this definition shall not be deemed to include any storage of materials which are incidental or accessory to any business or industrial use on the same lot.

LANDSCAPING. Planting of trees, grass, ground cover, shrubs, and screening, including the use of rock and timbers.

LATTICE. Means a framework or structure of crossed metal strips typically resting on 3 members constructed vertically to which antennas are affixed, and may include accessory transmission and receiving equipment stored in an equipment building.

LIMITED LIVESTOCK RAISING. The confining, breeding, or raising of animals provided the animal density is not greater than 1.0 animal unit per productive or pasturing acre. The activity shall have a minimum of 2 productive acres for the first animal unit. This activity is subject to regulation on parcels in the UER Zoning District.

LOT. Land occupied by, or to be occupied by a building and its accessory buildings; or by a dwelling group and its accessory buildings; together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area required by this chapter for a building site in the district in which such lot is situated, and having its principal frontage on a street.

LOT DEPTH. Means the distance between front and rear lot lines. The rear lot line shall be that line which abuts any alley. Where no lines of this lot abut an alley, the average of the longest sides of the lot shall be the depth. If a lot is square and no side thereof abuts on any alley, then the depth shall be the sides of the lot which run perpendicular to the front of any building existing or hereafter constructed on the lot.

LOT, ILLEGAL NON-CONFORMING. A non-conforming lot that did not legally exist prior to the adoption date of this chapter, and is a violation of this chapter.

LOT, LEGAL NON-CONFORMING. Any lot that legally existed prior to the adoption date of this chapter, which fails to meet the current required lot size, width, or does not have the required frontage on a publicly maintained road.

LOT LINE. The property line bounding a lot, except that where any portion of a lot extends into the public rights-of-way, the lot line shall be deemed to be the boundary of said public right-of-way.

LOT LINE, FRONT. That boundary of a lot which abuts a publicly maintained street, and in the case of a corner lot both lot lines abutting streets shall be considered front lot lines. The remaining lot lines shall be considered side lot lines.

LOT LINE, REAR. That boundary of a lot that is opposite the front lot line. If the rear line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet 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, THROUGH. A lot which has a pair of opposite lot lines abutting 2 substantially parallel streets, and which is not a corner lot. On a through lot, both streets shall be deemed front lines for the application of this chapter.

LOT OF RECORD. See Lot, Legal Nonconforming.

LOT WIDTH. Means the distance between straight side lot lines measured at a point equidistant from the rear and front lot lines.

MANUFACTURED HOME. Means a structure, transportable in 1 or more sections, which in the traveling mode is 8 feet or more in body width, or forty feet or more in body length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certificate required by the Secretary of the United States Department of Housing and

Urban Development and complies with the standards established under M.S. Ch. 327 including the Manufactured Home Building Code adopted therein. The term *MANUFACTURED HOME* does not include the term *RECREATIONAL VEHICLE*.

MONOPOLE. Means a single, slender and typically cylindrical, vertical structure to which antennas or antenna support structures are affixed, and may include accessory transmission and receiving equipment stored in equipment building.

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

OBSTRUCTION. Means any dam, well, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

PARKING SPACE. A surfaced and permanently maintained area on privately or publicly owned property either within or outside of a building of sufficient size to store 1 standard vehicle.

PERFORMANCE STANDARD. The minimum criteria applicable to all land uses and procedures of the zoning regulations.

POLITICAL SIGN or **CAMPAIGN SIGN.** A sign announcing candidate(s) seeking political office and/or political issues and data pertinent thereto.

PORTABLE SIGN. A sign designated to be movable from 1 location to another and which is not permanently attached to the ground or to any structure.

PREMISES. A contiguous area of land, with its appurtenances and buildings, and which is under common ownership.

PRINCIPAL USE/BUILDING. The main use of land or buildings as distinguished from subordinate or accessory uses. A **PRINCIPAL USE** may be either permitted, or a special use.

PUBLIC RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the municipality has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A public right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire

telecommunications or broadcast service. The lands described by an easement, deed, dedication, title, law or occupation of a road, highway, street, cartway, bicycle lane, or sidewalk are included as right-of-way.

PUBLIC UTILITY. A person, municipal department, board or commission duly authorized to furnish and who is furnishing, under federal, state, or municipal regulations, gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water to the public.

PYLON SIGN. A freestanding sign erected upon a pylon or post structure that is for the purpose of advertising the place of business.

REACH. A hydraulic engineering term used to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between 2 consecutive bridge crossings would most typically constitute a reach.

REAL ESTATE SIGN. A sign pertaining to the sale, lease, or rental of the property upon which it is located.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light truck and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping or seasonal use. For the purpose of this chapter, **RECREATIONAL VEHICLE** shall be synonymous with the term **TRAVEL TRAILER/TRAVEL VEHICLE**.

REGIONAL FLOOD. Means a flood, representative of large floods known to have occurred generally in Minnesota, and which is reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in the Flood Insurance Study.

SENSITIVE RECEPTORS. Means those areas which require increased distances from potentially harmful structures or uses, and which include, but are not limited to: residential and open-space districts, schools, parks, play areas, churches, cemeteries, on/off sale liquor establishments, and adult uses.

SETBACK. The minimum horizontal distance between a structure, individual sewage treatment system, or other facility, and a road, road right-of-way, property line, stream, river, or other protected water.

SIGN. Any letters, words, figures, designs, symbols, trademarks, or numbers, illuminated or non-illuminated, which are intended to attract attention to any place, business, subject, person, firm,

corporation, public performance, article, machine or merchandise whatsoever, and which is painted, printed, or constructed and displayed in any manner visible to the general public out of doors for recognized advertising purposes.

SIGN HEIGHT. The vertical distance measured from ground to the highest point of said sign.

SIGN SUPPORT STRUCTURE. Any structure that supports, or is capable of supporting a sign, including decorative cover.

SHOPPING CENTER. An integrated grouping of commercial stores under single ownership or control.

STRUCTURAL ALTERATION. Any change, other than incidental repairs, which would prolong or modify the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

STRUCTURE. Means anything constructed or erected on the ground, attached to the ground, or on-side utilities; including, but not limited to, buildings, factories, sheds, detached garages, cabins, fences, manufactured homes, travel trailers/vehicles not meeting the exemption criteria.

STRUCTURE, ILLEGAL NONCONFORMING. A structure which did not legally exist prior to the adoption of this chapter, and which does not conform with the current chapter requirements for the district in which it is located.

STRUCTURE, LEGAL NONCONFORMING. A structure which legally existed prior to the adoption date of this chapter, which is not in compliance with the requirements of this chapter for the district in which the structure is located.

SUSPENDED SIGN. A sign attached to and located below any permanent eave, roof, or canopy.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any 365-day period any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(2) Any alteration of an historic structure provided that the alteration will not preclude the structure's continued designation as an historic structure. For the purposes of this chapter, **HISTORIC STRUCTURE** shall be as defined in Code of Federal Regulations, part 59.1.

TEMPORARY ROADSIDE STAND. A freestanding structure of operation setup to sell agricultural products for a period of 30 days or less, that does not adversely affect traffic circulation, and does not occupy space required for parking.

TEMPORARY SIGN. A sign erected for a specified period of time that is not permanently affixed to any building or structure.

TOWNHOUSES. Dwelling units horizontally attached to 1 or more similar dwelling units in a linear or cluster arrangement. Characteristic features of townhouses are their private entrances and small private yards (patios) for outdoor living. A townhouse development normally includes at least 1 large common area of open space for aesthetic and recreational purposes.

TWINHOME. Means 2 dwelling units each located upon separate, abutting lots; each attached side to side, but not having a side yard setback from 1 lot line; each sharing only 1 common, unpierced from ground to roof wall; and separated from any other building or structure by space on all sides.

USE. Means the purpose for which land or premises or a building thereon is designed, arranged or intended or for which it is or may be occupied or maintained.

USE, CONDITIONAL AND USE, SPECIAL. A use that may be allowed as appropriate or desirable in a specified district, but that requires special approval because, if not carefully located or designed, may create special problems such as excessive height, bulk, or abnormal traffic congestion; and to which requirements may be attached that must be complied with as a condition to continued use.

USE, ILLEGAL NONCONFORMING. Any use of a property or structure that did not legally exist prior to the adoption date of this chapter as a permitted, or special use in the zoning district in which the use is located; and that is not allowed as a permitted, or special use under this chapter in the district in which the use is located.

USE, LEGAL NONCONFORMING. Any use of a property or structure which legally existed in the district in which the use is located prior to the adoption date of this chapter, but which is not allowed as a permitted, or special use under this chapter in the district in which the use is located.

VARIANCE. A modification or variation of the provisions of this chapter. A variance shall not be granted allowing a use prohibited in the district in which the structure, use and lot are located.

WALL GRAPHIC, OUTDOOR. Any mosaic, mural, painting, or graphic art or combination of these professionally applied to a building and which does not contain any brand-name product symbol or name, lettering, logo, or any advertising message.

WATERWAY. A natural or constructed channel that carries a flow of water.

WIND ENERGY CONVERSION SYSTEMS (WECS). Means any mechanism designed for the purpose of converting wind energy into electrical or mechanical power.

WINDOW SIGN. A sign installed inside a window for purposes of viewing from outside the premises. This does not include merchandise located in a window.

WIRELESS COMMUNICATION ANTENNA. Means an antenna system designed to transmit communication signals, which is typically mounted upon an existing structure (i.e. buildings, towers). This definition shall encompass radio and television broadcasting antennas, and shall not encompass any satellite dishes.

WIRELESS COMMUNICATION FACILITY. Means a facility consisting of the equipment and structures involved in sending or receiving communications signals.

WIRELESS COMMUNICATION TOWER. Means a tower including, but not limited to self-supporting lattice and monopole, typically used to elevate a wireless communication antenna and/or satellite dish antenna, and which may include accessory transmission and receiving equipment stored in an equipment building.

YARD. Means an open space, other than a court, on the same lot with a building, and which is unoccupied and unobstructed from the ground upward, except as herein provided. In measuring a yard the line of a building shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building, or the point of a dwelling group nearest to such lot line; exclusive of canopies, caves, fire escapes, entries, uncovered porches that are no more than 6 feet wide, covered porches that are no more than 6 feet wide with 3 sides remaining open, landing places, and provided that the measurement shall be taken from the line of the building to the nearest lot line.

YARD FRONT. Means a yard extending across the front of the lot between the inner side yard line, and lying between the front line of the lot and the nearest line of the building.

YARD REAR. Means a yard extending across the full width of the lot and laying between the rear line of the lot and the nearest line of the building.

YARD SIDE. Means a yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.
 (1981 Code § 10.01, Subd. 6) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

ADMINISTRATION

§ 152.020 ADMINISTRATION.

The planning staff is hereby charged with the administration of the terms of this chapter.
 (1981 Code § 10.02) (Ord. 273, 3rd Series, passed - -2003)

§ 152.021 APPEALS.

(A) *Appeals of decisions by planning staff.* All findings and decisions of the planning staff or other official involved in the administration of this chapter shall be final subject to appeal to the Planning Commission, except as otherwise provided by this chapter. Any affected person may initiate such a request by filing an appeal with planning staff on an approved form. All appeals shall be filed within 30 days of the date of the decision. The planning commission shall hold a public hearing on each complete application for appeal and, after the close of the hearing, shall make findings and submit its recommendations to the City Council.

(B) *Action by the City Council on appeals.* The City Council shall make the final decision regarding all appeals requests. Approval shall require a 2/3-majority vote of the City Council.

(C) *Expiration of Appeal.* If substantial development or construction has not taken place within 6 months of the date of approval of an appeal, such appeal shall be considered void unless a petition for a time extension has been granted by the City Council by the deadline.
 (1981 Code § 10.02, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.022 SPECIAL USE PERMITS.

(A) *Criteria for granting special use permits.* Special uses may be approved, by the City Council, upon a showing by the applicant that standards and criteria stated in Chapter 152 will be satisfied. Such standards and criteria shall include both general requirements for all special uses and, insofar as practicable, requirements specific to each designated special use. In granting a special use permit, the

City Council shall consider the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the planning commission and City Council shall make the following findings where applicable:

(1) The use will not create an excessive burden on public facilities and utilities, which serve or are proposed to serve the area.

(2) The use will be sufficiently compatible with, or separated by sufficient distance from, or screened from adjacent land uses so that there will be no deterrence to the use or development of adjacent land and uses.

(3) Each structure or improvement is so designed and constructed that it is not unsightly in appearance to the extent that it will hinder the orderly and harmonious development of the district wherein proposed.

(4) The use is consistent with the purposes of Chapter 152, and the purposes of the zoning district in which the applicant intends to locate the proposed use.

(5) The use is not in conflict with the East Grand Forks Land Use Plan.

(6) Adequate measures have been taken to provide ingress and egress so designed as to minimize traffic congestion, provide adequate access to public roads, and provide sufficient on-site parking.

(B) *Additional conditions.* In permitting a new special use permit or alteration upon review of an existing special use permit, the planning commission may recommend, and the City Council may impose, in addition to these standards and requirements expressly specified by this chapter, additional conditions which the Planning Commission or City Council considers necessary to protect the interests of the surrounding area or the city as a whole.

(C) *Procedure.*

(1) *Pre-application meeting.* Prior to submission of a special use permit application, the applicant may submit a concept plan and meet with the planning staff to discuss the special use permit application. Through the pre-application, the planning staff will summarize the informational requirements and issues related to the specific special use permit request.

(2) *Submit application.*

(a) The applicant shall submit to the planning office or designee, a completed special use permit application, and provide all other information required by the planning staff.

(b) The application shall be completed when the applicant has complied with the following requirements: A written and/or graphic description of the special use permit request including an explanation of compliance with § 152.022(A). The application shall include a site plan consistent with § 152.025.

(3) *Fee.* Applications must be accompanied by the fee established by the City Council.

(4) *Notify if application incomplete.* The planning staff, upon receipt of the application, shall notify the applicant in writing within 10 city business days if the application is found to be incomplete, per M.S. § 15.99, as amended.

(5) *Report.* Upon receipt of a complete application, the planning staff shall prepare a report and refer the application to the Planning Commission.

(6) *Public hearing.* The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the City Council at least 10 days prior to the hearing. The city shall mail written notification of the proposed special use permit to property owners located within 350 feet of the subject site. Timing of the mailed notice shall be the same as that for the published notice. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply has been made.

(7) *Copy to Department of Natural Resources Regional Hydrologist.* In the case of an application for a special use permit within the FW or FF District, Department of Natural Resources Regional Hydrologist shall receive from the Floodplain Administrator a copy of the application not less than 10 days prior to the hearing of the application. A copy of all decisions granting a special use permit within the FW or FF District shall be forwarded to the Department of Natural Resources Regional Hydrologist within 10 days of such action.

(8) *Applicant to appear.* The applicant or a representative shall appear before the Planning Commission in order to answer questions concerning the proposed special use permit.

(9) *Authority to request additional information.* The Planning Commission and planning staff shall have the authority to request additional information from the applicant concerning a special use permit. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter. Failure of the applicant to supply all necessary supportive information may be grounds for denial of the request.

(10) *Recommendation to City Council.* The recommendations of the Planning Commission shall be forwarded to the City Council for consideration. The City Council shall take action on the application within the time permitted by M.S. § 15.99, as may be amended. If it grants the special use permit, the City Council may impose conditions it considers necessary to protect the public health, safety and welfare.

(11) *Amended special use permit application.* An amended special use permit application shall be administered in the manner required for a new special use permit. Amended special use permits include requests for changes in conditions. Any change involving structural alteration, enlargements, intensification of use, or similar change not specifically permitted by the special use permit issued shall require an amended special use permit and all procedures may apply as if a new permit were being issued.

(12) *Revocation.* In the event that any of the conditions set forth in a permit are violated, the City Council shall have the authority to revoke the special use permit.
(1981 Code § 10.02, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.023 VARIANCES.

(A) *Generally.* A variance from the provisions of Chapter 152 may be issued to provide relief to the landowner in those zones where the chapter imposes undue hardship or practical difficulties to the property owner in the reasonable use of this land. No use variances may be issued. A variance may be granted only if the following circumstances exist.

(B) *Criteria for granting variances.*

(1) Granting of the variance will not be in conflict with the Comprehensive Plan.

(2) Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and which result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this chapter have had no control.

(3) The literal interpretation of the provisions of Chapter 152 would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(4) That the special conditions or circumstances do not result from the actions of the applicant.

(5) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to owners of other lands, structures or buildings in the same zoning district.

(6) The variance requested is the minimum variance, which would alleviate the hardship.

(7) Economic considerations alone shall not constitute a hardship if a reasonable use of the property otherwise exists under the provisions of this chapter.

(8) Variance shall not be issued within any designated regulatory floodway if increase in flood levels during the base flood discharge would result.

(9) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with the existing local laws or ordinances.

(10) A determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

(C) *Procedure.*

(1) *Pre-application meeting.* Prior to submission of a variance application, the applicant may submit a concept plan and meet with the planning staff to discuss the variance application. Through the pre-application, the planning staff will summarize the informational requirements and issues related to the specific variance request. A second pre-application meeting may be conducted if deemed warranted to assist the applicant in preparing their application.

(2) *Submit application.* The property owner applying for a variance shall submit to the planning office a completed variance application stating the hardship present, and provide all other information required by the planning staff. The application shall be completed when the applicant has complied with the following requirements:

(a) A written and/or graphic description of the variance request including an explanation of compliance with § 152.023(B). The application shall include a site plan consistent with § 152.025.

(b) Supporting information described by the planning staff during the pre-application meeting and required in other sections of this chapter.

(c) Applications must be accompanied by the fee established by the City Council.

(3) *Notify if application incomplete.* The planning staff, upon receipt of the application, shall notify the applicant in writing within 10 city business days if the application is found to be incomplete, per M.S. § 15.99, as amended.

(4) *Report.* Upon receipt of a complete application, the planning staff shall prepare a report and refer the application to the Planning Commission for consideration.

(5) *Public hearing.* The planning commission shall hold a public hearing on the request. Notice of the public hearing shall be published in the official newspaper designated by the city council at least 10 days prior to the hearing. The city shall mail written notification of the proposed variance

to property owners located within 350 feet of the subject site. Timing of the mailed notice shall be the same as that for the published notice. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply has been made.

(6) *Applicant to appear.* The applicant or a representative shall appear before the Planning Commission in order to answer questions concerning the proposed variance.

(7) *Authority to request additional information.* The Planning Commission and planning staff shall have the authority to request additional information from the applicant concerning a variance. Said information is M.S. § 15.99, as amended.

(8) *Recommendation to City Council.* The recommendations of the Planning Commission shall be forwarded to the City Council for consideration. The City Council shall take action on the application within the time permitted by M.S. § 15.99, as may be amended.

(9) *Decisions final.* All decisions by the City Council in granting variances or hearing appeals from any administrative order, requirement, decision, or determination shall be final, except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within 30 days, after receipt of notice of the decision, to the District Court in Polk County on questions of law and fact.

(10) *Expiration of variance.* A variance shall expire 6 months from the date of issuance if the variance is not utilized. A request for extension may be filed, and shall state facts showing a good faith attempt to utilize the variance in the allowed 6 months. Upon receipt of a request for variance extension, planning staff shall review the request and make a decision to grant or deny the extension based on the information submitted. At staff's discretion, the request may be referred to the Planning Commission. The applicant shall be informed of the decision within the time permitted by state law. No extension shall be for more than 3 months, after which if the variance is not utilized the variance would become void. In no case shall more than 1 variance extension be approved for an individual variance request. (1981 Code § 10.02, Subd. 3) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

§ 152.024 ZONING AMENDMENTS.

The East Grand Forks City Council may adopt amendments to the zoning regulations and zoning map in relation both to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the city as reflected in the East Grand Forks Land Use Plan.

(A) *Criteria for granting zoning amendments.* Any amendment to the Zoning Regulations or zoning map shall be evaluated based on, but not limited to, the following criteria:

(1) The proposed action has been considered in relation to the specific policies and provisions of, and has been found to be consistent with the official City Land Use Plan.

(2) The proposed use is or will be compatible with present and future land uses of the area.

(3) The proposed use conforms with all performance standards contained in Chapter 152.

(4) The proposed use can be accommodated with existing and planned public services and will not overburden the city's service capacity.

(5) Traffic generation by the proposed use is within capabilities of street system serving the property.

(B) *Procedures.*

(1) *Initiation of amendment.* An amendment to the text of Chapter 152 or the zoning map may be initiated by the City Council, the planning advisory commission, or by the property owner. Any amendment not initiated by the planning advisory commission shall be referred to the planning advisory commission for review and may not be acted upon by the City Council until it has received the planning advisory commission's recommendation.

(2) *Pre-application meeting.* Prior to submission of a zoning amendment application, the property owner may submit a concept plan and meet with the planning staff to discuss the zoning amendment application. Through the pre-application, the planning staff will summarize the informational requirements and issues related to the specific zoning amendment request.

(3) *Submission requirements.* The property owner applying for a zoning amendment shall submit to the clerk/treasurer's office or designee, a completed zoning amendment application, and provide all other information required by the planning staff. The application shall be completed when the applicant has complied with the following requirements:

(a) Submit a written and/or graphic description of the zoning amendment request, including an explanation of compliance with § 152.024(A). The application shall include a site plan consistent with § 152.025.

(b) Supporting information described by the planning staff during the pre-application meeting and required in other sections of this chapter.

(c) Applications must be accompanied by the fee established by the City Council.

(4) *Notify if incomplete.* The planning staff, upon receipt of the application, shall notify the applicant in writing within 10 City business days if the application is found to be incomplete, per M.S. § 15.99, as amended.

(5) *Report.* Upon receipt of a complete application, the planning staff shall prepare a report and refer the application to the Planning Commission for consideration.

(6) *Public hearing.* The planning commission shall hold a public hearing on the request. Notice of the public hearing shall be published in the official newspaper designated by the city council at least 10 days prior to the hearing. When an amendment involves changes in district boundaries affecting an area of 5 acres or less, the city shall mail written notification of the proposed zoning amendment to property owners located within 350 feet of the subject site. Timing of the mailed notice shall be the same as that for the published notice. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply has been made.

(7) *Applicant to appear.* The applicant or a representative shall appear before the Planning Commission in order to answer questions concerning the proposed amendment request.

(8) *Authority to request additional information.* The Planning Commission and planning staff shall have the authority to request additional information from the applicant concerning a zoning amendment. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this chapter. Failure of the applicant to supply all necessary supportive information may be grounds for denial of the request.

(9) *Report to City Council.* Following the hearing, the Planning Commission shall make a report to the City Council recommending approval, modified approval or disapproval of the proposed amendment.

(10) *Action on application.* The City Council must take action on a completed application following referral by the planning commission within the time permitted by M.S. § 15.99, as amended. The person making the application shall be notified of the action taken.

(11) *Two-thirds' affirmative vote.* No zoning amendment shall be adopted except by a 2/3 affirmative vote of the City Council.

(12) *One-year period.* No application of a property owner for an amendment to the text of this chapter or the zoning maps shall be considered by the Planning Commission within a 1-year period following denial of such request, except that the planning advisory commission may permit a new application, if in the opinion of the planning commission, new evidence or a change of circumstances warrant it.

(13) *Records of amendment.* The Planning Staff shall maintain records of amendments to the text of Chapter 152, and the zoning map and of the zoning amendment request.

(14) *Annexation.* No annexation petition shall be considered unless and until a hearing has also been petitioned for placing the annexed territory in a zoning district or districts. No building permits shall be issued in annexed territory until such hearing has been held and the territory assigned a zoning district or districts.

(1981 Code § 10.02, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.025 APPLICATION INFORMATION.

(A) The following information shall be required with the submission of the zoning applications of §§ 152.020 *et seq.* This information represents minimum submission requirements unless items are waived by the planning staff.

(B) The information required for zoning applications generally consists of the following items, and shall be submitted unless waived by the planning staff following a pre-application meeting.

(1) *Concept plan information.* Prior to the formulation of a site plan, applicants may present a concept plan to the planning staff prior to the filing of a formal application. The concept plan will include the following information.

- (a) Property location map illustrating the site location relative to adjoining properties and streets.
- (b) Scaled drawing illustrating property boundaries using the City's GIS data base.
- (c) General location of existing and proposed structures including signs.
- (d) Tentative access, circulation, and street arrangements, both public and private.
- (e) Amenities to be provided such as recreational areas, open space, walkways, landscaping, etc.
- (f) General location of parking areas.
- (g) Proposed on-site storm water drainage.
- (h) Natural features, drainageways, wetland, and trees.
- (i) Size and locations of all building pads.

(2) *Site plan information.*

(a) Site boundaries, buildings, structures and other improvements shall be identified on-site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:

1. Scale of plan (engineering scale only).
2. North point indication.
3. Existing boundaries with lot dimension and area.

4. All encroachments.
5. Easements of record.
6. Legal description of the property.
7. Ponds, lakes, springs, rivers, wetlands, 100-year flood elevations or other waterways affecting the subject property.

(b) A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:

1. Name and address of developer/owner.
2. Name and address of architect/designer.
3. Date of plan preparation.
4. Name of project or development.
5. All proposed improvements, including:
 - a. Required and proposed setbacks.
 - b. Location, setback and dimensions of all proposed buildings and structures.
 - c. Location of all adjacent buildings located within 10 feet of the exterior boundaries of the property in question.
 - d. Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.
 - e. Location, number, and dimensions of proposed loading spaces.
 - f. Location, width, and setbacks of all curb cuts and driveways.
 - g. Vehicular circulation.
 - h. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
 - i. On-site well location.

j. On-site individual sewer treatment system. Primary and alternative sites must be identified.

(c) Grading, drainage and erosion control plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:

1. Existing contours at 2-foot intervals.
2. Proposed grade elevations at 2-foot maximum intervals.
3. Drainage plan, including the configuration of drainage areas and calculations when impervious surfaces exceed 1 acre in area.
4. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
5. Spot elevations (may be prepared by a Minnesota licensed surveyor).
6. Proposed driveway grades.
7. Surface water ponding and treatment areas.
8. Erosion control measures.
9. Location, type, and square footage of impervious surface.

(d) Landscape, screening and buffering plan, utilizing a copy of the as a base for the site in question, depicting the following:

1. Planting schedule (table) containing:
 - a. Symbols.
 - b. Quantities.
 - c. Common names.
 - d. Botanical names.
 - e. Sizes of plant material.
 - f. Root specification (bare root, balled and burlapped, potted, etc.).

g. Special planting instructions.

2. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).

3. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.

(e) Other plans and information as required by the planning staff include, but are not limited to:

1. Architectural elevations of all principal and accessory buildings.

2. Typical floor plan and typical room plan drawn to scale with a summary of square footage for each use or activity.

3. Fire protection plan.

4. Nuisance mitigation plan (related to noise, odors, glare, dust, or similar nuisance issues).

5. The type, color, and materials used in all external surfaces.

(1981 Code § 10.02, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

§ 152.026 FEES.

The application fees for all permits shall be established by the City Council by resolution. The City Council may periodically review and revise all or portions of the fee schedule. The acceptance of all zoning applications and issuance of permits shall not occur until a complete application has been filed and the appropriate fee has been paid.

(1981 Code § 10.02, Subd. 6) (Ord. 273, 3rd Series, passed - -2003)

§ 152.027 FINANCIAL GUARANTEE.

(A) Upon approval of a planning action described in §§ 152.020 *et seq.*, the city shall be provided with a financial guarantee in the form of a letter of credit or cash escrow approved for said conditions prior to the issuance of building permits or the initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the application approval and city code provisions.

(B) The security shall be in the amount equal to 125% of the city's estimated cost of labor and materials for the proposed improvements or development.

(C) The city shall hold the security until completion of the proposed improvements or development, and until such improvements or development are deemed in compliance with Chapter 152 by the planning staff.

(D) Failure to comply with the conditions of the application approval and city ordinances and provisions shall result in forfeiture of the security in whole or in part depending upon the degree of non-compliance, and at the discretion of the planning staff.

(E) Whenever a performance guarantee is imposed by the city, the applicant shall be required to enter into a performance agreement with the city. This agreement is to provide authorization to the city to utilize the posted security for the enforcement of city code and conditions of approval to mandate the completion of stipulated work should the applicant fail to meet the terms and conditions of the performance agreement. Said agreement shall hold harmless the city for completion of the work and address other matters as may be determined by the City Attorney.

(1981 Code § 10.02, Subd. 7) (Ord. 273, 3rd Series, passed - -2003)

NON-CONFORMING LOTS, BUILDINGS, STRUCTURES, AND USES

§ 152.040 PURPOSE.

It is the purpose of this subchapter to provide for the regulation of non-conforming lots, buildings, structures and uses, and to specify those requirements, circumstances, and conditions under which non-conforming buildings, structures and uses will be operated and maintained. Chapter 152 establishes separate zoning districts, each of which is an appropriate area for the location of uses which are permitted in that zoning district. It is necessary and consistent with the establishment of these districts that non-conforming lots, buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this chapter that all non-conforming uses shall be eventually brought into conformity.

(1981 Code § 10.03, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.041 LEGAL NON-CONFORMING LOTS (LOT OF RECORD).

(A) Any parcel or lot which legally existed prior to the adoption date of this chapter, but which fails to meet the current required lot size, width of the zoning district, or does not have the required frontage on a publicly maintained road, may be utilized in compliance with all other chapter requirements subject to the following provisions:

(1) The dimensions or area of a legal nonconforming lot may be altered provided that no alteration shall be permitted that would render the lot further in non-compliance with the chapter requirements.

(2) Legal non-conforming lots of record intended for residential, commercial, industrial or institutional development or expansion shall have sufficient lot area and configuration to meet all applicable codes.

(B) A parcel of land which contains a single family home in all zoning districts on the effective date of this chapter, and does not meet the minimum lot size, lot dimensions or have sufficient road frontage, shall be considered a legal nonconforming lot, subject to the above provisions of this subchapter. (1981 Code § 10.03, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.042 LEGAL NON-CONFORMING STRUCTURES.

Any structure which legally existed prior to the adoption date of this chapter, but which is not in compliance with the requirements of this chapter for the zoning district in which the structure exists, may be utilized subject to the following provisions:

(A) A legal non-conforming principal structure which is only nonconforming due to an encroachment into a required setback may be enlarged in compliance with all other ordinance requirements provided that:

(1) The expansion will not decrease the distance between the structure and the applicable lot line.

(2) A legal nonconforming structure may be expanded or enlarged up to 50% of the total square footage of the structure existing on the effective date of this chapter, subject to compliance with all applicable setbacks and building dimension regulations in the zoning district. All expansions shall be calculated on an accumulative basis to determine maximum expansion size of a non-conforming structure.

(3) Aside from the existing non-conforming setback, the site and building shall comply with the performance standards of this chapter.

(B) A legal non-conforming structure which is damaged by any cause to the extent of less than 50% of its current market value as determined by the city assessor, may be reconstructed within 12 months of the original damage to the structure, in compliance with all other chapter requirements.

(C) If the damage to a legal non-conforming structure is 50% or more of the current market value as determined by the city assessor, it shall be removed, and any construction thereafter shall be in compliance with the provisions of this chapter.

(D) Normal maintenance of a non-conforming structure is permitted. Maintenance may include necessary non-structural repairs and incidental alterations, which do not enlarge or intensify the use of the structure.

(E) No parcel of land or portion thereof shall be subdivided if such action results in buildings and/or uses becoming non-conforming.

(1981 Code § 10.03, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.043 LEGAL NON-CONFORMING USES.

Any use which legally existed prior to the adoption date of this chapter, but which is not a permitted use under the current code, may be allowed to continue subject to the following provisions:

(A) When a lawful, non-conforming use of any structure or parcel of land in any zoning district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

(B) A lawful, non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.

(C) A non-conforming use which has been discontinued for a period of 12 or more months shall not be reestablished, and any further use shall be in compliance with the regulations of this chapter.

(D) A structure that is a legal non-conforming use, or which contains a legal non-conforming use, and is damaged by any cause to the extent of which is less than 50% of its current market value, as determined by the assessor's records, may be re-established within 12 months of the original damage, subject to meeting all other requirements of this chapter.

(E) If a structure that is a legal non-conforming use or which contains a legal non-conforming use is damaged by 50% or more of its current market value as determined by the assessor's records, any further use if the structure is rebuilt, shall be in compliance with the regulations of this chapter.

(F) Maintenance of a building or other structure containing or used by a nonconforming use will be allowed when it includes necessary non-structural repair and incidental alterations which do not extend or intensify the nonconforming building or use.

(G) In the event a change in the zoning classification for a district renders a use non-conforming as a result of such change, the use shall be permitted to continue subject to divisions (A) through (F) above. (1981 Code § 10.03, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

GENERAL ZONING DISTRICT PROVISIONS**§ 152.055 ESTABLISHING ZONING DISTRICTS.**

(A) In order to classify, regulate and restrict the location of trade and industry, and the location of buildings designated for specific uses, to protect residential uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards and open space within and surrounding such buildings, East Grand Forks is hereby divided into zoning districts.

(B) The use, height and area regulations shall be uniform in each district, and said zoning districts shall be known as:

Reserved	
Reserved	
R-1	Single-Family Residential District
R-2	Multi-Family Residential District
R-3	High Density Residential District
PUD	Planned Unit Development
UER	Urban Expansion Reserve District
UER-C	Urban Expansion Reserve Cluster District
C-1	Downtown District
C-2	Highway Commercial District
I-1	Light Industrial District
I-2	General Industrial District
Reserved	
FW	Floodway District
FF	Flood Fringe District

(1981 Code § 10.04, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.056 ZONING DISTRICT BOUNDARIES.

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

(1981 Code § 10.04, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.057 ROAD VACATION.

Whenever any road, alley or other public way is vacated by official action of the city, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

(1981 Code § 10.04, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.058 RIGHTS-OF-WAY.

All roads, alleys, public ways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property in the most restrictive classification immediately abutting upon such alleys, roads, public ways or railroad rights-of-way. Where the centerline of a road, alley, public way or railroad right-of-way serves as a district boundary, the zoning of such area, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

(1981 Code § 10.04, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.059 WATER AREAS.

All areas within the city that are under water and which are not shown as included within any zone shall be subject to all regulations of the zone, which immediately adjoins such water area. If such water area adjoins 2 or more zones, the boundaries of each zone shall be construed to be extended into the water area in a straight line until they meet the other district at the half way point and/or to the corporate limits.

(1981 Code § 10.04, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

§ 152.060 ZONING MAP.

The location and boundaries of the districts established by this text and hereby set forth on the zoning map entitled East Grand Forks Zoning Map. Said map shall be on file with the planning staff and hereinafter referred to as the zoning map. Said map and all the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this chapter by reference. It is the responsibility of the planning staff to maintain the East Grand Forks Zoning Map, and amendments thereto shall be recorded on said map. The official East Grand Forks Zoning Map shall be kept on file in City Hall.

(1981 Code § 10.04, Subd. 6) (Ord. 273, 3rd Series, passed - -2003)

§ 152.061 FLOODING.

No vacant flood plain land shall be occupied or used and no building hereafter erected, altered or moved shall be occupied until the applicant submits to the building official a certification by a registered professional engineer, or land surveyor that the finished fill and building flood elevations or other flood protection measures are in compliance with the provisions of this chapter. This section does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or special uses shall be prohibited. The Official Flood Plain Zoning Map, as prepared by the Federal Insurance Administration showing the extent and boundaries of the Regional Flood is hereby declared and established as part of this chapter and a part of the Zoning Map. The Official Flood Plain Zoning Map shall include current editions of the following: Flood Insurance Study for the City of East Grand Forks (September 1977), Flood Boundary and Floodway Map (September 15, 1977), and the Flood Insurance Rate Map (dated July 20, 1979) including all approved amendments and revisions. The Official Flood Plain Zoning Map shall be on file in the office of the building official.

(1981 Code § 10.04, Subd. 7) (Ord. 273, 3rd Series, passed - -2003)

§ 152.062 ANNEXATION.

The Flood Insurance Rate Map panels adopted by reference in § 152.061 above, may include floodplain areas that lie outside the corporate boundaries of the city at the time of adoption of Ordinance 303, 3rd Series on November 20, 2007. If any of these floodplain land areas are annexed into the city after November 20, 2007, the newly annexed floodplain lands shall be subject to the provisions of this chapter immediately upon the date of the annexation into the city limits.

(Ord. 303, 3rd Series, passed 11-20-2007)

(R-1) SINGLE-FAMILY RESIDENTIAL DISTRICT**§ 152.075 PURPOSE.**

The R-1, Single-Family Residence District, is established for the purpose of providing single-family residential development in areas where adequate public facilities and services exist and where such development is appropriate given the surrounding land uses.

(1981 Code § 10.07, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.076 PERMITTED USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted uses within the R-1, Single-Family Residence District, subject to all development and performance standards:

(A) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(B) Essential Services - governmental uses, buildings and storage not industrial in nature.

(C) Public and private educational institutions, limited to elementary, middle or junior high and senior high schools.

(D) Public parks, and public recreation areas.

(E) Religious institutions such as chapels, churches, temples and synagogues.

(F) Single-family detached dwellings.

(G) State licensed residential care facility in a single-family detached dwelling, of 6 or fewer persons.

(1981 Code § 10.07, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.077 PERMITTED ACCESSORY USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted accessory uses within the R-1, Single-Family Residence District, subject to all applicable provisions of this subchapter:

(A) Administrative offices, meeting rooms, classrooms and service areas in private and public recreational facilities, the uses of which are incidental and directly related to the primary use.

(B) Day care facilities serving 12 or fewer persons in a single-family detached dwelling.

(C) Home occupations in a single-family dwelling, as regulated in § 152.380.

(D) Private garages and off-street parking and loading areas, as regulated in §§ 152.345 *et seq.* (1981 Code § 10.07, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.078 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this Title, the following are special uses within the R-1, Single-Family Residence District and require a special use permit in accordance with the procedures identified in § 152.022.

(A) Bed and breakfast.

(B) Cemeteries.

(C) Campgrounds.

(D) Essential services - public utility uses, transmission services, buildings and storage.

(E) Hospitals, sanatoriums, or philanthropic institutions except correctional institutions and animal hospitals. Any such buildings permitted to be used shall be set back not less than 100 feet from any lot or street line and that the appearance of the building shall be in appropriate harmony with the residential character of the area and provided that they meet the parking and loading and unloading facilities requirements as set forth for such uses in §§ 152.345 *et seq.*

(F) Outdoor commercial recreation, including golf courses, tennis clubs, public swimming pools.

(G) Railroad right-of-way.

(H) Two-family dwellings and twinhomes, provided they meet the requirements set forth for such uses in the R-2 District.

(I) Wireless communication antennas, as regulated by §§ 152.315 *et seq.* (1981 Code § 10.07, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

(J) Daycare centers.
(Am. Ord. 284, 3rd Series, passed 5-17-2005)

§ 152.079 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in the R-1, Single-Family Residence District subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) Lot size (minimum): Eight thousand four hundred square feet.

(B) Lot width (minimum): Sixty-five feet.

(C) Lot depth (minimum): One hundred twenty feet.

(D) Minimum building setbacks:

(1) Thirty feet from front property line. On corner lots, the second front yard shall have a minimum setback of 15 feet from the front property line.

(2) Twenty-five feet from rear property line, private garages exempt, see division (E)(3).

(E) Side yard setback:

(1) *Ten feet.* On lots containing 100 feet of width or more.

(2) *Six feet.* On lots containing less than 100 feet of width.

(3) *Detached private garages.* Detached private garages shall be setback from the alley and side or rear property lines no less than 3 feet.

(F) Impervious lot coverage: No more than 40% of the lot.

(G) Maximum building height: Thirty-five feet from average grade.

(H) Minimum dwelling size: Nine hundred square feet of finished floor area.

(1981 Code § 10.07, Subd. 5) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 294, 3rd Series, passed 8-15-2006)

(R-2) TWO-FAMILY RESIDENTIAL DISTRICT**§ 152.090 PURPOSE.**

The R-2, Two-family Residential District, is established for the purpose of providing a greater diversity of housing choices within the city in areas where adequate public facilities and services exist and where such development is appropriate given the surrounding land uses.

(1981 Code § 10.08, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.091 PERMITTED USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted uses within the R-2, Two-family Residential District, subject to all development and performance standards:

(A) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(B) Essential services - governmental uses, buildings and storage not industrial in nature.

(C) Public and private educational institutions, limited to elementary, middle or junior high and senior high schools.

(D) Public parks, and public recreation areas.

(E) Religious institutions such as chapels, churches, temples and synagogues.

(F) Single-family detached dwellings.

(G) State licensed residential care facility, serving 16 or fewer persons.

(H) Twinhomes.

(I) Two-family dwellings.

(J) Townhouses.

(1981 Code § 10.08, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.092 PERMITTED ACCESSORY USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted accessory uses within the R-2, Two-family Residential District, subject to all applicable provisions of this subchapter:

(A) Administrative offices, meeting rooms, classrooms and service areas in private and public recreational facilities, the uses of which are incidental and directly related to the primary use.

(B) Day care facilities serving 12 or fewer persons in a single-family detached dwelling.

(C) Home occupations in a single-family dwelling, as regulated in § 152.380.

(D) Private garages and off-street parking and loading areas, as regulated in §§ 152.345 *et seq.* (1981 Code § 10.08, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.093 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this Title, the following are special uses within the R-2, Multi-Family Residential District and require a special use permit in accordance with the procedures identified in § 152.022.

(A) Bed and breakfast.

(B) Campgrounds.

(C) Cemeteries.

(D) Essential services, public utility uses, transmission services, buildings and storage.

(E) Hospitals or sanatoriums, philanthropic, or eleemosynary institutions except correctional institutions and animal hospitals. Any such buildings permitted to be used shall be set back not less than 100 feet from any lot or street line and that the appearance of the building shall be in appropriate harmony with the residential character of the area and provided that they meet the parking and loading and unloading facilities requirements as set forth for such uses in §§ 152.345 *et seq.*

(F) Outdoor commercial recreation, including golf courses, tennis clubs, public swimming pools.

(G) Railroad right-of-way.

(H) Wireless communication antennas, as regulated by §§ 152.315 *et seq.*
(1981 Code § 10.08, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

(I) Daycare centers.
(Am. Ord. 284, 3rd Series, passed 5-17-2005)

§ 152.094 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in the R-2, Two-family Residential District subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) Lot size (minimum): Seven thousand four hundred square feet.

(B) Lot width (minimum): Fifty feet.

(C) Lot depth (minimum): One hundred twenty feet.

(D) Minimum building setbacks:

(1) Thirty feet from front property line. On corner lots, the second front yard shall have a minimum setback of 15 feet from the front property line.

(2) Twenty-five feet from rear property line, private garages exempt, see division (E)(3) below.

(E) Side yard setback:

(1) *Ten feet.* On lots containing 100 feet of width or more.

(2) *Six feet.* The side yard setback is 6 feet. On lots containing less than 100 feet of width.

(3) *Detached private garages.* Detached private garages shall be setback from the alley and side or rear property lines no less than 3 feet.

(4) *Exception.* Except on lots containing an attached twinhome or an attached townhome, 1 side will be set at 0 feet and the remaining side yard setback shall be as otherwise required in this subchapter.

(F) Impervious lot coverage: No more than 40% of the lot for single-family uses. No more than 45% of the lot for multi-family uses.

(G) Maximum building height: Thirty-five feet from average grade.

(H) Minimum building size: Nine hundred square feet of finished floor area.

(1981 Code § 10.08, Subd. 5) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 294, 3rd Series, passed 8-15-2006)

(R-3) HIGH DENSITY RESIDENTIAL DISTRICT

§ 152.105 PURPOSE.

The R-3, High Density Residential District, is established in the recognition of the need for high density housing arrangements that result in increased housing choices and affordability within the city in areas where adequate public facilities and services exist and where such development is appropriate given the surrounding land uses.

(1981 Code § 10.09, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.106 PERMITTED USES

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted uses within the R-3, High Density Residential District, subject to all development and performance standards:

(A) Condominiums or apartments.

(B) Dormitory.

(C) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(D) Essential services - governmental uses, buildings and storage not industrial in nature.

(E) Nursing homes, convalescent homes, retirement homes, and other housing options for senior citizens.

(F) Public and private educational institutions, limited to elementary, middle or junior high and senior high schools.

- (G) Public parks, and public recreation areas.
- (H) Religious institutions such as chapels, churches, temples and synagogues.
- (I) Single-family detached dwellings.
- (J) State licensed residential care facility, serving 16 or fewer persons.
- (K) Townhouses.
- (L) Twinhomes.
- (M) Two-family dwellings.
(1981 Code § 10.09, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.107 PERMITTED ACCESSORY USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted accessory uses within the R-3, High Density Residential District, subject to all applicable provisions of this subchapter:

- (A) Administrative offices, meeting rooms, classrooms and service areas in private and public recreational facilities, the uses of which are incidental and directly related to the primary use.
- (B) Day care facilities serving 12 or fewer persons in a single-family detached dwelling.
- (C) Home occupations in a single-family dwelling, as regulated in § 152.380.
- (D) Private garages and off-street parking and loading areas, as regulated in §§ 152.345 *et seq.*
(1981 Code § 10.09, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.108 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are special uses within the R-3, High Density Residential District and require a special use permit in accordance with the procedures identified in § 152.022.

- (A) Bed and breakfast.
- (B) Cemeteries.

(C) Essential services - public utility uses, transmission services, buildings and storage.

(D) Hospitals or sanatoriums, philanthropic, or eleemosynary institutions except correctional institutions and animal hospitals. Any such buildings permitted to be used shall be set back not less than 100 feet from any lot or street line and that the appearance of the building shall be in appropriate harmony with the residential character of the area and provided that they meet the parking and loading and unloading facilities requirements as set forth in §§ 152.345 *et seq.*

(E) Outdoor commercial recreation, including golf courses, tennis clubs, public swimming pools.

(F) Railroad right-of-way.

(G) Wireless communication antennas, as regulated by §§ 152.315 *et seq.*
(1981 Code § 10.09, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

(H) Daycare centers.
(Am. Ord. 284, 3rd Series, passed 5-17-2005)

§ 152.109 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in the R-3, High Density Residential District subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) Lot size (minimum): Seven thousand square feet.

(B) Lot width (minimum): Fifty feet.

(C) Lot depth (minimum): One hundred twenty feet.

(D) Minimum building setbacks:

(1) Thirty feet from front property line. On corner lots, the second front yard shall have a minimum setback of 15 feet from the front property line.

(2) Twenty-five feet from rear property line, private garages exempt, see division (E)(3).

(E) Side yard setback:

(1) *Ten feet.* On lots containing 100 feet of width or more.

(2) *Six feet.* The side yard setback is 6 feet. On lots containing less than 100 feet of width.

(3) *Detached private garages.* Detached private garages shall be setback from the alley and side or rear property lines no less than 3 feet.

(4) *Exception.* Except on lots containing a twinhome, townhome, or adjoining condominium apartments, 1 side yard will be set at 0 feet and the remaining side yard setback shall be otherwise required in this subchapter.

(F) Impervious lot coverage:

(1) No more than 45% of the lot for single-family uses.

(2) No more than 50% of the lot for 2-family uses.

(3) No more than 60% of the lot for apartment uses.

(4) Required off-street parking and loading area shall meet the following impervious surface minimum setback requirements:

(a) Twenty feet from the front property line.

(b) Five feet from the rear property line.

(G) Maximum building height: Seventy feet from average grade for apartments. Thirty-five feet from average grade for all other uses allowed in this subchapter
(1981 Code § 10.09, Subd. 5) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 294, 3rd Series, passed 8-15-2006)

PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

§ 152.120 PURPOSE.

(A) This subchapter is to make provisions for a harmonious variety of housing choices within the Planned Unit Development District. The PUD District allows for larger tracts of land under single or unified ownership to be developed with greater flexibility and imaginative design than is generally possible under the conventional zoning regulations. The PUD District is exclusively for the development of residential housing. Such planned unit developments shall be developed in accordance with an overall design and an integrated general development plan, be consistent with the intent and purposes of this subchapter and Land Use Plan, and not adversely affect the property adjacent to the land included in the

project. It is not the intent of this chapter to allow for reductions or waivers to standard zoning requirements solely for the purpose of increasing overall density or allowing development that otherwise could not be approved.

(B) The PUD process shall encourage the following:

(1) A greater variety in the types of residential environment available to the residents of the city.

(2) To respond to changes in housing demand and in new housing concepts.

(3) The provision of privately controlled common open space ancillary to new housing developments.

(4) A more efficient allocation and maintenance of public facilities such as streets and utility lines serving new housing developments.

(5) The use of traffic management and design techniques to reduce the potential for traffic conflicts. Improvements to area roads and intersections may be required as appropriate. (1981 Code § 10.10, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.121 ADMINISTRATIVE PROCEDURES.

(A) *Pre-application meeting.* Prior to submittal of a general development plan, the applicant shall submit a concept plan and meet with the planning staff to discuss the application. Through the pre-application meeting, the planning staff shall summarize the information requirements and issues related to the request.

(B) *Planning Commission.* The proponents of a planned unit development shall submit a general development plan to the Planning Commission for its review and secure the approval of the Council after receiving a recommendation from the Planning Commission. The Planning Commission shall hold a public hearing on the proposed general development plan in conformance with the provisions as provided in § 152.022.

(C) *City Council.*

(1) If the plan is approved, any substantial change to the plan will require a resubmission to, and approval of the Council after review and recommendation by the Planning Commission. The Planning Commission will hold a public hearing on the proposed substantial change to the plan in conformance with the provisions as provided in § 152.022.

(2) Substantial change may include, but is not necessarily limited to: a rearrangement of structures, increase in any building size, change in location of open space or parking lots, an increase in the number of dwelling units, reduction in setback from adjoining properties, delay in planting schedule of more than 1 year, reduction in landscaping area or number of plants.

(D) *Sunset clause.* If the plan is approved, the subsequent plat shall be recorded within a period of 1 year from the date of approval of the general development plan. The general development plan will become null and void if the subsequent plat has not been recorded within the 1 year. Resubmittal and approval of the general development plan is required if the plat has not been recorded within 1 year. (1981 Code § 10.10, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.122 PERMITTED USES.

The following uses are permitted generally in PUD districts; however, individual PUD districts may and usually will be more restrictive by limiting the type of dwellings permitted.

(A) Condominiums and apartments.

(B) Dormitory.

(C) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(D) Essential services - governmental uses, buildings and storage not industrial in nature.

(E) Nursing homes, convalescent homes, retirement homes, and other housing options for senior citizens.

(F) Public and private educational institutions, limited to accredited elementary, middle or junior high and senior high schools.

(G) Public parks, and public recreation areas.

(H) Religious institutions such as chapels, churches, temples and synagogues.

(I) Single-family detached dwellings.

(J) State licensed residential care facility, serving 16 or fewer persons.

(K) Townhouses.

(L) Twinhomes.

(M) Two-family dwellings.

(1981 Code § 10.10, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.123 PERMITTED ACCESSORY USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted accessory uses within the PUD, Planned Unit Development District, subject to all applicable provisions of this subchapter:

(A) Administrative offices, meeting rooms, classrooms and service areas in private and public recreational facilities, the uses of which are incidental and directly related to the primary use.

(B) Day care facilities serving 12 or fewer persons in a single-family detached dwelling.

(C) Home occupations in a single-family dwelling, as regulated in § 152.380.

(D) Private garages and off-street parking and loading areas, as regulated in §§ 152.345 *et seq.*
(1981 Code § 10.10, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.124 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this Title, the following are special uses within the PUD, Planned Unit Development District and require a special use permit in accordance with the procedures identified in § 152.022.

(A) Bed and breakfast.

(B) Essential services - public utility uses, transmission services, buildings and storage.

(C) Hospitals or sanatoriums, philanthropic, or eleemosynary institutions except correctional institutions and animal hospitals. Any such buildings permitted to be used shall be set back not less than 100 feet from any lot or street line and that the appearance of the building shall be in appropriate harmony with the residential character of the area and provided that they meet the parking and loading and unloading facilities requirements as set forth for such uses in §§ 152.345 *et seq.*

(D) Wireless communication antennas, as regulated by §§ 152.315 *et seq.*
(1981 Code § 10.10, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

(E) Daycare centers.

(Am. Ord. 284, 3rd Series, passed 5-17-2005)

§ 152.125 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in the PUD, Planned Unit Development District subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) *Requirements.* The project shall propose reasonable yard, building setback, lot size, lot depth, lot width, height, frontage requirements, landscaping, density, and open space provisions for the protection and aesthetic enhancement of both the immediate property and the adjacent property for approval by the city council after review and recommendation by the Planning Commission.

(B) *Private infrastructure.* No private infrastructure shall be permitted, with the exception of private roadways and street lighting shall be permitted within the project provided they are approved by the City Council and installed to city specifications for similar public streets.

(C) *Front yard setback (minimum).* Twenty feet from the front property line.

(D) *Impervious lot coverage.*

(1) No more than 45% of the lot for single-family uses.

(2) No more than 50% of the lot for 2-family uses.

(3) No more than 60% of the lot for apartment uses.

(Am. Ord. 283, 3rd Series, passed 12-21-2004; Am. Ord. 294, 3rd Series, passed 8-15-2006)

(E) *Required off-street parking.* Required off-street parking and loading area shall meet the following impervious surface minimum setback requirements:

(1) Twenty feet from the front property line.

(2) Five feet from the rear property line.

(F) *Minimum dwelling size.* One thousand square feet of finished floor area for single-family uses. Eight hundred square feet of finished floor area per dwelling unit for all multi-family uses.

(1981 Code § 10.10, Subd. 6) (Ord. 273, 3rd Series, passed - -2003)

(UER) URBAN EXPANSION RESERVE DISTRICT**§ 152.135 PURPOSE**

This district is to preserve land in those rural areas of East Grand Forks, identified in its Land Use Plan for logical future extension of urban land uses served by public utilities. This zoning district is intended to preserve these areas of the city in very low rural development densities or clustered residential developments that may be compatibly integrated with future urban development. This district is also meant to perform the following functions:

(A) To conserve land in a viable economic status until such time as public utilities may be extended and urban development densities may be supported.

(B) To reduce the possibility of urban/rural land use conflicts in both the use of the land and future extension of public utilities and other infrastructure items.

(1981 Code § 10.11, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.136 PERMITTED USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are permitted uses in an UER, Urban Expansion Reserve District:

(A) Agricultural uses as defined by this chapter.

(B) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(C) Essential services - governmental uses, buildings and storage - public utility uses.

(D) Limited livestock raising, as regulated in §§ 152.330 and 152.331.

(E) Public parks, and public recreation areas.

(F) Railroad right-of-way.

(G) Single-family detached dwellings.

(H) State licensed residential care facility in a single-family detached dwelling, that serves 6 or fewer persons.

(1981 Code § 10.11, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.137 PERMITTED ACCESSORY USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are permitted accessory uses in an UER, Urban Expansion Reserve District:

(A) Day care facilities serving 12 or fewer persons in a single-family detached dwelling.

(B) Home occupations in a single-family dwelling, as regulated in § 152.380.

(C) Private garages and off-street parking and loading areas, as regulated in §§ 152.345 *et seq.*

(D) Sale of agricultural seed accessory to an ongoing farming operation.

(E) Temporary roadside stand for sale of in season agricultural products planted and completely grown on the premises.

(1981 Code § 10.11, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.138 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are special uses in an UER, Urban Expansion Reserve District, and require a special use permit based upon procedures and criteria set forth in and regulated by § 152.022.

(A) Campgrounds.

(B) Cemetery.

(C) Commercial nursery or greenhouse operation.

(D) Essential services – public utility uses, transmission services, buildings and storage.

(E) Golf courses, driving ranges.

(F) Religious institutions such as chapels, churches, temples, and synagogues.

(G) Wireless communication antennas, as regulated by §§ 152.315 *et seq.*
(1981 Code § 10.11, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.139 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in an UER, Urban Expansion Reserve District, subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) *Density*. One dwelling unit per 40 acres of land or quarter-quarter section.

(B) *Lot size*. Forty acres or quarter-quarter section.

(C) *Lot width*. Six hundred feet.

(D) *Public road frontage (minimum)*. Sixty-sixty feet.

(E) *Front yard setback*. Sixty-six feet from the public street right-of-way. On lots less than 2 acres, 33 feet from the road right-of-way on a public street.

(F) *Side yard setback*. Thirty feet. On lots of record less than 2 acres, 15 feet. On corner lots, the side yard setback abutting the road shall be the same as the front yard setback.

(G) *Rear yard setback*. Sixty feet. On lots of record less than 2 acres, 30 feet.

(H) *Accessory building setbacks*.

(1) On lots 2 acres or greater in area, accessory buildings shall meet the principal building setbacks.

(2) For lots less than 2 acres in area, accessory buildings shall maintain the following setbacks:

(a) Interior side yard: Five feet.

(b) Rear yard: Eight feet.

(I) *Impervious surface lot coverage*. No more than 25% of the lot.

(J) *Accessory building area and height.*

(1) (a) *Maximums.* Detached garages, buildings, and additional accessory structures, individual and combined, shall be subject to the maximums listed in the following table.

(b) *Exceptions.*

1. Existing or proposed agricultural buildings currently used for agricultural purposes, as verified by the planning staff.

2. Existing agricultural buildings previously used for agricultural purposes shall not be included in area calculation requirements of this table, unless they are suitable for use as garages or residential accessory structures (such as a machine shed), as determined by the planning staff.

<i>Lot Size</i>	<i>Maximum Building Area</i>	<i>Maximum Building Height</i>
Less than 1 acre	1,000 sq. ft.	15 ft.
1-1.99 acres	1,600 sq. ft.	18 ft.
2-4.99 acres	2,000 sq. ft.	18 ft.
5-7.99 acres	2,600 sq. ft.	20 ft.
8-9.99 acres	3,200 sq. ft.	20 ft.
10-19.99 acres	4,000 sq. ft.	24 ft.

(2) *Outside wall dimensions.* Outside wall dimensions will be used to determine maximum building area, except where a roof projects out greater than 2 feet from the side wall, roof area will be used to determine maximum building area.

(K) *Principal building height maximum.* Thirty-five feet.

(L) *Minimum building size.* Nine hundred square feet of finished floor area.
 (1981 Code § 10.11, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

(UER-C) URBAN EXPANSION RESERVE CLUSTER DISTRICT**§ 152.155 PURPOSE.**

This district is to preserve land in those rural areas of East Grand Forks identified in its Land Use Plan for logical future extension of urban land uses served by public utilities. This zoning district is intended to preserve these areas of the city in very low rural development densities or clustered residential developments that may be compatibly integrated with future urban development. This district is also meant to perform the following functions:

(A) To conserve land in a viable economic status until such time as public utilities may be extended and urban development densities may be supported.

(B) To reduce the possibility of urban/rural land use conflicts in both the use of the land and future extension of public utilities and other infrastructure items.

(C) To regulate residential development in a cluster subdivision design that preserves open space for future development when public utilities become available.

(1981 Code § 10.12, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.156 PERMITTED USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are permitted uses in an UER-C, Urban Expansion Reserve Cluster District:

(A) Agricultural uses as defined by this chapter.

(B) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(C) Essential services - governmental uses, buildings and storage not industrial in nature.

(D) Limited livestock raising, as regulated in §§ 152.330 and 152.331.

(E) Public parks and public recreation areas.

(F) Railroad right-of-way.

(G) State licensed residential care facility in a single-family detached dwelling, that serves 6 or fewer persons.

(H) Single-family detached dwellings.
(1981 Code § 10.12, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.157 PERMITTED ACCESSORY USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are permitted accessory uses in an UER-C, Urban Expansion Reserve Cluster District:

- (A) Day care facilities serving 12 or fewer persons in a single-family detached dwelling.
- (B) Home occupations in a single-family dwelling, as regulated in § 152.380.
- (C) Private garages and off-street parking and loading areas, as regulated in §§ 152.345 *et seq.*
- (D) Sale of agricultural seed accessory to an ongoing farming operation.
- (E) Temporary roadside stand for sale of in season agricultural products planted and completely grown on the premises.

(1981 Code § 10.12, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.158 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are special uses in an UER-C, Urban Expansion Reserve Cluster District, and require a special use permit based upon procedures and criteria set forth in and regulated by § 152.022.

- (A) Cemetery.
- (B) Religious institutions such as chapels, churches, temples and synagogues.
- (C) Commercial nursery or greenhouse operation.
- (D) Essential services - public utility uses, transmission services, buildings and storage.
- (E) Fairs and fairgrounds, provided all traffic, noise, screening, and development/use compatibility issues are addressed.
- (F) Golf courses, driving ranges.
- (G) Religious institutions such as chapels, churches, temples, and synagogues.

(H) Wireless communication antennas, as regulated by §§ 152.315 *et seq.* (1981 Code § 10.12, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.159 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in an UER-C, Urban Expansion Reserve Cluster District for cluster subdivisions subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) *Density*. If 80% or more land in the subdivision can be preserved as open space for future development, the density shall be 1 unit per 10 acres based on the gross acreage of the subdivision.

(B) *Open Space*. The cluster shall establish open space to be reserved for future development. The open space may be platted into a single oversized lot or shall be platted into 1 large lot that would count against the properties building eligibilities. Deed restrictions shall be placed over the open space, which will prohibit further subdivision of the open space until the land can be served by public utilities. Ghost platting concept plans shall be required to illustrate how the current plat may be integrated with future urban development. Deed restrictions shall also be placed on all newly created lots informing the potential buyer that the adjoining open space is intended for future urban development when utilities become available.

(C) *Street access*. Temporary lot access to collector roads may only be permitted provided all lots in residential clusters are designed to receive permanent access from a future local public streets.

(D) *Lot size*. One acre and demonstrates sufficient land area to accommodate 2 independent sewage treatment systems.

(E) *Lot width*. One hundred feet.

(F) *Public road frontage (minimum)*. Sixty-six feet.

(G) *Front yard setback*. Sixty-six feet from the public street right-of-way on lots less than 2 acres, 33 feet from the road right-of-way on a public street.

(H) *Side yard setback*. Fifteen feet.

(I) *Rear yard setback*. Thirty feet.

(J) *Accessory building setbacks.*

(1) On lots 2 acres or greater in area, accessory buildings shall meet the principal building setbacks.

(2) For lots less than 2 acres in area, accessory buildings shall maintain the following setbacks:

(a) Interior side yard: Five feet.

(b) Rear yard: Eight feet.

(K) *Accessory building area and height.*

(1) (a) *Maximums.* Detached garages, buildings, and additional accessory structures, individual and combined, shall be subject to the maximums listed in the following table.

(b) *Exceptions.*

1. Existing or proposed agricultural buildings currently used for agricultural purposes, as verified by the planning staff.

2. Existing agricultural buildings previously used for agricultural purposes shall not be included in area calculation requirements of this table, unless they are suitable for use as garages or residential accessory structures (such as a machine shed), as determined by the planning staff.

<i>Lot Size</i>	<i>Maximum Building Area</i>	<i>Maximum Building Height</i>
Less than 1 acre	1,000 sq. ft.	15 ft.
1-1.99 acres	1,600 sq. ft.	18 ft.
2-4.99 acres	2,000 sq. ft.	18 ft.
5-7.99 acres	2,600 sq. ft.	20 ft.
8-9.99 acres	3,200 sq. ft.	20 ft.
10-19.99 acres	4,000 sq. ft.	24 ft.
20-39.99 acres	5,000 sq. ft.	24 ft.

(2) *Outside wall dimensions.* Outside wall dimensions will be used to determine maximum building area, except where a roof projects out greater than 2 feet from the side wall, roof area will be used to determine maximum building area.

(L) *Principal building height maximum.* Thirty-five feet.

(M) *Minimum building size.* Nine hundred square feet of finished floor area.

(N) *Impervious lot coverage.* No more than 25% of the lot.
(1981 Code § 10.12, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

(UBR) URBAN BUSINESS RESERVE DISTRICT

§ 152.175 PURPOSE.

This district is intended to preserve land in those areas of the City of East Grand Forks identified in its Land Use Plan for the logical extension of urban commercial and industrial land uses served by public utilities. This district is intended to preserve a low density rural environment until such time as the land is needed for future urban commercial or industrial use and public utilities are available. This district is also meant to perform the following functions:

(A) To conserve land in a viable economic status until such time as public utilities are available and the site may accommodate intense urban commercial or industrial land uses.

(B) To reduce the possibility of urban/rural land use conflicts in both the use of the land and future extension of public utilities and other infrastructure items.

(1981 Code § 10.13, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.176 PERMITTED USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are permitted uses in an UBR, Urban Business Reserve District:

(A) Agricultural uses and buildings as defined by this chapter.

(B) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(C) Essential services – governmental uses, buildings and storage – public utility uses.

(D) Limited livestock raising, as regulated by §§ 152.330 and 152.331.

(E) Public parks, and public recreation areas.

(F) Railroad right-of-way.

(G) Residential care facility serving 6 or fewer persons in a single-family detached dwelling.

(H) Single-family detached dwellings.

(1981 Code § 10.13, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.177 PERMITTED ACCESSORY USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are permitted accessory uses in an UBR, Urban Business Reserve District:

(A) Day care facilities serving 12 or fewer persons in a single-family detached dwelling.

(B) Home occupations in a single-family dwelling, as regulated in § 152.380.

(C) Private garages and off-street parking and loading areas, as regulated in §§ 152.345 *et seq.*

(D) Sale of agricultural seed accessory to an ongoing farming operation.

(E) Temporary roadside stand for sale of in-season agricultural products planted and completely grown on the premises.

(1981 Code § 10.13, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.178 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this chapter, the following are special uses in an UBR, Urban Business Reserve District, and require a special use permit based upon procedures and criteria set forth in and regulated by § 152.022.

(A) Commercial nursery or greenhouse operation.

(B) Essential services - public utility uses, transmission services, buildings and storage.

(C) Religious institutions such as chapels, churches, temples and synagogues.

(D) Wireless communication antennas, as regulated §§ 152.315 *et seq.*

(1981 Code § 10.13, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.179 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in an UBR, Urban Business Reserve District subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) *Density*. One dwelling unit per 40 acres of land or quarter-quarter section.

(B) *Lot size*. Forty acres or quarter-quarter section.

(C) *Lot width*. Six hundred feet.

(D) *Public road frontage (minimum)*. Sixty-sixty feet.

(E) *Front yard setback*. Sixty-six feet from the public street right-of-way. On lots less than 2 acres, 33 feet from the road right-of-way on a public street.

(F) *Side yard setback*. Thirty feet. On lots of record less than 2 acres, 15 feet. On corner lots, the side yard setback abutting the road shall be the same as the front yard setback.

(G) *Rear yard setback*. Sixty feet. On lots of record less than 2 acres, 30 feet.

(H) *Accessory building setbacks*.

(1) On lots 2 acres or greater in area, accessory buildings shall meet the principal building setbacks.

(2) For lots less than 2 acres in area, accessory buildings shall maintain the following setbacks:

(a) Interior side yard: Five feet.

(b) Rear yard: Eight feet.

(I) *Impervious surface lot coverage*. No more than 25% of the lot.

(J) *Accessory building area and height*.

(1) (a) *Maximums*. Detached garages, buildings, and additional accessory structures, individual and combined, shall be subject to the maximums listed in the following table.

(b) *Exceptions*.

1. Existing or proposed agricultural buildings currently used for agricultural purposes, as verified by the planning staff.

2. Existing agricultural buildings previously used for agricultural purposes shall not be included in area calculation requirements of this table, unless they are suitable for use as garages or residential accessory structures (such as a machine shed), as determined by the planning staff.

<i>Lot Size</i>	<i>Maximum Building Area</i>	<i>Maximum Building Height</i>
Less than 1 acre	1,000 sq. ft.	15 ft.
1-1.99 acres	1,600 sq. ft.	18 ft.
2-4.99 acres	2,000 sq. ft.	18 ft.
5-7.99 acres	2,600 sq. ft.	20 ft.
8-9.99 acres	3,200 sq. ft.	20 ft.
10-19.99 acres	4,000 sq. ft.	24 ft.

(2) *Outside wall dimension.* Outside wall dimensions will be used to determine maximum building area, except where a roof projects out greater than 2 feet from the side wall, roof area will be used to determine maximum building area.

(K) *Principal building height maximum.* Thirty-five feet.

(L) *Minimum building size.* Nine hundred square feet of finished floor area.
(1981 Code § 10.13, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

(C-1) DOWNTOWN COMMERCIAL DISTRICT

§ 152.195 PURPOSE.

The purpose of this district is to provide guidance and development to be applied to all renovations and new construction within the downtown area of East Grand Forks, with the objective of managing and guiding growth toward the realization of specific urban design objectives. This district provides for the enhancement of the downtown as the functional and symbolic center of East Grand Forks.
(1981 Code § 10.14, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.196 PERMITTED USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted uses in the C-1, Downtown Commercial District:

(A) Art galleries and museums.

(B) Bars or nightclubs, except bowling alleys.

(C) Bookstore, except adult bookstores.

(D) Business and professional services, except self-service laundries and food locker plants.

(E) Business, technical or professional schools.

(F) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(G) Essential services - governmental uses, buildings and storage.

(H) Library.

(I) Liquor store, package, and meeting the local liquor dispensing laws, not including drive-up and/or drive-in services.

(J) Lodges, clubs, social or fraternal organizations, except adult entertainment oriented (i.e. adult cabaret, adult mini motion theater or full theaters).

(K) Medical offices.

(L) Municipal administrative buildings, fire stations and other municipal service buildings, except those customarily considered industrial in use.

(M) Offices, including banks and financial institutions with or without drive-up and/or drive-in services.

(N) Parking garage.

(O) Police Station.

(P) Post office.

(Q) Public parks, and public recreation areas.

(R) Public utility and service uses.

(S) Radio and television broadcasting uses.

(T) Railroad right of way.

(U) Residential and senior citizens housing in upper levels only.

(V) Restaurants, not including drive-up and/or drive-in services.

(W) Retail, not including drive-up and/or drive-in services.

(X) Theaters, except adult entertainment uses (i.e., adult cabaret, adult mini motion theater or full theaters).

(Y) Wholesaling.

(1981 Code § 10.14, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

(Z) Daycare centers

(Am. Ord. 284, 3rd Series, passed 5-17-2005)

§ 152.197 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are special uses in a C-1, Downtown Commercial District, and require a special use permit based upon procedures and criteria set forth in and regulated by § 152.022.

(A) Essential services - public utility uses, transmission services, buildings and storage.

(B) Gasoline filling stations.

(C) Hotel, motel, bed and breakfast hotel.

(D) Satellite dish and antennas, as regulated by §§ 152.315 *et seq.*

(1981 Code § 10.14, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.198 DESIGN GUIDELINES.

(A) *General.* Because the city is committed to the highest quality in this district, design guidelines may be developed to provide guidance and development objectives to be applied to all renovations and new construction within this district, with the objective of managing and guiding growth toward the realization of specific urban design objectives. These guidelines are provided for the enhancement of

the downtown area as the functional and symbolic center of the city. Buildings should contribute to a strong overall downtown character; building facades should add richness and detail of this vision that these guidelines are intended to serve. The City Council may from time to time by resolution amend such design guidelines.

(B) *Design review.*

(1) The Planning Commission shall review and recommend to the City Council to approve, conditionally approve, or disapprove any or all elements of any external building alteration within this district for compliance with the above design.

(2) A request for any development in this district shall furnish the Planning Commission with detailed plan views, elevations, and/or any other documents as requested by the Planning Commission that may assist them in their determination of whether the finished development will be compatible with the design guidelines.

(3) The Planning Commission shall use the following guidance in their design review in order to recreate the small scale and diversity of traditional downtowns: Require that new development maintain the continuity of the streetscape with appropriate window patterns, entrances, paving and zero lot line development; require that developments include architectural features such as awnings, canopies and recessed entries that can protect pedestrians from inclement weather; utilize the State Historic Building Code; prohibit demolition of any historically significant structures and require review of buildings greater than 40 years old.

(4) Applicants are encouraged to meet with staff prior to the preparation of the development drawings.

(5) After the City Council receives the recommendation of the Planning Commission, the Council shall act to approve, approve with conditions, or disapprove the application for design review; or the Council may, before it acts upon the application, submit such application to any employee of the city it may designate for further review and study. If the Council disapproves the application, the grounds for such disapproval shall be set forth in the proceedings of the Council, and report to the design review applicant.

(1981 Code § 10.14, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.199 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in a C-1, Downtown Commercial District subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) *Platting required.* Platting required for all uses within the C-1, General Commercial District. No building permits will be issued on unplatted properties, except for the addition of accessory structures or additions to existing buildings.

(B) *Impervious lot coverage.* No more than 85% percent of the lot.

(C) *Outdoor storage.* No outdoor storage
(1981 Code § 10.14, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

(C-2) HIGHWAY COMMERCIAL DISTRICT**§ 152.215 PURPOSE.**

The C-2, Highway Commercial District is established to provide appropriate areas, preferably in clusters in proximity to major thoroughfares for commercial retail establishments that are orientated to the motoring public, or that require a large display of merchandise.

(1981 Code § 10.15, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.216 PERMITTED USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted uses in the C-2, Highway Commercial District:

(A) All of the uses permitted in the C-1 district, except apartments or any other residential use not accessory to the principal use of the property.

(B) Accessory store.

(C) Altering, pressing and repair of wearing apparel.

(D) Appliance store.

(E) Automobile garage, accessory store, sales

(F) Building materials sales.

(G) Bowling alley.

(H) Café, cafeteria, including drive-in eating establishments.

(I) Dairy products store.

(J) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(K) Essential services - governmental uses, buildings and storage - public utility uses.

(L) Food locker plant.

(M) Furniture store.

(N) Grocery store.

(O) Hardware store.

(P) Hotel and motel.

(Q) Laundries.

(R) Liquor store, package, and meeting local dispensing laws.

(S) Machinery, equipment, sales, storage, and service.

(T) Office.

(U) Public and private secondary educational institutions.

(V) Public parks and public recreation areas.

(W) Railroad right-of-way.

(X) Supermarket.

(Y) Temporary roadside stand for sale of in-season agricultural products, subject to site plan review by planning staff.

(X) Small animal veterinary clinic.

(1981 Code § 10.15, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.217 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are special uses in a C-2, Highway Commercial District, and require a special use permit based upon procedures and criteria set forth in and regulated by § 152.022.

(A) Essential services - public utility uses, transmission services, buildings and storage.

(B) Gasoline filling stations.

(C) Satellite dish and antennas, as regulated by §§ 152.315 *et seq.*
(1981 Code § 10.15, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

(D) Tattoo parlors that meet the following criteria:

(1) Provide at least 1 separate wash facility for every 3 work stations.

(2) Provide at least 1 separate was facility for customer use.
(Am. Ord. 285, 3rd Series, passed 5-17-2005)

§ 152.218 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in a C-2, Highway Commercial District subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) *Minimum structure setbacks.*

(1) Twenty feet from front property line.

(2) Ten feet from rear property line.

(3) Ten feet from side property line.

(B) *Principal building height maximum.* Forty feet.

(C) *Impervious lot coverage.* No more than 85% of the lot.

(D) *Required off street parking and loading areas.* Shall meet the following impervious surface minimum setback requirements:

- (1) Twenty feet from the front property line.
- (2) Five feet from the rear property line.

(E) *Outside storage.* All business' shall meet 1 of the following criteria for business related storage in the C-2, Highway Commercial District:

- (1) Storage must be completely within enclosed building(s).
- (2) Appropriately landscaped to 80% opaque, and according to the standards set forth in § 152.299.
- (3) Effectively screened with a fence that is least 80% opaque, not less than 6 feet no more than 8 feet in height.

(F) *Landscaping.* All business' located along any of the Greenway Corridors, as designated by the Land Use Plan, shall be appropriately landscaped according to the standards set forth in § 152.295.

(G) *Sales, rental, or display (indoor and outdoor).* As an accessory use in association with an allowed principal use provided that:

- (1) The area so occupied shall not exceed 30% of the principal building.
 - (2) No storage or display of merchandise shall be permitted in required rear, side, or front yards.
 - (3) The outdoor sales, rental, or display area shall be included in the calculations for parking spaces required for the use and shall not occupy space required for parking as stipulated by §§ 152.345 *et seq.*
- (1981 Code § 10.15, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

(I-1) LIGHT INDUSTRIAL DISTRICT**§ 152.230 PURPOSE.**

The purpose of the I-1, Light Industrial District is to provide land for development of traditional industrial activities, sufficient in size to meet employment and tax base requirements of the city. The overall character of the district is intended to allow industrial development but to assure that the uses are less intensive than that allowed in the General Industrial District and compatible with adjacent land uses. (1981 Code § 10.16, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.231 PERMITTED USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted uses in the I-1, Light Industrial District:

(A) Automobile, truck repair, body shop.

(B) Building materials sales.

(C) Cartage and express facilities.

(D) Contractors offices, shops and yards, such as building, cement, electrical, heating, ventilating and air conditioning, masonry, painting, plumbing, refrigeration and roofing.

(E) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(F) Essential services - governmental uses, buildings and storage.

(G) Fuel and ice sales.

(H) Greenhouses, wholesale.

(I) Highway maintenance shops and yards.

(J) Laundries.

(K) Machining.

(L) Office or office building.

(M) Packing and crating.

- (N) Printing and publishing.
- (O) Public parks and public recreation areas.
- (P) Radio and television broadcasting uses, excluding towers.
- (Q) Restaurants.
- (R) Railroad right-of-way.
- (S) Tool and dye cast.
- (T) Warehousing.
- (U) Wholesaling, all commodities except live animals, commercial explosives and junk.
- (V) Veterinary clinic.

(1981 Code § 10.16, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.232 SPECIAL USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are special uses in an I-1, Light Industrial District, and require a special use permit based upon procedures and criteria set forth in and regulated by § 152.022.

(A) Essential services - public utility uses, transmission services, buildings and storage.

(B) Hotel and motel.

(C) Limited manufacturing, of products and materials when in conjunction with retail sales that meets the requirements set forth in this subchapter.

(D) Wireless communications tower and antennas, as regulated by §§ 152.315 *et seq.*

(1981 Code § 10.16, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.233 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in an I-1, Light Industrial District, subject to the additional requirements, exceptions, and modifications set forth in this chapter.

(A) *Minimum structure setbacks.*

(1) Twenty feet from front property line.

(2) Ten feet from rear property line except a 0 foot from rear property line setback is allowed for Lots 2 - 15, Block 2 of the Industrial Park 1st Addition.

(3) Ten feet from side property line.

(B) *Principal building height maximum.* Forty feet.

(C) *Impervious lot coverage.* No more than 85% of the lot.

(D) *Required off street parking and loading areas.* Shall meet the following impervious surface minimum setback requirements:

(1) Twenty feet from the front property line.

(2) Five feet from the rear property line.

(E) *Outside storage.* All business' shall meet 1 of the following criteria for business related storage in the I-1, Light Industrial District:

(1) Storage must be completely within enclosed building(s).

(2) Appropriately landscaped to 80% opaque, and according to the standards set forth in § 152.298.

(3) Effectively screened with a fence that is least 80% opaque, not less than 6 feet no more than 8 feet in height.

(F) *Landscaping.* All business' located along any of the Greenway Corridors, as designated by the Land Use Plan, shall be appropriately landscaped according to the standards set forth in § 152.294.

(G) *Sales, rental, or display (indoor and outdoor).* As an accessory use in association with an allowed principal use provided that:

(1) The area so occupied shall not exceed 30% of the principal building.

(2) No storage or display of merchandise shall be permitted in required rear, side, or front yards.

(3) The outdoor sales, rental, or display area shall be included in the calculations for parking spaces required for the use and shall not occupy space required for parking as stipulated by §§ 152.345 *et seq.*

(1981 Code § 10.16, Subd. 4) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 294, 3rd Series, passed 8-15-2006; Am. Ord. 303, 3rd Series, passed 11-20-2007)

(I-2) GENERAL INDUSTRIAL DISTRICT

§ 152.245 PURPOSE.

To provide an area where heavy and intensive land uses may locate. The Industrial uses within this district are considered to be too heavy to be normally included within the Light Industrial District and should therefore be located in such an area as to present the least negative impact to adjacent, less intensive land uses.

(1981 Code § 10.17, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.246 PERMITTED USES.

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted uses in the I-2, General Industrial District:

(A) All permitted uses allowed in the Light Industrial (I-1) district.

(B) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(C) Indoor storage or garage rental.

(D) Manufacturing, processing, packaging or assembly of products and materials.

(E) Railroad right-of-way.

(F) Wholesaling.

(1981 Code § 10.17, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.247 SPECIAL USES

In addition to other uses specifically identified elsewhere in this subchapter, the following are special uses in an I-2, General Industrial District, and require a special use permit based upon procedures and criteria set forth in and regulated by § 152.022.

(A) Adult uses provided that:

(1) The adult use is located 1,000 feet from any other sensitive receptor.

(2) The adult use has frontage on an arterial roadway.

(B) Billboards as regulated by §§ 152.390 *et seq.*

(C) Bulk fuel storage.

(D) Concrete mixing plant.

(E) Essential services - public utility uses, transmission services, buildings and storage.

(F) Fairs and fairgrounds.

(G) Freight transportation terminal.

(H) Grain terminal.

(I) Railroad yard.

(J) Recycling center.

(K) Salvage yard.

(L) Sanitary or demolition landfill.

(M) Solid and hazardous waste transfer station.

(N) Solid waste processing facility.

(O) Wireless communications tower and antennas, as regulated by §§ 152.315 *et seq.*

(P) Yard and tree waste composting site.

(1981 Code § 10.17, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.248 DISTRICT PERFORMANCE STANDARDS.

The following performance standards shall be observed in an I-2, General Industrial District subject to the additional requirements, exceptions, and modifications set forth in this chapter:

(A) *Minimum building setbacks.*

- (1) Fifty feet from front property line.
- (2) Twenty feet from rear property line.
- (3) Four feet from side property line.

(B) *Impervious lot coverage.* No more than 85% of the lot.

(C) *Required off-street parking and loading area.* Shall meet the following impervious surface minimum setback requirements:

- (1) Twenty feet from the front property line.
- (2) Five feet from the rear property line.

(D) *Outside storage.* All business' shall meet 1 of the following criteria for business related storage in the I-2, General Industrial District:

- (1) Storage must be completely within enclosed building(s).
- (2) Appropriately landscaped to 80% opaque, and according to the standards set forth in § 152.298.
- (3) Effectively screened with a fence that is at least 80% opaque; and not less than 6 feet, or more than 8 feet in height.

(E) *Landscaping.* All business' located along any of the Greenway Corridors, as designated by the Land Use Plan, shall be appropriately landscaped according to the standards set forth in § 152.294.

(F) *Sales, rental, or display (indoor and outdoor).* As an accessory use in association with an allowed principal use provided that:

- (1) The area so occupied shall not exceed 30% of the principal building.
- (2) No storage of display of merchandise shall be permitted in required rear, side or front yards.

(3) The outdoor sales, rental or display area shall be included in the calculations for parking spaces required for the use and shall not occupy space required for parking as stipulated by §§ 152.345 *et seq.*

(1981 Code § 10.17, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

(FW) FLOODWAY OVERLAY DISTRICT

§ 152.260 USES PERMITTED.

The following uses shall be permitted uses within the FW District to the extent that they are not prohibited by any other zoning district:

(A) All uses commonly classed as agricultural.

(B) Drainage system, flood control and watershed structure, and erosion control device meeting all city and state standards.

(C) Public parks and playgrounds.

(D) Golf courses.

(E) Parking lots and loading areas.

(F) Other open space uses.

(G) Utilities, railroad tracks, streets and bridges. Public utility facilities, roads, railroad tracks and bridges within the floodplain shall be designed to minimize increases in flood elevations and shall be compatible with local comprehensive floodplain development plans. Protection to the flood protection elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety and such facilities are essential to the orderly functioning of the area. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads or utilities.

(1981 Code § 10.19, Subd. 1) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

§ 152.261 USES BY SPECIAL PERMIT.

In addition to other uses specifically identified elsewhere in this subchapter, the following are special uses in an FW, Floodway Overlay District, and require a special use permit based upon procedures and criteria set forth in and regulated by § 152.022.

(A) Uses or structures accessory to open space or special permit uses.

(B) Extraction of sand, gravel and other materials.

(C) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(D) Essential services - governmental uses, buildings and storage, and transmission services, provided the construction will not cause a stage increase.

(1981 Code § 10.19, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.262 STRUCTURAL APPROVAL.

All structures permitted in the FW District shall be approved by the Council and shall meet locational and structural requirements as they may set. All structures shall be elevated, flood proofed as per code requirements or designed to be removed prior to flooding.

(1981 Code § 10.19, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.263 GENERAL REQUIREMENTS.

(A) *General.* All uses, except as allowed in division (B) no structure (temporary or permanent) obstruction, storage of materials or equipment, or other uses may be allowed as special permit uses, which acting along or in combination with existing or anticipated future uses.

(B) *Structures (temporary or permanent).*

(1) Structures shall not be designed for human habitation and shall be a necessary appurtenance of an open space use.

(2) Structures shall have a low flood damage potential.

(3) The structure, or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood water.

(4) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,

(5) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(6) Structures shall be firmly anchored to prevent flotation, which may result in damage to other structures and/or restriction of bridge openings and other narrow sections of the stream or river.

(7) Service facilities such as electrical and heating equipment shall be installed at or above the flood protection elevation for the particular area or adequately flood proofed.

(8) Recreational vehicles shall not be allowed except in the existing approved park.

(9) A necessary appurtenant accessory structure shall be placed on a parcel of at least 10 acres in size and if fill or other form of obstruction to flood flow is necessary for said construction, the applicant must provide a hydraulic study that demonstrates that there will be no increases to the 100-year flood level. Pedestrian bridges shall be subjected to the same requirements.

(10) To allow for the equalization of hydrostatic pressure, there must be a minimum of 2 "automatic" openings in the outside walls of the structure having a total net area of not less than 1 square inch for every foot of enclosed area subject to flooding. There must be openings on at least 2 sides of the structure and the bottom of all openings must be no higher than 1 foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(11) Storage of materials and equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with approved plan by the city. (1981 Code § 10.19, Subd. 4) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

(FF) FLOOD FRINGE OVERLAY DISTRICT

§ 152.275 USES PERMITTED.

The following uses shall be permitted uses within the FF District to the extent that they are not prohibited by any other zoning district.

(A) Any use permitted in §§ 152.260 *et seq.*

(B) Residence and other structures constructed on fill so that the basement floor, or first floor if there is no basement, is 2 feet above the 100-year elevation. The finished fill elevation shall be no lower than 1 foot above the 100-year flood elevation for the particular area and shall extend at such elevation for at least 15 feet beyond the limits of any structure or building erected thereon.

(1) Above grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(a) A minimum area of automatic openings in walls where internal flooding is to be used as a flood proofing technique, there shall be a minimum of 2 openings on at least 2 sides of the structure and the bottom of all openings shall be no higher than 1 foot above grade. The automatic openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

(b) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(C) Residences constructed so that the basement or lowest floor is below the flood protection elevation may be permitted subject to the following conditions.

(1) All new construction and substantial improvements of residential structures with basements within Zone A1-30 on the City's FIRM shall be designed so that any basement area, together with attendant utilities and sanitary facilities below the flood proofed design level, is watertight with walls that are impermeable to the passage of water without human intervention. Basement walls (including sealed structural glass block windows) shall be built with the capacity to resist hydrostatic and hydrodynamic loads and the effect of buoyancy resulting from flooding which is 2 feet above the 100-year frequency flood, and shall be designed so that minimal structural damage will occur if this design is exceeded. The bottom of the lowest basement openings, such as doors and non-sealed windows, must be placed at least 2 feet above the 100-year base flood elevation.

(2) The area surrounding the entire foundation must be filled at least to the 100-year base flood elevation. Fill slope and stability requirements are the same as required by the State Building Code for building on fill.

(3) Flood proofed basements shall not be constructed within the designated floodway.

(4) Basements constructed in accordance with this regulation shall not be for sleeping purposes or for habitable space as stated and defined in the Minnesota State Building Code.

(5) A registered professional engineer or architect shall certify that the standards of division (A) or (B), as applicable and division (C), hereof, are incorporated in the building plans and specifications.

(6) A registered professional engineer or architect shall certify the final elevations on the structure and surrounding fill.

(7) In all instances, the building official retains the discretionary authority to deny any request for a building permit.

(8) No building permit shall be issued until the applicant has signed and recorded with the Polk County Recorder a covenant restricting the use of the basement area to non-habitable purposes.

(9) The Building official, or authorized representative, shall make or require inspections of the basement construction work to ascertain compliance with the above provisions.

(D) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment will not exceed 576 square feet in area and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and,

(2) Any mechanical and utility equipment in a structure must be elevated to or above the Flood Protection Elevation or properly flood proofed.

(E) Commercial structures generally must be constructed on fill with no first floor or basement floor below the flood protection elevation. Accessory land uses, such as yards, railroad tracks, and parking lots may be lower elevations.

(F) Manufacturing and industrial buildings, structures, and appurtenant works shall be protected to the flood protection elevation. Measures shall be taken to minimize interference with normal plant operations. Certain accessory land uses such as yards and parking lots may be lower elevations. In considering permit applications, the board shall give due consideration to needs of an industry whose business requires that it be located in flood plain areas.

(1981 Code § 10.20, Subd. 1) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

§ 152.276 USES BY SPECIAL PERMIT.

In addition to other uses specifically identified elsewhere in this subchapter, the following are special uses in an FF, Flood Fringe Overlay District, and require a special use permit based upon procedures and criteria set forth in and regulated by § 152.022.

(A) *All structures.* All new principal structures must have vehicular access at or above an elevation not more than 2 feet below the flood protection elevation. If a variance to this requirement is granted, the board of adjustment must specify limitations on the period of use of occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(B) *Reserved.*

(C) *Commercial manufacturing and industrial structures.* Shall ordinarily be elevated on fill as provided in § 152.275(B), but may in special circumstances be flood proofed to FP-1 or FP-2 classification in accordance with the State Building Code. Non-resident basements may be allowed below the flood protection elevation provided the basement is structurally dry flood proofed in accordance with the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 classification requirements, structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

(D) *Storage of materials and equipment.*

(1) The storage or processing of materials that are in time of flooding, flammable, explosive or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning.

(E) *Utilities, railroad tracks, streets, and bridges.* Public utility facilities, roads, railroad tracks, and bridges within the flood plain shall be designed to minimize increases in flood elevations and shall be compatible with local comprehensive flood plain development plans. Protection to the flood protection elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads, or utilities.

(F) *Waste treatment and waste disposal.*

(1) No new construction, addition, or modification to existing waste treatment facilities shall be permitted within the flood plain unless emergency plans and procedures for action to be taken in the

event of flooding are prepared, filed with, and approved by the Minnesota Pollution Control Agency. The emergency plans and procedures must provide for measures to prevent introduction of any pollutant or toxic material into the flood waters.

(2) There shall be no disposal of garbage or solid waste materials within the FF District except upon issuance of a special use permit for sites approved by the Minnesota Pollution Control Agency.

(G) *Flood control works.*

(1) The minimum height and design of any dikes, levees, flood walls, or similar structural works shall be based upon the flood profile of the regional flood confined between the structures subject to the following:

(2) The minimum height and design of structural works shall be at least 3 feet above the elevation of the regional flood as confined by structures.

(3) Modifications and additions to existing structural works shall assure that the work will provide a means of decreasing the flood damage potential in the area. Any existing structural work, which potentially threatens public health or safety shall be modified or reconstructed in order to meet the standards contained herein.

(4) Flood protection elevations and floodway limits which reflect proposed measures for flood control shall not be effective until such measures are constructed and operative.

(5) Detailed plans shall be submitted to the Planning Commission for any new developments placed on the flood plain landward from dikes, flood walls, and similar structures. The plans must provide for ponding areas or other measures to protect against flooding from internal drainage.

(1981 Code § 10.20, Subd. 2) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

GENERAL PERFORMANCE STANDARDS

§ 152.290 PURPOSE.

This subchapter is established to provide regulations of general applicability for property throughout the city, to promote the orderly development and use of land, to protect and conserve the natural environment, to minimize conflicts among land uses, and to protect the public health, safety, and welfare.

(1981 Code § 10.21, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.291 APPLICATION.

The regulations set forth in this subchapter apply to all structures and all land uses, except as otherwise provided in this chapter. No use or structure shall be operated or occupied so as to constitute a dangerous, injurious, or noxious condition because of fire, explosion or other hazard, noise, vibration, smoke, dust, fumes, odor or other air pollution, light, glare, heat, cold, dampness, electrical disturbance, liquid or solid refuse or waste, water or soil pollution, or other substance or condition. In addition, no use or structure shall be operated or occupied in a manner not in compliance with any performance standard contained in this chapter or with any other applicable regulation.

(1981 Code § 10.21, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.292 ARCHITECTURAL REQUIREMENTS.

In all zoning use districts all building except 1- and 2-family dwellings must be designed by a registered architect, unless permission to the contrary is granted by the council on recommendation of the Planning Commission.

(1981 Code § 10.21, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.293 BUILDING PERFORMANCE STANDARDS.

(A) *Dimensions.* All residential structures shall possess a minimum width of 24 feet over at least 75% of its length; a minimum length of 30 feet; a minimum total square footage of 900 square feet; the foregoing dimensions shall not take into account overhangs or other projections.

(B) *Easements.* No structure shall be located within an easement.

(C) *Foundations.* All dwellings shall be placed and secured to a permanent foundation of concrete or masonry or wood construction and shall include frost footings, all in compliance with the building code. On graded sites, the top of any exterior foundation shall extend above the elevation of the street gutter at point of discharge or the inlet of an approved drainage device a minimum of 25 inches.

(D) *Platting required for uses within all zoning districts.* No building permits will be issued on unplatted properties, except for the addition of accessory structures or additions to existing buildings.

(E) *Residential dwelling roofs.* All roofs shall be pitched; 4 units of horizontal measurement shall require a minimum of 1 corresponding unit of vertical measurement. A soffit at least 1 foot wide is required at the eaves. Additions to a conforming and existing structure may have roofs at a flatter slope subject to conformance with the building code. Metal roofs are prohibited.

(F) *Yard requirements.* On corner lots and through lots, both road lines shall be front lot lines for applying the yard setback regulations of this chapter, all other lots lines shall be considered side lot lines. (1981 Code § 10.21, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.294 LANDSCAPING STANDARDS.

(A) These general landscaping standards serve as the minimum requirements for a landscaping plan, or where landscaping/screening is otherwise required by this chapter.

(B) All landscaping incorporated in said plan shall conform to the following standards and criteria:

(1) *Minimum size.* All plants must meet the following minimum size requirements:

	<i>Potted/Bare Root or</i>	<i>Balled and Burlapped</i>
Shade trees	2.5-inch diameter	2.5-inch diameter
Ornamental trees (flowering crabs, hawthorns, etc.)	6 - 7 feet	2-inch diameter
Evergreen trees	---	6 feet
Tall shrubs and hedge material (evergreen or deciduous)	3 - 4 feet	3 - 4 feet
Low shrubs, deciduous	18 - 24 inches	24 - 30 inches
Evergreen	18 - 24 inch potted	24 - 30 inches
Spreading evergreens	18 - 24 inch potted	18 - 24 inches

(2) *Spacing.*

(a) Plant material centers shall not be located closer than 3 feet from the fence line or property line and shall not be planted to conflict with public plantings, sidewalks, trails, fences, parking areas, and driveways based on the judgment of the planning department.

(b) Where plant materials are planted in 2 or more rows, plantings shall be staggered in rows unless otherwise approved by the planning department.

(c) Deciduous trees intended for screening shall be planted not more than 30 feet apart. Evergreen trees intended for screening shall be planted not more than 15 feet apart.

(d) Where massing of plants or screening is intended, large deciduous shrubs shall be planted 4 feet on center or closer, and/or, evergreen shrubs shall be planted 3 feet on center or closer.

(3) *Landscape guarantee.* All new plants shall be guaranteed for 12 months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for 12 months from the time of planting.

(4) *Landscape plans.* Landscape plans shall be accompanied by a financial guarantee consistent with § 152.027.

(1981 Code § 10.21, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

§ 152.295 MANUFACTURED HOME COURTS AND MOBILE HOMES.

(A) *General.* It is unlawful for any person to maintain any manufactured home used for human habitation or to use any manufactured home for living, sleeping or business purposes on any premises in the city unless said manufactured home is contained within a manufactured home court or, if located within an R-1, R-2, R-3, or other zoning use district where single-family residences are permitted the design criteria hereinafter set forth.

(B) *Existing manufactured homes.* The placement of new or replacement of manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with this chapter.

(1981 Code § 10.21, Subd. 6) (Ord. 273, 3rd Series, passed - -2003)

Cross-reference:

Manufactured Home Building Code, see § 150.11

§ 152.296 REFUSE.

(A) In all zoning use districts, all refuse such as waste material, debris, useless or worthless items and/or material, waste resulting from building construction or demolition, scrap metal, pipe, motor vehicle tires and/or wheel rims, motor vehicle parts, and any and all other items commonly referred to as junk or trash, regardless of whether such items are salvageable, shall be kept in a lawfully erected enclosed building. The owner and/or the occupant of land shall be responsible for keeping such land free of refuse.

(B) All dumpsters locations must be approved by Public Works Department, and screened effectively.

(1981 Code § 10.21, Subd. 7) (Ord. 273, 3rd Series, passed - -2003)

§ 152.297 RESIDENTIAL YARD STORAGE.

In all residential zoning use districts, all materials and equipment shall be stored within a building or fully screened (so as not to be visible) from adjoining properties, except for the following: playground equipment, equipment temporarily being used on the premises, off-street parking of passenger automobiles and pick-up trucks.

(1981 Code § 10.21, Subd. 8) (Ord. 273, 3rd Series, passed - -2003)

§ 152.298 SCREENING.

(A) Screening shall be required in all zoning use districts where any off-street parking area contains more than 6 parking spaces and is within 30 feet of an adjoining R-1, R-2, R-3, PUD, UER, and UER-C zoning districts.

(B) Screening shall be required where any business or industrial use (i.e. structure, parking, or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property.

(C) Landscaping being utilized for screening shall remain 10 feet from the street right-of-way or property line. Any fence being utilized for screening shall remain 10 feet from the right-of-way.

(D) All the screening specifically required by this section shall be subject to 1 of the following standards:

(1) A greenbelt planting strip shall consist of evergreen trees and/or deciduous trees and plants, and shall be of a sufficient density to provide an 80% opaque visual screen and reasonable buffer viewed at a 90-degree angle from the greenbelt planting strip. This planting strip shall be designed to provide visual screening to a minimum height of 6 feet. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the planning department. Earth berms may be used, but shall not be used to achieve more than 3 feet of the required screen. The planting plan and type of plantings shall require the approval of the planning department.

(2) A fence may also be installed. The fence shall be constructed of masonry, brick, or wood, except as otherwise provided herein. Such fence shall provide an 80% opaque screening effect and shall be a minimum of 6 feet in height, but shall not exceed 8 feet in height. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the planning department. The design and materials used in constructing a required screening fence shall be subject to the approval of the planning department.

(1981 Code § 10.21, Subd. 9) (Ord. 273, 3rd Series, passed - -2003)

§ 152.299 TRAVEL TRAILERS AND TRAVEL VEHICLES.

Travel trailers and travel vehicles are exempt from the requirements of this chapter, provided they meet the following criteria:

(A) Have current licenses required for highway use.

(B) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds.

(C) The travel trailer/travel vehicle has no permanent structural type additions attached to it.

(D) Situated in an approved private or public recreational vehicle park or campground.

(E) Comply with the requirements of § 72.04.

(F) Shall not be used as a place of permanent residence or in lieu of a permanent place of residence. (1981 Code § 10.21, Subd. 10) (Ord. 273, 3rd Series, passed - -2003)

§ 152.300 FLOOD CONTROL EASEMENTS.

Any development landward of the levee subject to the restrictive easement shall:

(A) Be developed consistent with these easements and must maintain the water storage and conveyance capacity on the property.

(B) Maintain the open area adjacent to the toe of the levee. No planting of trees within 20 feet of the toe of a levee or within 15 feet of the toe of a floodwall.

(C) Provide to the city a copy of the permit application submitted to the U.S. Army Corps of Engineers, St. Paul District Office at least 30 days prior to the issuance for review and comment. (Ord. 303, 3rd Series, passed 11-20-2007)

WIRELESS COMMUNICATION TOWERS AND ANTENNAS**§ 152.315 PURPOSE.**

The purpose of this subchapter is to establish general guidelines in the siting of, and to minimize any possible adverse impacts caused by wireless communication antennas, towers and satellite dishes. (1981 Code § 10.22, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.316 PROCEDURE; SATELLITE DISHES.

(A) Any other section of this code notwithstanding, satellite dish antennas may be erected or installed without a special use permit providing that such satellite dish antenna:

(1) Whether mounted on a roof or on the ground, has a diameter of 6 feet or less;

(2) If mounted on a roof, is mounted in such a manner that no portion of the satellite dish antenna is visible from the street, avenue, drive, circle, court, etc., that is named in the common postal address of the property; and

(3) If mounted on the ground, is mounted in such a manner that no portion of the satellite dish antenna exceeds 12 feet in height above the average finished grade within a radius of 10 feet and is located within the rear yard no closer than 6 feet to any property line.

(B) No satellite dish antenna that does not comply with the restrictions and conditions of division (A) may be erected or installed until a special use permit has been obtained. A site plan showing the proposed location of the satellite dish antenna must be submitted with all applications for a special use permit for the installation or erection of a satellite dish antenna.

(1981 Code § 10.22, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.317 PROCEDURE; WIRELESS COMMUNICATION ANTENNAS AND TOWERS.

(A) *Pre-application meeting.* Any request for the placement of wireless communication equipment, which may involve construction of a new tower or placement of an antenna upon an existing structure, shall require a pre-application meeting with the City Planning Department. This meeting is intended to provide significant preliminary information on the project, discuss development alternatives, and determine the appropriate review procedure.

(B) *Decision to deny to be in writing.* Any decision to deny a request to place, construct or modify a wireless communication antenna and/or tower shall be in writing and supported by substantial evidence contained in a written record from the Planning Department and/or from the proceedings of the Planning Commission meeting(s) and Council meeting(s) so as to comply with the Federal Telecommunications Act of 1996.

(C) *Application requirements.*

(1) Applications for the placement of a wireless communications antenna shall include the following:

(a) A complete set of plans and specifications including a report outlining the proposal.

(b) Written certification from a registered engineer that any antenna that will be utilized for commercial purposes will be constructed in compliance with all applicable federal, state and local regulations.

(c) Proof of ownership of the proposed site or authorization to utilize.

(d) Additional information may also be required, such as site line diagrams and color samples, as needed to complete the review of the project.

(2) Applications for the construction of a wireless communications tower shall include the following:

(a) A complete set of plans and specifications including a report with a description of the tower with technical reasons for its design.

(b) Documentation establishing the structural integrity for the tower's proposed uses, the general capacity of the tower.

(c) Written certification from a registered engineer that the tower is to be constructed in compliance with all applicable federal, state and local regulations pertaining to the construction.

(d) A signed affidavit stating that any existing space on the proposed tower will be made available for co-location of transmitting facilities, and that all requests for co-location of transmitting facilities will be responded to within 30 days from the date of receipt of written request.

(e) Proof of ownership of the proposed site or authorization to utilize it.

(D) *General requirements.*

(1) The planning department and planning commission shall consider, and the applicant shall demonstrate compliance with the following standards in determining whether to approve an application for a wireless communication antenna and/or tower:

(a) *Co-location of wireless communication facilities.* As a condition of issuing a permit to construct and operate a wireless communication tower utilized for commercial purposes within the city's zoning jurisdiction, the applicant is required to demonstrate that a suitable location is not available for the placement of an antenna on any of the existing structures within the geographic area to be served. The city may request any feasibility studies associated with the said application which demonstrate that locations on existing structures have been explored as the preferred siting alternative. If another communication tower has been determined to be technically feasible by either the applicant or the city, the applicant must show that it has requested to co-locate on the existing tower and provide a letter from the communications carrier owning or operating the facility stating reasons for not permitting the co-location of transmitting facilities.

(b) *Wireless communication facilities.* In all circumstances, owners of existing towers being utilized for commercial purposes shall respond to a request for co-location of transmitting facilities within 30 days from the date of receipt of a written request. In the event that a wireless communications tower owner and/or operator has not responded to the said request, city council may defer the said application until the co-location issue is resolved. In all cases, it shall be the intent of the city to encourage the co-location of transmitting facilities.

(c) *Condition to operate for commercial purposes.* As a condition of issuing a permit to construct and operate a tower to be utilized for commercial purposes in the city, the owner/operator of the tower is required to allow co-location of wireless communication facilities until said tower has reached full antenna capacity. Thus the applicant is required to submit an affidavit stating that space on the proposed tower will be made available to future users when technically possible. Applicants cannot be denied space on a tower unless mechanical, structural, or regulatory factors prevent sharing. Agreement to this provision must be included in the lease by the landowner, if different from the owner/operator of the tower. Written documentation must be presented to the planning commission evidencing that the landowner of the property on which the tower is to be located has agreed to the terms of this section as well as the requirements, regulations, and standards established in this chapter. As an additional condition of issuing the permit to construct and operate the tower within the city's zoning jurisdiction, the owner/operator of the tower is required to sign a statement that all disputes with future providers concerning the terms and conditions of co-location of wireless communication facilities shall be submitted to commercial arbitration under a system selected by the parties; but if the parties are unable to agree, then under the auspices of the Commercial Arbitration Provisions of the American Arbitration Association.

(d) *Least conspicuous placement.* Efforts shall be made to utilize a location for the proposed wireless communication tower, which results in the least conspicuous or most aesthetically pleasing installation possible, while still providing reasonable signal access.

(e) *Location in Residential Zoning District.* As a condition of issuing a permit to place a commercially utilized antenna in a Residential Zoning District, the applicant is required to provide proof that no suitable locations exist for a tower or antenna facility within any other permitted use or special use areas in the local code.

(2) All wireless communication towers, antennas and associated equipment facilities shall meet the following applicable requirements:

(a) *Height and setback requirements.*

1. Wireless communication antennas shall not exceed 30 feet above the maximum building height as per zoning district regulations.

2. Wireless communication antennas located outside a Residential Zoning District shall be set back a minimum of 200 feet from any Residential Zoning Districts.
3. Wireless communication towers being utilized for commercial purposes shall only be constructed to the least height that is technically feasible to service the geographical service area of the applicant.
4. Wireless communication towers being utilized for commercial purposes shall be set back a minimum of 600 feet from any sensitive receptors.
5. Wireless communication towers being utilized in a Residential Zoning District for non-commercial purposes shall not exceed 30 feet above the maximum building height as per zoning district regulations.
6. Wireless communication towers located in non-residential zoning districts, with the exception of guyed towers, shall be setback from the lot line and any type of development (i.e. buildings, parking lots, etc.) a distance equaling at least 115% of the tower height to ensure the safety of surrounding uses.
7. Guyed wireless communication towers shall setback from the lot line and any type of development (i.e. buildings, parking lots, etc.) according to the following ratios of distances:

<i>Number of Levels of Guy Along Height of Tower</i>	<i>Ratio of Height of Tower to Distance From Base to Property Line</i>
2 or less	1:1
3	3:2
4	2:1
5	5:2
6	3:1

- (b) *Guyed wireless communication towers.* When guyed wireless communication towers are used, all anchor points from the guys are required to be on the same property as the tower.
- (c) *Wireless communication towers as monopoles.* In Commercial Zoning Districts wireless communication towers shall only be permitted as monopoles, lattice towers and guyed towers shall be prohibited.
- (d) *Communication antennas for commercial purposes.* In Residential Zoning Districts, communication antennas being utilized for commercial purposes shall only be situated either within existing high-tension lattice towers or as architectural components upon non-residential buildings.

(e) *Not in front yard or front half of side yard.* Wireless communication towers being utilized for non-commercial purposes shall be prohibited from locating in a front-yard or in the front half of a side-yard within a residential zoning district.

(f) *Color and materials.* Wireless communication antenna and/or tower design shall utilize colors and materials that effectively reduces their visual impact.

(g) *Three providers and 3 users located on structure.* Wireless communication towers being utilized for commercial purposes shall be designed to have sufficient structural capacity to allow for 3 providers to be located on the structure. The wireless communication facility shall also be designed to show that the applicant has sufficient space on its site plan for an equipment building large enough to accommodate 3 users. If an equipment building is initially constructed to accommodate only 1 user, space shall be reserved on site for equipment building expansions to accommodate 3 users.

(h) *Minimum setback to be met.* All types of development, with the exception of any required equipment buildings or bufferyards, are prohibited from occurring within the minimum setbacks as required by division (D)(2)(a)(6) and division (D)(2)(a)(7).

(i) *Bufferyard.* A landscaped bufferyard of not less than 15 feet in depth shall be placed around the entire perimeter of the wireless communication facility being utilized for commercial purposes. The landscaped yard is required to consist of the following plantings per each 100 feet of bufferyard:

1. Two shade trees.
2. Four ornamental trees.
3. Eight evergreen trees.
4. Thirteen shrubs.
5. Minimum size of the plantings shall conform with § 152.294.

6. The landscaping shall be continuously maintained and promptly restored if necessary. A chain linked or a solid wood fence of at least 6 feet in height shall also be required within the bufferyard for aesthetic and public safety reasons. NO TRESPASSING signs shall be posted around the wireless communication facility with a telephone number of a person to contact in the event of an emergency.

(j) *Wireless communication facility discontinued or no longer in use.* Any wireless communication facility that is no longer needed and its use discontinued shall be reported immediately

by the service provider to the city planning staff. Any antenna or tower utilized for commercial purposes that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall agree to remove the same within 90 days of a receipt of notice. If such antenna or tower is not removed within said 90 days, the governing authority may remove such antenna or tower at the owner's expense.

(k) *Consent to inspection.* The owner/operator of the antenna and/or tower shall sign a written consent consenting to annual inspection of the wireless communication facility by the building inspections department.

(l) *Illumination.* Except as required by law, an antenna and/or tower shall not be illuminated and lighting fixtures or signs shall not be attached to the antenna or tower. If lighting is required by FAA regulations, white strobe lights shall not be permitted at night unless no other alternative is permitted by the FAA and all lights shall be oriented inward so as not to project onto surrounding property. Lighting for security purposes shall be permitted at the wireless communication facility with a prior approval of the planning commission.

(m) *Airspace.* Wireless communication towers shall be located in accordance with the regulations of the airport approach zones and Federal Aviation Regulations for clearance around VOR and DVOR stations.

(n) *Compliance with FCC.* All wireless communication antennas and/or towers shall maintain compliance with the FCC at all times, including current radio frequency emissions standards and maintenance of all equipment at the tower site.

(o) *Advertising.* No advertising shall be permitted on any wireless communications facility.

(E) *Permits.*

(1) *FCC and FAA licenses.* Prior to receiving building permits, all applicable licenses; including FCC and Federal Aviation Administration (FAA) licenses, needed to construct the tower at the proposed tower site, shall be submitted to the building inspections department.

(2) *Documentation to be submitted to FCC.* Prior to receiving final inspection by the building inspections department, documented certification shall be submitted to the FCC, with a copy to the building inspections department, certifying that the wireless communication facility complies with all current FCC regulations for non-ionizing electromagnetic radiation.

(3) *Liability.* No building permit shall be issued for the construction of a wireless communication tower until and unless the applicant for the building permit deposits with the

Clerk-Treasurer a policy of liability insurance indemnifying the city from liability for personal injury or property damage in the sum of at least \$500,000. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least 10-days' written notice to the clerk-treasurer before cancellation thereof, the building permit to be automatically revoked upon the lapse or termination of said policy.

(4) *Permit required to erect antenna/tower if in amount of \$1,000 or more.* No wireless communication antenna and/or tower shall be erected, constructed, or altered in the amount of \$1,000 or more, on any lot or structure within the city's zoning jurisdiction without having first secured a permit for such antenna and/or tower from the building inspector.

(F) *Certification of registered engineer.* The city may require a review by an independent registered engineer engaged by the city and paid for by the applicant for the construction of wireless communication towers. Among other things, the engineer may review and approve the written certification of the applicant's engineer and may review and approve the applicant's studies showing the necessity for and location of the tower; and may review and approve the structural integrity, electrical integrity and electrical safeness of the wireless communication facility in its projected uses so as to assure the protection of the health, safety and welfare of the citizens of the city.
(1981 Code § 10.22, Subd. 3) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

LIMITED LIVESTOCK RAISING

§ 152.330 PURPOSE.

(A) Limited livestock raising is permitted in the UER zoning district, which fits in with the rural characteristics of the district. Each property shall have a minimum of 2 productive acres for the first animal unit and 1 productive acre for each additional animal unit. Animal units will be calculated according to the table below.

(B) To determine the animal unit measure for any animal not specified below, divide the average adult weight by 1,000.

East Grand Forks - Land Usage

	<i>Animal Unit</i>	<i>Animal Unit per Acre</i>	<i>Equivalent Animal Units</i>	
			<i>250</i>	<i>500</i>
(1) Slaughter Steer or Heifer	1.0	1.0	250	417
(1) Cow and Calf Pair	1.2	.8	208	500
Mature Dairy Cow				
(1) Over 1,000 lbs.	1.4	.7	179	357
(1) Under 1,000 lbs.	1.0	1.0	250	500
Swine				
(1) Over 300 lbs	.4	2.5	625	1,250
(1) Between 55-300 lbs.	.3	3.3	833	1,667
(1) Under 55 lbs.	.05	20.0	5,000	10,000
(1) Sheep	.4	2.5	625	1,250
(1) Duck	.01	100.0	25,000	50,000
Turkey				
(1) Over 5 lbs.	.018	55.6	13,889	27,779
(1) Under 5 lbs.	.005	200.0	50,000	100,000
Chicken (Dry manure)				
(1) Over 5 lbs.	.005	200.0	50,000	100,000
(1) Under 5 lbs.	.003	333.3	83,333	166,667
(1) Chicken (Liquid manure)	.033	30.3	7,576	15,152
(1) Horse	1.0	1.0	250	500

(1981 Code § 10.23, Subd. 1) (Ord. 273, 3rd Series, passed --2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

§ 152.331 PRIVATE STABLES.

(A) If the private stable property is less than 40 acres, the property shall have a minimum of 2 productive acres for the first equine and 1 productive acre for each additional equine.

(B) Private riding arenas may be allowed in all zoning districts, except the Commercial and Industrial Zoning Districts, provided they meet the following conditions:

(1) Private riding arenas must be located on lots having an area of 10 acres or greater.

(2) Private riding arenas may be exempted from the zoning district accessory building size standard. No private riding arena shall exceed 10,000 square feet in gross floor area.

(3) Private riding arenas shall be setback 100 feet from the nearest property line.
(1981 Code § 10.23, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

PARKING/OFF-STREET LOADING AREAS AND ACCESS

§ 152.345 PURPOSE.

Parking and loading regulations are established to alleviate or prevent congestion of the public right-of-way, to provide for the parking and loading needs of uses and structures, to enhance the compatibility between parking and loading areas and their surroundings, and to regulate the number, design, maintenance, and location of required off-street parking and loading spaces, and access driveways and aisles.

(1981 Code § 10.24, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.346 APPLICATION.

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

(1981 Code § 10.24, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.347 CHANGE OF USE.

No change of use or occupancy of land already dedicated to a parking area, parking spaces or loading spaces shall be made, nor shall any subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by this chapter. Any change of use or occupancy of any building or buildings, including additions thereto, requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this chapter.

(1981 Code § 10.24, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.348 EXISTING FACILITIES.

Existing parking and loading facilities shall not be reduced below the requirements for a similar new use or, if less than the requirements for a similar new use, they shall not be reduced further. (1981 Code § 10.24, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.349 USE OF PARKING FACILITIES.

(A) Required parking and loading spaces and the driveways providing access to them shall not be used for open storage, storage of inoperable vehicles, or for sale or rental of goods, except as specifically permitted by this chapter.

(B) No more than 1 commercial motor vehicle that is 25 feet or more in length or over 12,000 pounds gross weight capacity, no semi-trailer, truck tractor, or combination thereof, and no commercially licensed trailer shall be parked or stored in a residential district except when loading, unloading, or rendering a service.

(C) The number of passenger automobiles or permitted commercial vehicles parked at a residence may not exceed the number that can be garaged and parked within permitted off-street parking spaces. Those vehicles parked on the driveway that are not garaged must be currently licensed, operable, and in good repair. In cases of permitted 2-family and multi-family dwellings, the same shall apply.

(D) Vehicles may be located completely on an established driveway, provided that: The vehicle is kept entirely on the vehicle owner's property, the vehicle does not obstruct the public sidewalk, that the vehicle does not by any part enter or protrude into the public right-of-way.

(E) Passenger automobiles and recreational vehicles may be advertised FOR SALE within a residential area provided the vehicle is owned by the property owner where the vehicle is parked and the vehicle is currently licensed, operable, and parked entirely on a hard surfaced driveway. At no time shall any commercially licensed vehicle be parked within a residential area advertised FOR SALE. The number of vehicles sold from a residential location within a given year shall not exceed that allowed by the Minnesota Department of Public Safety.

(F) Passenger, commercial, and recreational vehicles shall not be displayed FOR SALE within nonresidential districts unless part of an approved sales dealership or for short-term parking (8 hours or less) if the vehicle is owned by an employee of said business where the vehicle is parked. (1981 Code § 10.24, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

§ 152.350 DESIGN OF PARKING AND LOADING FACILITIES.

Each space shall contain approximately 285 square feet per required space and any parking lots or spaces required shall comply with design standards in Table 1 and in Parking Diagram A.

DIAGRAM A
Parking Standard Diagram

TABLE I
Parking Layout Required Minimum Dimensions (In Feet)
For 9-Foot Stalls At Various Angles

<i>Dimension</i>	<i>On Diagram</i>	<i>Parking Angle</i>			
		<i>45°</i>	<i>60°</i>	<i>75°</i>	<i>90°</i>
Stall width parallel to aisle	A	12.7	10.4	9.3	9.0
Stall length of line	B	25.0	22.0	20.0	18.5
Stall depth	C	17.5	19.0	19.5	18.5
Aisle width between stall line	D	12.0	16.0	23.0	26.0
Stall depth, interlock	E	15.3	17.5	18.8	18.5
Module, edge of pavement to interlock	F	44.8	52.5	61.3	63.0
Module, interlocking	G	42.6	51.0	61.0	63.0
Module, interlock to curb face	H	42.8	50.2	58.8	60.5
Bumper overhang (typical)	I	2.0	2.3	2.5	2.5
Offset	J	6.3	2.7	0.5	0.0
Unpaved side and rear yard setback	K	All districts: 5 feet			
Cross aisle, 1-way	L	14.0	14.0	14.0	14.0
Cross aisle, 2-way	-	24.0	24.0	24.0	24.0
Unpaved front yard setback except driveways	M	All residential districts as required for buildings			
Setback from principal building	N	R-3 District: 10 feet			
		All nonresidence districts: 5 feet			
Front lot line to drive (landscape area)	O	All districts: 10 feet			
Side and rear lot line to drive (landscape area)	P	All districts: 5 feet			

(1981 Code § 10.24, Subd. 6) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

§ 152.351 ACCESSIBILITY REQUIREMENTS.

All accessibility requirements under the Americans with Disability Act (ADA), as amended, must be complied with.

(1981 Code § 10.24, Subd. 7) (Ord. 273, 3rd Series, passed - -2003)

§ 152.352 COMPUTING REQUIREMENTS.

(A) *FLOOR SPACE* shall mean gross floor area of the specific use.

(B) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

(C) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the planning staff.

(1981 Code § 10.24, Subd. 8) (Ord. 273, 3rd Series, passed - -2003)

§ 152.353 LOCATION OF PARKING FACILITIES.

Required off-street parking spaces shall be provided on the same lot as the principal building or use, except where otherwise provided for in this subchapter. Any area within 20 feet of the front of the drive-in garage doors may not be used to satisfy any portion of the parking requirements.

(1981 Code § 10.24, Subd. 9) (Ord. 273, 3rd Series, passed - -2003)

§ 152.354 COMBINED PARKING FACILITIES.

(A) (1) Combined or joint parking facilities serving different districts shall not be permitted;

(2) Except: Limited combined or joint parking facilities may be located, constructed and used within and for buildings or uses in C-1, I-1 and I-2 districts, provided that such parking facility is on an adjoining lot and the plan for such facility is approved by the Planning Commission.

(B) All limited, combined or joint parking facilities authorized hereunder shall provide the total number of parking spaces as the sum of the requirements for each building or use being served thereby.

(C) All limited, combined or joint parking facilities or adjoining parking facilities on separate lots as authorized and constructed adjacent to a common lot line separating 2 or more parking areas are not required to observe the parking area setback from such common lot line.

(1981 Code § 10.24, Subd. 10) (Ord. 273, 3rd Series, passed - -2003)

§ 152.355 EXEMPTIONS FROM PARKING REGULATIONS.

(A) Establishments in any district which have paid an assessment for the provision of off-street city parking lots shall be exempt from the provisions of this section which refers to off-street parking.

(B) (1) If the current parking regulations cannot be met as a result of the replacement of an existing structure, a 20% exception on the total parking requirement will be allowed up to a maximum of 50 stalls. The applicant will be required to pay for each stall according to the following formula.

$PEC = N(Cc + Pc)$		
PEC	=	Parking Exception Cost
Pc	=	Property cost: Estimated cost of 285 square feet of property in development area as determined by the city assessing department
Cc	=	Construction cost: Construction cost of 285 square feet of parking space (6 inches Portland concrete) as determined by the City Engineering Department
N	=	Number of stalls considered for exception

(2) Upon payment of the parking exception cost (PEC) based upon the herein described formula to the city by the applicant in cash, such property shall be exempt from the strict provisions this section with refer to off-street parking. The money paid by the applicant shall go into an account to be used for street maintenance.

(C) The City Planning Commission may reduce the total parking spaces required by up to 5% if the developer provides the needed accommodations for transit facilities and vehicles; and a reduction of up to 3% of the total parking spaces required may be permitted by the Planning and Zoning Commission if the developer provides bicycle racks and bicycle access to his or her property.

(1981 Code § 10.24, Subd. 11) (Ord. 273, 3rd Series, passed - -2003)

§ 152.356 CONSTRUCTION AND MAINTENANCE.

(A) *Proper surface drainage provided.* In all districts, parking areas and access drive hereinafter constructed shall be paved and provided with proper surface drainage.

(B) *Maintain in neat and adequate manner.* The operator of the principal building or use shall maintain parking and loading areas, access drives, and yard areas in a neat and adequate manner so that they are accessible.

(C) *Surfacing and drainage.* Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be graded and drained so as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales lots for cars, trucks and other equipment. Parking and driveway areas located within 35 feet of the street pavement shall have curbs.

(1981 Code § 10.24, Subd. 12) (Ord. 273, 3rd Series, passed - -2003)

§ 152.357 LIGHTING.

All off-street parking facilities shall provide adequate lighting to ensure the safe operation of motor vehicles and the safety of pedestrians. Prior to installation of any such exterior lighting or substantial modification thereto, an exterior lighting plan shall be submitted to the planning staff for determination as to whether the requirements of this subchapter have been met. Lighting shall be directed away from the public right-of-way and nearby or adjacent residential districts.

(1981 Code § 10.24, Subd. 13) (Ord. 273, 3rd Series, passed - -2003)

§ 152.358 OFF-STREET PARKING.

(A) *Off-street parking, residential and nonresidential.* Off-street parking areas of sufficient size for patrons, customers, suppliers, visitors, and employees shall be provided for residential and non residential uses on the premises as specified below.

(1) The minimum size of each parking stall shall be 9 feet by 18½ feet, exclusive of aisle width for open area parking lots.

(2) The minimum size of each parking stall shall be 8½ feet by 17½ feet for enclosed parking such as parking garages and parking ramps.

(B) *Agricultural, nursery or tree farms.* One space per employee on the largest shift, plus 1 per company vehicle, plus 1 space per 500 square feet of inside sales or display.

(C) *Residential.*

(1) *Bed and breakfast.* One parking space for each 1 lodging room.

(2) *Convalescent or nursing homes.* One space per 6 patient beds, plus 1 space per employee on the largest work shift, plus 1 space per staff member and visiting doctor.

(3) *Dormitory.* One parking space for each 3 beds.

(4) *Elderly housing.* Seven-tenths' space per unit.

(5) *Fraternity and sorority houses.* One parking space for each 2 beds.

(6) *Residential care facilities.* No less than 4 parking spaces; provided, however, that in addition sufficient undeveloped spaces shall be provided for additional parking as necessary to comply with parking requirements in the zoning district in which the group home is located in the event the use of the property shall change after construction of the group home.

(7) *Multifamily (including townhomes.)*

(a) *One bedroom.* One and one-half off-street spaces.

(b) *Two bedrooms.* Two and one-quarter off-street spaces.

(c) *Three bedrooms or more.* Two and one-half off-street spaces.

(D) *Institutional.*

(1) *Institutional uses, except as specifically designated herein.* One space per 3 patrons to the maximum capacity, plus 1 space per employee on the largest work shift.

(2) *Other institutional uses.*

(a) *Churches.* One space per 6 seats based on design capacity.

(b) *Nursery school.* One space per teacher/employee on the largest work shift, plus 1 off-street loading space per 6 students.

(c) *Libraries and museums.* One space per 250 square feet of gross floor area or 1 space per 4 seats to a maximum capacity, whichever is greater, plus 1 space per employee on the largest work shift.

(d) *Research, experimental, or testing.* One off-street parking space for each employee on the major shift or 1 off-street space for each 500 square feet of gross floor area within the building, whichever is greater.

(e) *Schools.*

1. *Elementary and middle school.* One space per teacher and staff member, plus 1 space per 2 classrooms.

2. *Senior high.* One space per staff member on the largest work shift, plus 1 space per 5 nonbused students.

3. *University/college.* One space per staff member on the largest work shift, plus 1 space per 2 students of the largest class attendance period.

(E) *Commercial.*

(1) *Commercial uses except as specifically designated herein.* One space per 150 square feet of gross floor area of customer sales and service, plus 1 space per 200 square feet of storage and/or office gross floor area, or , if the use has at least 100,000 square feet of gross floor area, 5½ spaces per 1,000 square feet of gross floor area.

(2) *Other commercial uses.*

(a) *Auditoriums and theaters.* One parking space per 4 seats.

(b) *Banks.* One space per 200 square feet of gross floor area, and 1 space per employee on the largest work shift, plus 4 off-street waiting (loading) spaces per drive-in lane.

(c) *Bars, taverns, dance halls, night clubs and lounges.* One space per 50 square feet of gross floor area, plus 1 space per employee on the largest shift.

(d) *Bowling alley.* Five spaces per lane, plus 1 space per employee on the largest work shift.

(e) *Car wash (full-serve.)* Six stacking spaces per bay, plus 1 space per employee on largest work shift.

(f) *Car wash (self-serve.)* Four stacking spaces per bay.

(g) *Convenience, grocery, and gas/service.* One space per 150 square feet of retail floor area.

(h) *Fast-food restaurants.* One space for 50 square feet of gross floor area, plus 5 off-street waiting spaces per drive-in lane, plus 1 space per employee on the largest work shift.

(i) *Funeral homes.* One space per 4 patron seats or 25 spaces per chapel unit, whichever is greater.

(j) *Furniture and appliance stores.* One parking space for each 330 square feet of gross floor area for the first 5,000 square feet of gross floor area, and 1 parking space for each 500 square feet of gross floor area over 5,000 square feet of gross floor area.

(k) *Golf courses (9- and 18-hole.)* Sixty spaces per 9 holes, plus 1 space per employee on the largest shift, plus 50% of the spaces otherwise required for any accessory uses (e.g. bars, restaurants, etc.)

(l) *Golf driving ranges.* One space per tee, plus 1 space per employee on the largest work shift.

(m) *Grocery or supermarket.* Five spaces for 1,000 square feet of gross floor area.

(n) *Hospitals.* One space for each 1 hospital bed, plus 1 space for each 2,000 square feet of gross floor area, plus 1 parking space for each employee on the largest shift.

(o) *Hotel or motel.* One space per room or suite, plus 1 space per every 3 employees on largest work shift, plus 1 space per 3 persons to a maximum capacity for each public meeting and/or banquet room, plus 50% of the spaces otherwise required for accessory uses (e.g. restaurants, bars, etc.)

(p) *Laundromat.* One parking space for each 2 washing machines.

(q) *Liquor store (off-sale.)* One parking space per 400 square feet of gross floor area.

(r) *Miniature golf.* One and one-half spaces per hole, plus 1 space per employee on the largest work shift.

(s) *Private clubs or lodges.* One space per 3 persons to the maximum capacity for the facility.

(t) *Racquetball, handball courts.* Three spaces per court, plus 1 space per employee on the longest largest work shift.

(u) *Repair services (excluding vehicles.)* One space per 300 square feet of gross floor area, plus 1 space per employee on the largest work shift.

(v) *Restaurants, cafes.* One off-street parking space for each 75 square feet of gross floor area.

(w) *Shopping center.* Four spaces for each 1,000 square feet of gross floor area, less mall or common area.

(x) *Swimming facility.* One space per 75 square feet of gross water area, plus 1 space per employee on the largest work shift.

(y) *Vehicle repair and maintenance services (including salvage yards.)* One space per 400 square feet of gross floor area, plus 1 space per employee on the largest work shift.

(z) *Vehicle sales and service (boats, cars, trucks, trailers, R.V.s, implement, etc.)* Six parking spaces, plus 1 parking space for each 500 square feet of gross floor area over 1,000 square feet.

(F) *Office.*

(1) *Office spaces except as specifically designated herein.* Five spaces, plus 1 space for each 300 square feet of gross floor area.

(2) *Other office uses.*

(a) *Beauty and barber shops.* Three spaces per operator or 1 space per 100 square feet of gross floor area, whichever is greater, plus 1 space per employee on the largest work shift.

(b) *Medical offices.* Three spaces per doctor, plus 1 space per employee on the largest work shift.

(G) *Industrial.*

(1) *Light industrial uses except as specifically designated herein.* One space per employee on the largest work shift or 1 space for each 2,000 square feet of gross floor area, whichever is greater, plus 1 space per company vehicle regularly stored on the premises.

(2) *Heavy industrial.* One space per employee on the largest shift plus 1 spacer per company vehicle normally left on the premises.

(1981 Code § 10.24, Subd. 14) (Ord. 273, 3rd Series, passed - -2003)

§ 152.359 ACCESS.

(A) Private accesses shall meet the requirements set forth in § 96.06.

(B) At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

(1981 Code § 10.24, Subd. 15) (Ord. 273, 3rd Series, passed - -2003)

§ 152.360 DRIVEWAY WIDTH STANDARDS.

The following standards shall apply to all new construction of driveways proceeding the adoption date of this chapter.

(A) *Lots less than 75 feet in average width.*

(1) No driveway shall exceed 24 feet in width at the sidewalk line.

(2) No driveway shall exceed 30 feet in width at the curb line.

(B) *Lots 75 feet to 100 feet in average width.*

(1) No driveway shall exceed 30 feet in width at the sidewalk line.

(2) No driveway shall exceed 36 feet in width at the curb line.

(C) *Lots greater than 100 feet in average width.*

(1) No driveway shall exceed 36 feet in width at the sidewalk line.

(2) No driveway shall exceed 42 feet in width at the curb line.

(D) *Two driveways serving same residential property.* When 2 driveways serve the same residential property, they shall be separated by at least 20 feet measured at the sidewalk line.

(E) *Street intersection on a corner lot.* No driveway shall be provided nearer than 20 feet to the street intersection on a corner lot.

(F) *Common driveways.* A common driveway to serve 2 lots may be permitted at the line common to the properties provided that such common driveway shall not exceed 30 feet in width at the sidewalk line nor 36 feet in width at the curb line.

(1981 Code § 10.24, Subd. 16) (Ord. 273, 3rd Series, passed - -2003; Am. Ord. 303, 3rd Series, passed 11-20-2007)

WIND ENERGY CONVERSION SYSTEM**§ 152.370 WIND ENERGY CONVERSION SYSTEM.**

(A) *Special use permit.* Each wind energy conversion system shall require a special use permit for the zoning use district in which it is proposed to locate said system.

(B) *Certification.* Each application for a building permit shall be accompanied with certification by an independent registered professional engineer or independent testing agency that the tower design is sufficient to withstand load requirements for structures as established by the local building construction code, and a dimensional representation of the tower including the conversion system, base and footings, and an accurate plan containing the following information:

- (1) Property lines;
- (2) Proposed location of tower on site;
- (3) Location of all existing structures on site;
- (4) All above ground utility lines;
- (5) All underground utility lines with a radius equal to the WECS height;
- (6) Boundaries of all adjacent utility easements or reserved areas.

(C) *Setback.* Towers shall be setback from the lot line and any type of development (i.e. buildings, parking lots, etc.) a distance equaling at least 115% of the tower height (including any portion of the rotor or axis extending above the tower) to ensure the safety of surrounding uses. There shall be no height limitation imposed upon the said tower so long as it is in compliance with the setback regulation.

(D) *Tower access.* Climbing access to the WECS tower shall be limited either by means of a fence 6 feet high around the tower base with a locking portal, or by limiting tower climbing apparatus to no lower than 12 feet from the ground.

(E) *Wind access.* Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than a single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted for approval.

(F) *Noise.* A WECS operation shall not produce noise in excess of the limits set forth in the following table, to-wit:

<i>Sound Levels by Receiving Land Use Districts in Decibels</i>				
<i>Land use districts</i>	<i>Day (7:00 a.m -10:00p.m.)</i>		<i>Night (10:00 p.m.-7:00 a.m.)</i>	
	<i>L10</i>	<i>L50</i>	<i>L10</i>	<i>L50</i>
Residential	65	60	55	60
Commercial	70	65	70	65

<i>Sound Levels by Receiving Land Use Districts in Decibels</i>				
<i>Land use districts</i>	<i>Day (7:00 a.m -10:00p.m.)</i>		<i>Night (10:00 p.m.-7:00 a.m.)</i>	
	<i>L10</i>	<i>L50</i>	<i>L10</i>	<i>L50</i>
Industrial	80	75	80	75
L10: Means the sound level, expressed in decibels (dBA) which is exceeded 10% of the time for a 1-hour period, as measured by a sound level meter having characteristics as specified in the latest standards of S1.4, of the American National Standards Institute, using approved test procedures and equipment.				
L50: Means the sound level similarly expressed and measured which is exceeded 50% of the time for a 1-hour period.				
The limits of the most restrictive district shall apply at the boundaries between different land use categories. The determination of land use shall be by its zoned designation.				

(G) *Limited use.* Wind energy conversion systems installed in accordance with the requirements of this Subdivision shall not generate power as a commercial enterprise as defined by the Public Utilities Commission.

(H) *Electromagnetic interference.* A WECS shall not be installed in any location along the major axis of an existing microwave communications link where the operation of the WECS is likely to produce an unacceptable level of electromagnetic interference unless the applicant provides evidence indicating the degree of expected and the possible effect on the microwave communications link of which is at a level satisfactory to the planning staff.

(I) *Airspace.* A WECS shall be located or installed in accordance with the regulations of the airport approach zones and Federal Aviation Regulations for clearance around VOR and DVOR stations.

(J) *Interconnect.* A WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirement of the Electric Utility Company. In any case the interconnect shall include a manual disconnect which complies with the National Electric Code.

(K) *Codes.* Construction, design and installment of a WECS shall comply with all local, state and national electrical codes in effect at the time of installation.

(L) *Liability.* No building permit shall be issued for the construction of a WECS until and unless the applicant for the building permit deposits with the Clerk-Treasurer a policy of liability insurance indemnifying applicant from liability for personal injury or property damage in the sum of at least \$500,000. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least 10-days' written notice to the Clerk-Treasurer before cancellation thereof, the building permit to be automatically revoked upon the lapse or termination of said policy.

(1981 Code § 10.25) (Ord. 273, 3rd Series, passed - -2003)

HOME OCCUPATIONS**§ 152.380 HOME OCCUPATIONS.**

(A) The activity must be clearly secondary to the principle use as a residence.

(B) Not more than 25% of the floor area of the main building shall be devoted to such activity, and in no case more than a total of 400 square feet on any premises.

(C) No one other than a member of the family residing on the premises shall be employed on the premise in the conduct of the activity.

(D) There shall be no signs, other than 1 non-illuminated sign not exceeding 2 square feet in area attached to the building, and no displays or alterations to the exterior of the building that would distinguish it as being devoted to any non-dwelling use.

(E) No mechanical equipment or machinery shall be used in the conduct of the activity that produces noise, smoke, odor, vibration or other effects discernable beyond the property lines.

(F) No outside storage shall be permitted.

(G) No stock-in-trade shall be displayed so as to be visible from any street.
(1981 Code § 10.26) (Ord. 273, 3rd Series, passed - -2003)

SIGNS**§ 152.390 GENERAL PROVISIONS.**

(A) *Permit.* Except as otherwise provided in this subchapter, any person wishing to erect a sign shall first obtain a permit from the city. Application shall be made to the building official on forms provided by the city. At the time of application, the applicant shall pay a fee based on valuation as set forth by the permit fee schedule.

(1) At the request of the building official, 2 blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground shall be submitted with the application.

(2) At the request of the building official, a copy of stress sheets and calculations showing how the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and city code provisions shall be submitted with the application.

(3) If a complete sign permit application is found by the building official to be consistent with this subchapter, the permit shall be granted.

(4) Each permit issued shall be valid provided the sign is installed within 6 months of permit issuance.

(B) *Building permits.* No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all requirements of these regulations have been fully met.

(C) *Non-conforming.*

(1) *Non-conforming signs.* Any permanent, non-abandoned sign which does not comply with this subchapter shall be allowed to continue after the effective date of this subchapter, provided, that the sign support structure not be rebuilt (excluding general maintenance), altered, replaced or relocated; and further provided that the advertising message not be changed or altered.

(2) *Non-conforming billboards.* Non-conforming billboards shall retain legal non-conforming status if only the sign sheet or changeable letter or symbols are altered or replaced. However, if the sign board or sign support structure is rebuilt or replaced, the entire non-conforming billboard must comply with this subchapter.

(3) *Non-exempt temporary signs.* Any non-exempt temporary sign must comply with this subchapter upon adoption. Any temporary sign existing upon the effective date of this subchapter shall be removed within 30 days. A temporary sign may be continued subject to the requirements of § 152.392(I).

(D) *Abandoned signs.* Any sign that advertises any activity, business, product or service no longer conducted or available on the site on which the sign is located is prohibited. Any sign which is located on property which becomes vacant and unoccupied for a period of 3 months or more or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of 6 months. Abandoned signs shall be removed by the owner of the sign or owner of the premises within 30 days of abandonment. All sign supports and structure shall also be removed, except that pylon structures may be allowed to remain. Failure to remove the sign shall be cause for the city to remove such sign and to charge the property owner for such removal. Any abandoned sign existing upon the effective date of this subchapter shall be removed within 30 days.

(E) *A comprehensive sign plan.* A comprehensive sign plan shall be provided for business premises which occupy a shopping center, industrial park, or scenic area development. Such a plan, which shall include the location, size, height, lighting and orientation of all signs shall be submitted for preliminary

plan approval regulations to the planning commission. Provided such a comprehensive plan is presented, exceptions to the sign performance standards of this Section may be permitted if the sign areas and densities for the plan as a whole are in conformity with the intent of this Section and if such exception results in an improved relationship between the various parts of the plan.

(F) *Appeals*. Any decision of the city regarding enforcement or application of this subchapter may be appealed in accordance with §§ 152.020 *et seq.*

(1981 Code § 10.27, Subd. 1) (Ord. 273, 3rd Series, passed - -2003)

§ 152.391 SAFETY, VISIBILITY, AND NUISANCE PROVISIONS.

(A) *Maintenance and repair*. Every sign, including, but not limited to, those signs for which no permits or permit fees are required, shall be maintained in a safe, presentable and good structural material condition at all times, including the replacement of defective parts, painting, repainting, cleaning, and maintaining the immediate surrounding premises in a clean, sanitary, and inoffensive condition free of obnoxious substances, rubbish, and weeds. Signs in good repair are not corroded, do not have deteriorated paint of finished surfaces, and do not have loose members, broken parts, or similar deterioration.

(B) *Dangerous or defective signs*. It is unlawful for any person to maintain or permit to be maintained on any premises owned or controlled by him any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the sign or the owner of the premises.

(C) *Traffic and visibility and safety*. No sign shall, by reason of its location, color, illumination, or intensity, obstruct vision of drivers or pedestrians or obscure visibility of any traffic control device, sign, or signal. Illumination must be effectively shielded so as not to impair vision of any operator of a motor vehicle. Illumination with flashing lights is prohibited. Any sign which imitates or resembles an official traffic sign or signal or which bears the words Stop, Go Slow, Caution, Danger, Warning, or similar words is prohibited.

(D) *Unlawful signs*. It is unlawful to erect any sign which bears or contains statements, words, or pictures of an obscene, pornographic, immoral character. It is also unlawful to erect any sign which emits audible sound, odor, or visible matter. It is also unlawful to place, erect or post any sign in a street right-of-way.

(1981 Code § 10.27, Subd. 2) (Ord. 273, 3rd Series, passed - -2003)

§ 152.392 SIGN PERFORMANCE STANDARDS; BUSINESS AND INDUSTRIAL DISTRICTS.

(A) *Marquees (or canopies) and awnings.*

(1) *Maximum projection over public sidewalk.* Sixty percent of the distance between the building line and the curb line in C-1 zone. In all other areas, no canopy projection over public right-of-way shall be permitted.

(2) *Minimum clearance above grade.* Clearance above grade less than 8 feet; no projection is permitted. Clearance above grade over 8 feet; 1-inch projection is permitted for each additional inch of clearance.

(3) *Maximum length.* A marquee projecting more than 2/3 of the distance from the property line to the curb line shall not exceed 25 feet in length along the direction of the street.

(4) *Maximum area for signs affixed to marquee or awning fascia (non-suspending.)* One square foot per linear foot of business frontage figured as part of wall area as defined in aggregate sign area in division (F).

(B) *Freestanding signs.*

(1) *Maximum sign area (in square feet) and height (in feet.)*

<i>Lot Area</i>	<i>Pylon Sign</i>		<i>Ground Sign</i>	
	<i>Max. Ht.</i>	<i>Max. Area</i>	<i>Max. Ht.</i>	<i>Max. Area</i>
Less than 6,000	20	50	5	50
6,000–12,000	24	80	6	100
12,000–24,000	28	120	7	150
24,000–48,000	32	160	8	175
More than 48,000	36	180	9	200

(2) *Maximum number per business.* One per 300 feet of business lot frontage. (One for frontage up to 300 feet with additional sign allowed for every 300 feet beyond initial 300-foot frontage.)

(3) *Minimum setback, pylon.* Pylon structure shall be situated within lot line boundaries. In all zoning areas, no sign attached to a pylon structure shall project over the public right-of-way.

(4) *Minimum setback, ground sign.* Three feet from lot lines in C-1 and C-2. Five feet from lot lines in all other areas.

(C) *Building face sign maximum.*

- (1) Two square feet per linear foot of business frontage.
- (2) One square foot for each front foot of building siding on a street (side of corner lot.)
- (3) One square foot for each linear foot of building rear, viewable by pedestrians or vehicular traffic.
- (4) Maximum area for any building face sign shall be 100 square feet in C-1 and 180 square feet in Highway Commercial and Industrial Districts.

(D) *Suspended sign.* Not permitted.

(E) *Projecting signs.* Not permitted.

(F) *Combination of signs and maximum aggregate sign area.* Maximum aggregate sign area of all signs on premise (except for exempt signs): 2 square feet per linear foot of business frontage plus 1 square foot for each linear foot on side street plus 1 square foot for each linear foot of building rear viewable by pedestrian or vehicular traffic and having a public entrance. For purpose of calculating the maximum aggregate sign area for 1 side of a building, only the maximum area for that side of the building may be used. The maximum allowable areas for all sides of a building shall not be added together to determine the maximum area for 1 side.

(G) *Billboard industrial areas only.*

- (1) Billboards are hereby confined to areas abutting federal highways located in C-2, I-1 or I-2 Districts.
- (2) Maximum area: 350 square feet.
- (3) Minimum height: 12 feet from bottom of billboard.
- (4) Minimum setback from highway right-of-way: 45 feet.
- (5) Minimum spacing: They shall be spaced a minimum of 750 feet apart along any 1 side of a highway, no closer than 600 feet to residential and installed on a single pole pylon.

(H) *Signs by conditional use permit.* Wall graphic, billboard.

(I) *Signs by temporary (30-day) use permit.* Portable signs or banners: A temporary sign permit may be granted for 30 days. The owner of the sign or owner of the premises may apply for up to 2 temporary 30-day permits per year. All temporary signs shall be designed, constructed and installed in conformance to wind load requirements as stated in the building code. (1981 Code § 10.27, Subd. 3) (Ord. 273, 3rd Series, passed - -2003)

§ 152.393 SIGN PERFORMANCE STANDARDS; RESIDENTIAL AREAS.

(A) *Maximum area-wall signs.*

- (1) Single-family to 4-plex identification signs (such as address and/or name plates): 2 square feet.
- (2) Identification sign for multi-family building of 5 or more units: 8 square feet.
- (3) Identification sign for schools and churches: 1 square foot per each 1 foot of building frontage.

(B) *Maximum area; freestanding signs.*

- (1) Identification sign for multi-family buildings of 5 or more units, schools and churches: 32 square feet.
- (2) Identification signs and construction signs used at residential subdivisions and development project sites: 32 square feet.

(C) *Maximum height (freestanding signs.)*

- (1) Identification sign for multi-family buildings of 5 or more units, churches, schools, and remodeling construction projects: 12 feet.
- (2) Identification signs and construction signs for residential subdivisions and other development project sites: 12 feet.
- (3) Minimum setback from street: 5 feet from property line for any part of the sign.

(D) *Maximum number of signs.*

- (1) Single-family–multiple-family wall identification signs: 1 per building.
- (2) Multi-family building, church, and school freestanding identification signs.: 1 per 150 feet of lot frontage. (One freestanding sign allowed for frontage up to 150 feet; 1 additional freestanding sign allowed for each additional 150 feet frontage beyond the initial 150 feet.)

(3) Identification signs and construction signs for residential subdivisions and other new development projects: 1 per 500 feet of lot frontage. (One freestanding sign for each frontage up to 500 feet, then 1 additional sign for each additional 500 feet frontage beyond initial 500 feet.) (1981 Code § 10.27, Subd. 4) (Ord. 273, 3rd Series, passed - -2003)

§ 152.394 PROHIBITED SIGNS.

(A) Abandoned sign.

(B) Animated sign.

(C) Flashing sign.

(D) Indexing sign: Sign having multi-prisms that turn to show 3 advertising messages in the same sign area.

(E) Projecting signs: Sign erected on private property projecting over public property except signs physically a part of canopies and marquees.

(F) Roof sign: Except for a sign that forms a parapet wall above the roof line, is flush with or set back from the building face, does not cause the overall height of the building (including the sign) to exceed the height limitation for principal buildings in subject zoning district, and does not exceed the maximum area for a building face sign.

(G) Rotating ground sign.

(H) Advertising signs painted on the side or roof portion of any building.
(1981 Code § 10.27, Subd. 5) (Ord. 273, 3rd Series, passed - -2003)

§ 152.395 EXEMPT SIGNS.

The following signs are generally exempt from provisions of this subdivision, with exceptions as noted.

(A) *Directional or instructional signs.* Signs which provide direction or instruction and are located entirely on the property to which they pertain and do not in any way advertise a business and do not exceed 4 square feet in area, signs identifying rest rooms, public telephones, walkways, or signs providing direction such as parking lot entrance and exit signs and those of similar nature.

(B) *Flags.* The flags, emblems, or insignia of any nation or political subdivision or corporate flag. Flag poles, however, shall not exceed a height of 30 feet.

(C) *Governmental signs.* Governmental signs for control of traffic and other regulatory purposes, street signs, danger signs, railroad crossing signs, and signs of public service companies indicating danger and aids to service and safety which are erected by or on the order of, a public officer in the performance of his or her public duty.

(D) *Integral building signs.* Signs lettered into a building face to give the name and/or date of construction of the building itself.

(E) *Interior signs.* Signs located within the interior of any building or within an enclosed lobby or court of any building, and signs for and located within the inner or outer lobby, court or entrance of any theater, that are not visible from the public right-of-way. This does not, however, exempt such signs from the structural, electrical, or material specifications as set out in this subchapter.

(F) *Memorial signs.* Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other incombustible material.

(G) *Notice bulletin boards.* Notice bulletin boards not over 24 square feet in area for medical, public, charitable or religious institutions and clustered service club signs where the same are located on the premises of said institution.

(H) *No Trespassing or No Dumping signs.* No Trespassing or No Dumping signs not to exceed 1½ square feet in area per sign and not exceeding 4 in number per lot, except that special permission may be obtained from the Administrator for additional signs under proven special circumstances.

(I) *Public notices.* Official notices posted by public officers or employees in the performance of their duties.

(J) *Public signs.* Signs required or specifically authorized for a public purpose by any law, statutes or City Code provisions; which may be of any type, number, area, height above ground, location, illumination, or animation, required by law, statute or city code provision under which the signs are erected.

(K) *Permanent window signs.* Except in residential zones, not more than 2 permanent signs (for each occupant of a building) may be painted on or otherwise displayed from the inside surface of any window, showcase, or other similar facility. Said signs shall be in addition to those signs permitted under the other provisions of this subchapter. The total copy area of such signs, however, shall not exceed a maximum of 25% of the total window area, or 1 square foot per lineal front foot of the premises occupied, whichever is the lesser.

(L) *Signs in the display window.* Signs in the display window of a business use which are incorporated with a display of merchandise of a display relating to services offered which comply with division (K) above.

(M) *Symbols or insignia.* Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies, provided that no such symbol, plaque, or identification emblem shall exceed 4 square feet in area, and provided further that all such symbols, plaques and identification emblems shall be placed flat against a building.

(N) *Temporary signs for civic, philanthropic, educational, or religious activities.* Temporary signs not exceeding 4 square feet in area pertaining to drives or events of civic, Philanthropic, educational, or religious organizations, provided that said signs are posted only during said drive or no more than 30 days before said event and are removed no more than 15 days after an event.

(O) *Warning signs.* Signs warning the public of the existence of danger, but containing no advertising material, of a size as may be necessary to be removed upon subsidence of danger.

(P) *Real estate signs.* Signs advertising property for sale and containing the name, address and phone number of the real estate firm or seller. The area of each real estate sign, however, shall be limited to 10 square feet. The number of real estate signs erected per property shall be limited to the number of real estate firms or sellers of the property. Maximum height of said sign shall be 4 feet.

(Q) *Campaign signs.* Signs advertising a particular candidate for political office. The area of such sign, however, shall be limited to 5 square feet, a 4-foot height, and may be posted from August 1 in general election year until 10 days following the general election. Such signs may not be placed, erected or posted in any street right-of-way.

(R) *Construction sign.* Small scale remodeling or rehab. Signs advertising the contractor working on a remodeling or rehab job for a single building rather than a major site redevelopment or new site construction such as a new subdivision or new commercial/industrial facility. Signs advertising a contractor or such small-scale rehab or remodeling projects shall be exempt from the sign permit process. However, such signs shall not exceed 6 square feet or 4 feet in height, nor shall they be set back less than 5 feet from the property line.

(1981 Code § 10.27, Subd. 6) (Ord. 273, 3rd Series, passed - -2003)

§ 152.999 PENALTY.

(A) *Violations.* The violation of any provision of this chapter or the violation of the conditions or provisions of any permit issued pursuant to this chapter shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to fine or imprisonment or both, as set forth in Minnesota Statutes, plus in either case, the cost of prosecution.

(B) *Penalties.* Unless otherwise provided, each act of violation and every day in which such violation occurs or continues constitutes a separate offense.

(C) *Application to city personnel.* The failure of any officer or employee of the city to perform any official duty imposed by this chapter shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

(D) *City Attorney.* The City Attorney shall have the authority to issue citations to a person or entity who violates, fails to comply with, or assists, authorizes or permits violation of any provision of this chapter.

(E) *Denial of application, revocation of permit.* Any violation of this chapter for which a citation has been issued shall constitute sufficient grounds for denial of any application required by this chapter or revocation of a permit that is related to the violation.

(F) *Injunction.* In the event of a violation or the threatened violation of any provision of this chapter, or any provision or condition of a permit issued pursuant to this chapter, the city, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.

(G) *Other actions.* Nothing in this section shall prevent the city from taking such other actions as are permitted under law, and the penalties provided here shall be cumulative.
(1981 Code § 10.02, Subd. 8) (Ord. 273, 3rd Series, passed - -2003)

CHAPTER 153: STORM WATER MANAGEMENT

Section

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§ 153.01 STATEMENT OF INTENT.

(A) This chapter sets forth uniform requirements for storm water pollution prevention plans within the city and its extraterritorial jurisdiction. It is the intent of the City Council that the requirements and standards contained in this chapter comply with all applicable local, state and federal laws.

(B) In the event of any conflict between the provisions of this chapter and the provisions of a erosion and sediment control, shoreland protection, or floodplain ordinance, or other regulations adopted by the city, county, Water Resource District, state or federal authorities, the more restrictive standard prevails.

(C) The objective of this chapter are:

(1) To promote, preserve, and enhance the natural resources within the City of East Grand Forks and its extraterritorial jurisdiction;

(2) To protect and promote the health, safety, and welfare of the people and property through effective storm water management practices;

(3) To protect the city's natural resources from adverse impacts occasioned by development or other activities;

(4) To regulate land disturbing, or other activities that may have an adverse and potentially irreversible impact on water quality and environmentally sensitive lands;

(5) To minimize conflicts and encourage compatibility between land disturbing and development activities and environmentally sensitive issues (i.e. land, water, habitat, etc.);

(6) To require detailed review standards and procedures for land disturbing activities that may have an adverse and potentially irreversible impact on water quality and environmentally sensitive lands;

(7) To provide for adequate construction site storm water runoff control and appropriate storm water runoff design as necessary to protect public and private property, water quality, and existing natural resources. This chapter establishes and provides for the following storm water pollution prevention plan criteria:

(a) The regulation of development through the issuance of storm water permits and through the enforcement of general storm water drainage requirements throughout the city, it also authorizes inspection and enforcement activities, and provides for the setting of applicable fees for the equitable distribution of prevention program established herein.

(b) Penalties for violating the provisions of this chapter, and the orders, rules, regulations and permits issued hereunder.

(c) Applies within the city limits of the City of East Grand Forks, Minnesota, and its extraterritorial jurisdiction. Except as otherwise provided, herein, the City Engineer shall administer, implement, and enforce the provisions of this chapter.

(Ord. 298, 3rd Series, passed 2-20-2007)

§ 153.02 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, and their derivatives, shall have the meaning as stated below. When inconsistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word **SHALL** is always mandatory and the word **MAY** is always permissive.

APPLICANT. Any person wishing to perform any land disturbing activity or obtain a conditional use permit or detailed development plan approval.

BMP'S. Measures designed to:

(1) Prevent pollutants from leaving a specific area;

- (2) Reduce/eliminate the introduction of pollutants;
- (3) Protect sensitive areas; or
- (4) Prevent the interaction between precipitation and pollutants.

CITY. The geographic limits of the City of East Grand Forks or the City Council of the City of East Grand Forks.

CITY ENGINEER. The City Engineer of the City of East Grand Forks or authorized agent.

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

CONVEYANCE STRUCTURE. A pipe, open channel, or other facility that transports runoff from one location to another.

COUNCIL. The City Council of the City of East Grand Forks.

DEVELOPER. A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.

EROSION. Any process that wears away at the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

EXTRATERRITORIAL JURISDICTION. Land within an area extending 2 miles beyond the East Grand Forks city limits.

FINAL STABILIZATION. All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 70% of the native cover for unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

FLOOD FRINGE. That portion of the floodplain outside of the floodway.

FLOODPLAIN. The area of land adjoining a watercourse, which have been, or hereafter may be covered by the regional flood.

FLOODWAY. The channel or the watercourse, and those portions of the adjoining floodplains, which are reasonably required to carry and discharge the regional flood.

HYDRIC SOILS. Soils that are saturated, flooded, or covered by water long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

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

LAND DISTURBING ACTIVITY. Any manmade change of the land surface including removing vegetative cover, excavating, filling, grading, construction or demolition of buildings, roads, parking lots, paved storage areas, and similar facilities but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens, pasturing or yarding of livestock and planting and harvesting trees.

MANAGEMENT PRACTICE. A practice or combination of practices to control erosion and water quality degradation.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. Any permit or requirement enforced by the Minnesota Pollution Control Agency pursuant to the Clean Water Act as amended for the purposes of regulating storm water discharge.

OUTLET. Any outlet including storm sewers and combined sewer overflows, into a watercourse, pond ditch, lake or other body of surface or groundwater.

OWNER or OCCUPANT. Any person owning or using a lot, parcel of land, or premises connected to and discharging storm water into the storm water system of the city, and who pays for and is legally responsible for the payment of storm water rates or charges made against the lot, parcel of land, building or premises, if connected to the storm water system or who would pay or be legally responsible for such payment.

PERMANENT DEVELOPMENT. Any buildings, structures, landscaping and related features constructed as part of a development project approved under a storm water permit.

PERMITTEE. Any person who applies for and receives a storm water permit from the city.

PERSON. Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant or property or agency, public or private.

PUBLIC DRAINAGE CHANNEL. A drainage channel located entirely within a naturally occurring or constructed watercourse.

PUBLIC STORM SEWER. A storm sewer located entirely within publicly owned land or easements and maintained by the city.

PRIVATE DRAINAGE CHANNEL. A drainage channel on privately-owned land or easements which eventually discharge into a public drainage channel or public storm sewer.

PRIVATE STORM SEWER. A storm sewer on privately-owned land or easements which eventually discharge into a public drainage channel or public storm sewer.

RUNOFF. The rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

SEDIMENT. Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice and deposited at another location.

SITE. The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the permit application.

STABILIZE. To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel or other measures.

STATE. The State of Minnesota.

STORM SEWER. A pipe or conduit for carrying storm waters, surface runoff, street and wash waters, and drainage, excluding sewage and industrial wastes.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A written description and/or drawing that indicates the number, locations, sizes, and other pertinent information about best management practice methods designed to meet the requirements of this chapter.

STORM WATER SYSTEM. Any storm sewer, open channel, pond, or conveyance structure located entirely within publicly owned land or easements and maintained by the city.

STRUCTURE. Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

URBAN AREA. Land associated with, or part of, an incorporated city.

WETLANDS. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following 3 attributes:

- (1) A predominance of hydric soils;

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

(3) Under normal circumstances support the prevalence of such vegetation.
(Ord. 298, 3rd Series, passed 2-20-2007)

§ 153.03 SCOPE.

(A) Every applicant for a subdivision approval greater than or equal to 1 acre, a building permit within a subdivision greater than or equal to 1 acre or a permit to allow land disturbing activities of greater than or equal to 1 acre must submit a storm water pollution prevention plan to the City Engineer. No building permit, subdivision approval, or permit to allow land disturbing activities of greater than or equal to 1 acre shall be issued until approval of the storm water pollution prevention plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of the section.

(B) Exemptions to the requirements of the section include:

(1) Any parcel for which a building permit has been approved on or before the effective date of this chapter:

(2) Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or

(3) Emergency work to protect life, limb, or property.

(4) Land disturbing activity involving less than 1 acre that is not required to submit a SWPPP as provided in division (A) above or § 153.07(B)(4) is not required to apply or to submit a storm water pollution prevention plan to the City Engineer, however construction must comply with BMP's or any existing permitted SWPPP for the subdivision and must comply with the Single Family Residential Construction Erosion/Sediment Control Standards.

(Ord. 298, 3rd Series, passed 2-20-2007)

§ 153.04 STORM WATER POLLUTION PREVENTION PLAN; APPLICATION.

(A) *Application.* A written application for storm water pollution prevention plan approval, along with the proposed storm water pollution prevention plan, shall be filed concurrently with the detailed development plan, site plan, building permit or subdivision application.

(B) *Copies.* Two sets of legible copies of the drawings and required information shall be submitted to the City Engineer and shall be accompanied by a receipt from the city to document the payment of all required fees for processing and approval as set forth in division (D) of this section. Plans shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed.

(C) *Contents of the storm water pollution prevention plan.* At a minimum, the storm water pollution prevention plan shall contain the following information:

(1) *For subdivision approval.* A map of existing site conditions showing the site and immediately adjacent areas, including:

(a) The name and address of the applicant, the section, township and range, and the north point, date and scale of drawing, and number of sheets;

(b) The location of the tract by an insert map at a scale sufficient to clearly identify the location of the property that provides such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, or other defining landmarks;

(c) Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than 2 feet and/or providing spot elevations;

(d) The 100-year flood plains, flood fringes, and floodways.

(2) *For site plan and/or detailed development plan approval.* A site construction plan shall be provided, including:

(a) All information as required in division (C)(1) of this section;

(b) Location and dimensions of the existing storm water drain systems and natural drainage patterns on and immediately adjacent to the site delineating the direction and the rate storm water is conveyed from the site, identifying the receiving stream, river, public ditch, or wetland, and identifying those areas of the unaltered site where storm water collects or passes;

(c) Locations and dimensions of all proposed land disturbing activities and any phasing or scheduling of those activities;

(d) Approximate locations of all temporary soil and dirt stockpile areas;

(e) Location and description of all construction site erosion control measures necessary to meet the requirements of this chapter;

(f) A schedule of anticipated starting and completion dates for each land disturbing activity, including the installation of construction site erosion control measures needed to meet the requirements of the chapter; and

(g) Provisions for maintaining the construction site erosion control measures prior to, during and after construction.

(D) *Fees.* All applications for storm water pollution prevention plan approval shall be accompanied by a processing and approval fee established by the City Council.
(Ord. 298, 3rd Series, passed 2-20-2007)

§ 153.05 STORM WATER POLLUTION PREVENTION PLAN; REVIEW.

(A) *Process.* Storm water pollution prevention plans meeting the requirements of § 153.04 shall be submitted to the City Engineer for review and compliance with the standards of § 153.06.

(B) *Duration.* The permit shall be in affect until the permittee requests termination of coverage and receives approval to terminate coverage from the City Engineer.

(1) Permittees wishing to terminate coverage must submit a Notice of Termination or other written request identifying the facility, reason why the permit is no longer needed and signed by the permittee. Compliance with the conditions of the storm water permit is required until a Notice of Termination is submitted.

(2) Permittees may only submit a Notice of Termination after 1 of the following conditions has been met.

(a) Final stabilization has been achieved on all portions of the site for which the permittee is responsible.

(b) Another operator/permittee has assumed control, in accordance with the requirements of § 153.07(B)(4), over all areas of the site that have not been finally stabilized.

(c) For residential construction only, temporary erosion protection and down gradient perimeter control for individual lots has been completed and the residence has been transferred to the homeowner. Additionally, the permittee must distribute a "homeowner fact sheet" to the homeowner to inform the homeowner of the need for, and benefits of, final stabilization.

(C) *Conditions.* A storm water pollution prevention plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this chapter are met. Such conditions may, among other matters, require replacement of vegetation, stage the work over

time, require alteration of the site design in insure buffering, the City Engineer may specify special requirements for specific watersheds within the city and its extraterritorial jurisdiction. Approval of a plan shall bind the applicant to perform all of the conditions and requirements of the plan prior to any land disturbing activities.

(Ord. 298, 3rd Series, passed 2-20-2007)

§ 153.06 STORM WATER POLLUTION PREVENTION PLAN; APPROVAL STANDARDS.

(A) *General.* This section describes approval standards against which proposed storm water pollution prevention plans will be measured. A storm water pollution prevention plan which fails to meet the standards contained in this section shall not be approved. In the event 2 or more standards issued by state and/or federal agencies having jurisdiction conflict, the more restrictive standard shall apply.

(B) *Applicant responsible for required permits.* It shall be the responsibility of the applicant to obtain any required permits from other local, state or federal governmental agencies having jurisdiction over the work to be performed.

(C) *Storm water pollution prevention plan design guidelines.* The storm water pollution prevention plan design guidelines shall conform to all of the current MPCA requirements as set forth in the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) General Stormwater Permit for Construction Activity.

(D) *Construction activities.*

(1) *Site dewatering.* Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site, the receiving channels, or any wetland.

(2) *Waste and material disposal.* All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland.

(3) *Tracking management.* Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to prevent sediment from being tracked onto public or private roadways. Any material reaching or placed on a public or private road shall be removed (not by flushing) before the end of each work day.

(4) *Water quality protection.* The construction contractor shall be required to control oil and fuel spills, and the discharge of any chemicals to prevent such spills or discharges from entering any water course, sump, sewer system, water body, or wetland.

(5) *Site erosion and sedimentation control.* Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications contained in the storm water pollution prevention plan design guidelines.

(E) *Storm water pollution prevention plan applicability.* A plan approved under this chapter runs with the land and is a condition of the site plan, building permit or subdivision approval. Any owner or subsequent owner of any parcel within the plat must comply with the plan or any approval, revision or modification of the plan.

(Ord. 298, 3rd Series, passed 2-20-2007) Penalty, see § 153.99

§ 153.07 STORM WATER POLLUTION PREVENTION PLAN; PERMITS.

(A) *Storm water pollution prevention.* It is unlawful to initiate land development, land disturbance greater than or equal to 1 acre without having first complied with the terms of this chapter.

(B) *Storm water pollution prevention permits.*

(1) *Mandatory permits.* Every applicant for a subdivision approval greater than or equal to 1 acre, a building permit within a subdivision greater than or equal to 1 acre or a permit to allow land disturbing activities of greater than or equal to 1 acre must submit a storm water pollution prevention plan to the City Engineer or a designated agent.

(2) *Permit application.* All persons subject to meeting the requirements for a mandatory storm water permit shall complete and file with the City Engineer or a designated agent an application in the form prescribed by the City Engineering Department and accompanied by fee established by the City Council. The permit application shall be accompanied by a storm water pollution prevention plan as prescribed under § 153.04. The City Engineer or a designated agent will evaluate the data furnished as part of the storm water pollution prevention plan, the City Engineer or a designated agent may issue a storm water permit subject to any terms and conditions deemed necessary.

(3) *Permit amendments.* Storm water permits may be amended only by a written request submitted by the permittee to the City Engineer or a designated agent. This request shall contain the reason for the change and documentation related to any additional impacts which may result from amendment approval. Amendment requests submitted prior to issuance of a storm water permit shall be considered part of the original submittal, Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines as used for the storm water permit applications under this chapter.

(4) *Permit transfer.* A storm water permit runs with the property it covers and is transferable to new owners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel. The new owner or operator must submit a written request for permit transfer/modification 7 days prior to assuming control of the site or commencing work on-site, or of the legal transfer, sale or closing on the property. The new owner or operator can implement the original storm water pollution prevention plan created for the site or develop, submit for approval and implement their own storm water pollution prevention plan. Permittee(s) shall ensure either directly or through coordination with other operators that their storm water pollution prevention plan meets all requirements of this chapter and that their activities do not interfere with another party's storm water pollution prevention plan.

(Ord. 298, 3rd Series, passed 2-20-2007) Penalty, see § 153.99

§ 153.08 ENFORCEMENT.

(A) *Inspection.* The City Engineer or a designated agent may inspect the best management practice of any permittee to determine compliance with the requirements of this chapter. A permittee shall allow the City Engineer or a designated agent to enter upon the premises at all reasonable hours for the purpose of inspection or record examination.

(B) *Notification.* Whenever the City Engineer or a designated agent finds that any person has violated or is violating this section, storm water permit and/or its conditions, or any prohibition, limitation or requirement contained herein, the City Engineer or a designated agent shall provide upon such person a written notice stating the nature of the violation. Within a time frame set by the City Engineer or a designated agent due to the nature of the violation, a plan for the satisfactory correction thereof must be submitted to the City Engineer or the designated agent. If a plan is not submitted to the City Engineer or the designated agent in the designated time frame the City Engineer or the designated agent may issue a stop work order until a satisfactory plan is submitted.

(C) *Appeals process.* If the violation is not corrected by timely compliance, the City Engineer or the designated agent may require any permittee who causes or allows a violation to a storm water permit to show cause before the City Administrator why the order of the City Engineer or the designated agent should not be upheld.

(D) *Owner responsible for removal and costs.* The discharge of deposited or eroded materials within the City of East Grand Forks and its extraterritorial jurisdiction shall be considered an offense and may result in an order to remove such materials. Removal of such material shall be at the owner's expense based on the properties from which they originated. The City Engineer or a designated agent shall serve upon such person a written notice stating a designated time frame after receiving the notice to take corrective action. Under the City Engineer's direction, if action is not completed in the designated time frame, the city will take corrective action and any cost of such corrective action shall be paid by the owner.

(E) For all land disturbing activity involving less than 1 acre that is not required to submit a SWPPP as provided in § 153.03(A) or § 153.07(B)(4), the City Building Inspector or a designated agent shall have all of the same authority conferred upon the City Engineer as expressed in this article to enforce compliance with this chapter.

(F) *Legal action.* If any person commences any land disturbing activities contrary to the provisions of this chapter, federal or state requirements or any order of the city, the City Attorney may commence action for appropriate legal and/or equitable relief. Any action commenced by the City Attorney shall be in addition to any other rent proceedings, penalties, fines, or remedies provided by law.

(Ord. 298, 3rd Series, passed 2-20-2007)

§ 153.99 PENALTY.

(A) *Fines.* Any person who is found to have violated an order of the City Engineer, Board of Appeals (City Administrator), or City Council, or the control authority, or who willfully or negligently failed to comply with any provision of this chapter, and the orders, rules, regulations, and permits issued hereunder, shall be fined not more than \$1,000 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(B) *Falsifying information.* Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this section shall, upon conviction, be punished by a fine of not more than \$1,000 per incident.

(Ord. 298, 3rd Series, passed 2-20-2007)