

**OSAKIS ZONING ORDINANCE  
TABLE OF CONTENTS**

		<b>Chapter - Page</b>
<b>Chapter 1 - Title and Application</b>		
SECTION		
1.01:	Title and Application	1-1
1.02:	Standard Requirements	1-2
1.03:	Prior Conditional Uses	1-2
1.04:	Uses Not Provided For Within Zoning Districts	1-2
1.05:	Separability	1-3
 <b>Chapter 2 - Rules and Definitions</b>		
SECTION		
2.01:	Rules of Grammar	2-1
2.02:	Definitions	2-1
 <b>Chapter 3 - Board of Adjustment and Appeals</b>		
SECTION		
3.01:	Board Designation	3-1
3.02:	Powers and Duties	3-1
3.03:	Applicability	3-1
3.04:	Procedures	3-1
3.05:	Stay of Proceedings	3-1
3.06:	Appeals	3-2
 <b>Chapter 4 - Amendments to Zoning Ordinance</b>		
SECTION		
4.01:	Initiate	4-1
4.02:	Application and Procedure	4-1
4.03:	Approvals Required	4-1
4.04:	Effective Date	4-1
4.05:	Criteria	4-1
 <b>Chapter 5 - Amendments to Comprehensive Plan</b>		
SECTION		
5.01:	Purpose	5-1
5.02:	Initiate	5-1
5.03:	Application and Procedure	5-1
5.04:	Criteria	5-1
5.05:	Map Change	5-1
5.06:	Compatibility Factors	5-2
5.07:	Supplemental Data	5-2
5.08:	Coordination with Other Plans	5-2
 <b>Chapter 6 - Variances</b>		
SECTION		
6.01:	Purpose	6-1
6.02:	Undue Hardship	6-1
6.025:	Practical Difficulties	6-1
6.03:	Application and Procedure	6-1
6.04:	Criteria	6-1
6.05:	Conditions	6-2
6.06:	Expiration of Variance	6-2
6.07:	Shoreland Management District	6-2
 <b>Chapter 7 - Conditional Use Permits</b>		
SECTION		
7.01:	Purpose	7-1
7.02:	Application and Procedure	7-1

		<b>Chapter - Page</b>
7.03:	Criteria	7-1
7.04:	Conditional Approval	7-2
7.05:	Lapse of Permit	7-2
7.06:	Shoreland Management District	7-2

### **Chapter 8 - Interim Uses**

#### **SECTION**

8.01:	Purpose and Intent	8-1
8.02:	Application and Procedure	8-1
8.03:	General Standards	8-1
8.04:	Termination	8-1

### **Chapter 9 - Zoning Application Procedures**

#### **SECTION**

9.01:	Scope	9-1
9.02:	Application	9-1
9.03:	Site Plan/Certificate of Survey	9-1
9.04:	Supplemental Data	9-2
9.05:	Pre-Application Meeting	9-3
9.06:	Incomplete Application	9-3
9.07:	Further Data	9-3
9.08:	Technical Reports	9-3
9.09:	Notice of Hearing	9-3
9.10:	Public Hearing	9-3
9.11:	Notice to Applicant	9-4
9.12:	Filing of Notice of Action	9-4
9.13:	Reconsideration	9-4
9.14:	Inspection	9-4
9.15:	Timeline	9-4
9.16:	Certification of Taxes Paid	9-4

### **Chapter 10 - Building Permits Required**

#### **SECTION**

10.01:	Building Permits Required	10-1
10.02:	Certificate of Survey Required – Property Pins Exposed, Project Staked	10-1
10.03:	Expiration and Extension of Building Permit	10-1
10.04:	Certification of Taxes Paid	10-1

### **Chapter 11 - Administrative Site and Building Plan Review (New Multiple Dwelling Apartment, Commercial and Institution Construction)**

#### **SECTION**

11.01:	Purpose	11-1
11.02:	General Provisions	11-1
11.03:	Information Requirement	11-1
11.04:	Enforcement	11-2
11.05:	Certification of Taxes Paid	11-2

### **Chapter 12 - Fees and Cost Recovery**

#### **SECTION**

12.01:	Purpose	12-1
12.02:	Schedule of Fees	12-1
12.03:	Base Zoning Fee	12-1
12.04:	Cost Recovery	12-1

### **Chapter 13 - Performance Agreement**

#### **SECTION**

13.01:	Purpose and Procedure	13-1
--------	-----------------------	------

**Chapter 14 – Enforcement and Penalties**

SECTION

14.01:	Enforcement	14-1
14.02:	Enforcement Procedure	14-1
14.03:	Correction of Zoning Violation	14-1
14.04:	Enforcement Remedies	14-1

**Chapter 15 – Nonconforming Buildings Structures and Uses**

SECTION

15.01:	Purpose	15-1
15.02:	Non-conforming Lots	15-1
15.03:	Non-conforming Uses or Structures	15-1
15.04:	Structural Changes	15-2
15.05:	Maintenance	15-2
15.06:	Restorations and Alterations Required By Law for the Benefit of Health, Safety and Welfare	15-2

**Chapter 16 - General Zoning District Provisions**

SECTION

16.01:	Establishment of Districts	16-1
16.02:	Zoning Map	16-1
16.03:	Zoning District Boundaries	16-1
16.04:	Appeals	16-1
16.05:	Annexations	16-1

**Chapter 17 - U-R, Urban Reserve District**

SECTION

17.01:	Purpose	17-1
17.02:	Permitted Uses	17-1
17.03:	Conditional Uses	17-2
17.04:	Interim Uses	17-3
17.05:	Accessory Uses	17-3
17.06:	Lot Area and Setback Requirements	17-3
17.07:	Lot Coverage and Height	17-4

**Chapter 18 - R-1, Low-Density Residential District**

SECTION

18.01:	Purpose	18-1
18.02:	Permitted Uses	18-1
18.03:	Conditional Uses	18-2
18.04:	Interim Uses	18-3
18.05:	Accessory Uses	18-3
18.06:	Lot Area and Setback Requirements	18-4
18.07:	Lot Coverage and Height	18-4
18.08:	Parking, Garages and Driveways	18-5
18.09:	Prohibited Buildings and Materials	18-5

**Chapter 19 - R-2, Medium to High Density Residential District**

SECTION

19.01:	Purpose	19-1
19.02:	Permitted Uses	19-1
19.03:	Conditional Uses	19-1
19.04:	Interim Uses	19-1
19.05:	Accessory Uses	19-2
19.06:	Lot Area and Setback Requirements	19-2
19.07:	Lot Coverage and Height	19-3
19.08:	Multiple Family Appearance	19-3

	<b>Chapter - Page</b>
<b>Chapter 20 - R-M, Residential Mobile Home District</b>	
SECTION	
20.01: Purpose	20-1
20.02: Permitted Uses	20-1
20.03: Accessory Uses	20-1
20.04: Application	20-1
20.05: Design Standards	20-2
<b>Chapter 21 - C-1, Central Business District</b>	
SECTION	
21.01: Purpose	21-1
21.02: Permitted Uses	21-1
21.03: Conditional Uses	21-2
21.04: Interim Uses	21-3
21.05: Accessory Uses	21-3
21.06: Height, Setback and Lot Coverage Requirements	21-3
21.07: Building Guidelines	21-4
<b>Chapter 22 - C-2, General Commerce District</b>	
SECTION	
22.01: Purpose	22-1
22.02: Permitted Uses	22-1
22.03: Conditional Uses	22-3
22.04: Interim Uses	22-4
22.05: Accessory Uses	22-4
22.06: Height, Setback and Lot Coverage Requirements	22-4
<b>Chapter 23 - C-3, Highway Commercial District</b>	
SECTION	
23.01: Purpose	23-1
23.02: Permitted Uses	23-1
23.03: Conditional Uses	23-3
23.04: Accessory Uses	23-4
23.05: Interim Uses	23-4
23.06: Height, Setback and Lot Coverage Requirements	23-4
23.07: Building Requirements	23-5
<b>Chapter 24 - I-1, General Industry District</b>	
SECTION	
24.01: Purpose	24-1
24.02: Permitted Uses	24-1
24.03: Conditional Uses	24-2
24.04: Interim Uses	24-2
24.05: Accessory Uses	24-2
24.06: Height, Setback and Lot Coverage Requirements	24-3
24.07: Building Requirements	24-3
<b>Chapter 25 - Planned Residential Development Overlay (PRDO)</b>	
SECTION	
25.01: Intent	25-1
25.02: General Requirements	25-1
25.03: Procedure for Processing	25-2
25.04: Data Required	25-6
25.05: Amendments and Administration	25-7
25.06: Operating and Maintenance Requirements for Common Open Space and Service Facilities	25-8
<b>Chapter 26 - Shoreland Management Overlay District (RESERVED)</b>	
	26-1

**Chapter 27 - Floodplain Management Overlay District**

SECTION

27.01:	Statutory Authorization, Findings of Fact and Purpose	27-1
27.02:	General Provisions	27-2
27.03:	Establishment of Zoning Districts	27-5
27.04:	Floodway District (FW)	27-6
27.05:	Flood Fringe District (FF)	27-6
27.06:	Procedures for Determining One Percent (1%) Annual Chance Flood Elevations (100-Year Flood Elevations) In Zone A	27-9
27.07:	Subdivisions	27-10
27.08:	Utilities, Railroads, Roads, and Bridges	27-10
27.09:	Manufactured Homes/Travel Trailers and Travel Vehicles	27-11
27.10:	Administration	27-12
27.11:	Nonconforming Uses	27-16
27.12:	Penalties for Violation	27-17
27.13:	Amendments	27-17

**Chapter 28 - Home Occupations**

SECTION

28.01:	Purpose	28-1
28.02:	Conditions	28-1
28.03:	General Provisions	28-1
28.04:	Procedures and Permits	28-2
28.05:	Requirements, Type I Home Occupation	28-2
28.06:	Requirements, Type II Home Occupation	28-3
28.07:	Non-Conforming Use	28-3
28.08:	Inspection	28-3
28.09:	Violations	28-3

**Chapter 29 - Sexually Oriented Businesses**

SECTION

29.01:	Purpose	29-1
29.02:	Definitions	29-1
29.03:	General Provisions	29-3
29.04:	Sexually Oriented Uses, Principal	29-4
29.05:	Sexually Oriented Uses, Accessory	29-4

**Chapter 30 - Signs**

SECTION

30.01:	Findings	30-1
30.02:	Purpose and Intent	30-1
30.03:	Effect	30-2
30.04:	Applicability	30-2
30.05:	Severability	30-2
30.06:	Substitution Clause	30-2
30.07:	Definitions	30-2
30.08:	Prohibited Signs	30-6
30.09:	General Regulations	30-7
30.10:	Exceptions	30-8
30.11:	Permitted Signs	30-9
30.12:	Temporary Signs	30-11
30.13:	Subdivision Signs	30-11
30.14:	Development Signs	30-12
30.15:	Electronic Variable Message Signs	30-12
30.16:	Permit Required	30-12
30.17:	Construction Requirements	30-13
30.18:	Violations/Penalty	30-13

<b>Chapter 31 - General Requirements</b>		<b>Chapter - Page</b>
SECTION		
31.01:	Purpose	31-1
31.02:	Dwelling Unit Restriction	31-1
31.03:	Building Restriction	31-1
31.04:	Height	31-2
31.05:	Yards	31-3
31.06:	Accessory Structures	31-3
31.07:	Encroachment of Easements	31-3
31.08:	Lighting and Glare	31-4
31.09:	Liquid Storage, Emission, Noise, Odors, Particulate Matter and Waste	31-4
31.10:	Outdoor Storage	31-4
31.11:	Excavation and Land Reclamation	31-6
31.12:	Elevation	31-6
31.13:	Erosion and Drainage	31-6
31.14:	Connection to Public Water and Sewer	31-7
31.15:	Site Triangle	31-7
31.16:	Landscaping and Screening	31-7
31.17:	Off-street Parking and Loading	31-8
31.18:	Residential Pools and Spas	31-13
31.19:	Telecommunication Facilities	31-13
31.20:	Fences and Retaining Walls	31-15
31.21:	Wind Energy Conversion Systems	31-16
31.22:	Outdoor Wood Boilers	31-19

## CHAPTER 1 - TITLE AND APPLICATION

### SECTION:

- 1.01: Title and Application
- 1.02: Standard Requirements
- 1.03: Prior Conditional Uses
- 1.04: Uses Not Provided For Within Zoning Districts
- 1.05: Separability

### 1.01: TITLE AND APPLICATION.

- A. Title: This title shall be known as the Osakis Zoning Ordinance, except as referred to herein, where it shall be known as “this Ordinance”.
- B. Intent and Purpose: The intent of this Ordinance is to protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. This Zoning Ordinance carries out the policies of the Osakis Comprehensive Plan by classifying and regulating the uses of land and structures within the City of Osakis. More specifically, it is the purpose of this Zoning Ordinance to:
  - 1. Guide the orderly growth and (re)development of the city, promote high quality urban design, and regulate land uses and the location and use of structures for residential, commercial, and other purposes consistent with the goals and policies of the Comprehensive Plan;
  - 2. Assist in providing a physical environment that provides for the housing, employment, business, service, recreational, social, cultural, educational and entertainment needs of the City and maintains and enhances a high quality of life for its residents;
  - 3. Provide a diversity of areas characterized by differing land use activities, scale and intensity, while maintaining neighborhood and community identity, and quality development;
  - 4. Respect the City’s environmental setting and constraints, and meet the needs of the City for adequate public services and infrastructure;
  - 5. Ensure the maintenance of property within the City by requiring each owner, occupant, or other person in charge of any property to keep it in good repair and in compliance with the provisions of this Ordinance;
  - 6. Maintain and enhance the City of Osakis’s small town character with a unique, distinctive and secure environment for the City’s residents and businesses; and
  - 7. Maintain a balance between residential and non-residential land uses and ensure compatibility of different land uses;
  - 8. To provide adequate light, air and convenience of access to property
  - 9. To prevent congestion in the public right-of-way and to prevent overcrowding of land and undue concentration of structures by regulating land, building, yards and density of population;
  - 10. To provide for administration of this Ordinance and to provide for amendments, prescribe penalties for violation of such regulations; and
  - 11. To define powers and duties of the City staff, the Board of Adjustment and Appeals, and the City Council in relation to this Ordinance.
- C. Relation to Comprehensive Plan: It is the policy of the City that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the

recommendations contained in the Osakis Comprehensive Plan as developed and amended from time to time by the City. The City recognizes the City Comprehensive Plan as the policy for responsibility to regulate land use and development in accordance with the policies and purpose herein set forth.

**1.02: STANDARD REQUIREMENTS.**

- A. Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the City, the Ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirements shall prevail.
- B. In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and welfare.
- C. All references within this development ordinance to other city, county, state, and federal regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility by the city for enforcement of county, state, or federal regulations. Furthermore, all references to other city, county, state, and federal regulations within this ordinance are intended to refer to the most current version and citation for those regulations. If such references are invalid due to repeal or renumbering, the new regulations intended to replace those cited, regardless of the citation, shall govern unless otherwise specified.
- D. No structure shall be erected, converted, enlarged, reconstructed, altered or moved, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.
- E. Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.
- F. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance (October 30, 2007) shall meet at least the minimum requirements established by this Ordinance.
- G. In their application, these regulations shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided that where the regulations of this Ordinance are more restrictive, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Ordinance shall be controlling.
- H. No error in a resolution approving a permit, or an omission of a requirement of this Zoning Ordinance from a resolution or other approval, shall affect the applicant's obligation to comply with all applicable provisions of this Zoning Ordinance.

**1.03: PRIOR CONDITIONAL USES.**

Any established use or building legally existing prior to the effective date of this Ordinance (October 30, 2007) and which is now classified as a conditional use may be continued in like fashion and activity and shall automatically be considered as having received conditional use permit approval. Any change to such a use, or any other subsequently approved conditional use shall, however, require a new conditional use permit be processed according to this Ordinance.

**1.04: USES NOT PROVIDED FOR WITHIN ZONING DISTRICTS.**

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the City Council, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, what zoning district would be most



appropriate and the determination as to conditions and standards relating to development of the use. The City Council or property owner, upon receipt of the Planning Commission study shall, if appropriate, initiate an amendment to this Zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

**1.05: SEPARABILITY.**

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

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

## CHAPTER 2 - RULES AND DEFINITIONS

### SECTION:

2.01: Rules of Grammar

2.02: Definitions

### 2.01: RULES OF GRAMMER.

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

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and the future tenses, and the future the present.
- C. The word "shall" is mandatory while the word "may" is permissive.
- D. The masculine gender includes the feminine and neuter.
- E. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition thereof.
- F. All measured distances expressed in feet shall be the nearest tenth of a foot.

### 2.02: DEFINITIONS.

This Chapter provides definitions of terms and phrases used in this Ordinance that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of this Zoning Ordinance. If a word is not defined in this Chapter, or other provisions of the Municipal Code, the most common dictionary definition is presumed to be correct. The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined unless the context in which they are used clearly requires otherwise:

**Abutting:** Making contact with or separated only by public thoroughfare, railroad, public utility right-of-way, or navigable waters.

**Accessory Building or Use:** A subordinate building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

**Adjacent:** Having a common endpoint or border or being in close proximity.

**Adult Day Care Facilities:** State-licensed facilities that provide non-medical care and supervision for more than six adults for periods of less than twenty-four hours.

**Addition:** A physical enlargement of an existing structure.

**Agent:** A person authorized in writing by the property owner to represent and act for a property owner in contacts with city employees, committees, Commissions, and the Council, regarding matters regulated by this Ordinance.

**Agriculture Uses:** Those uses commonly associated with the growing of product on farms, these include: field crop farming; pasture for hay, fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale in season of products grown on premises; and livestock raising and feeding, but not including fur farms, commercial animal feedlots, and kennels.

**Alley:** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street that is not intended for general traffic

circulation.

**Alteration:** Any construction or physical change in the internal arrangement of rooms or the supporting members of a structure, or a change in the external appearance of any structure, not including painting or ornamental changes.

**Animal 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. Open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and zoos, shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

**Animal Kennel:** Any place where three (3) or more domestic animals of one type, over six (6) months of age, are commercially kept, except hospitals, clinics, and other premises operated by a licensed veterinarian exclusively for the care and treatment of animals.

**Animal Unit (AU):** A unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this Ordinance, the following equivalents shall apply:

<u>Animal</u>	<u>AU Per Animal</u>
One mature dairy cow	1.40
One slaughter steer or heifer	1.00
One horse	1.00
One swine over 55 pounds	.40
One duck	.20
One sheep	.10
One swine under 55 pounds	.05
One turkey	.018
One chicken	.01

**Animals, Domestic:** House pets such as dogs, cats, and birds which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit from the City. In addition, it includes birds and rabbits normally sheltered outside the home.

**Animals, Farm:** Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as farm animals in the State of Minnesota.

**Animals, Wild:** Any ape, including chimpanzee, gibbon, gorilla, orangutan, or siamang, baboon, bear, bison, bobcat, cheetah, crocodile, coyote, deer, including members of the deer family such as elk, antelope and moose, elephant, ferret, fox, hippopotamus, hyena, jaguar, leopard, lion, lynx, monkey, ostrich, puma, also known as cougar, mountain lion or panther, rhinoceros, a snake which is poisonous or non-indigenous, or any constrictor snake, snow leopard, tiger, wolf, or other animal that is wild, ferocious, or vicious by nature, habit, disposition or character.

**Antenna:** Any structure or device used to collect or transmit Radio Frequency (RF) waves, including but not limited to directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whip antennas. Specific definitions related to antenna follow:

1. **Personal Wireless Service:** A device consisting of a metal, carbon fiber, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the support structure thereof.
2. **Public Utility Microwave:** A parabolic dish or cornucopia shaped electromagnetically reflective

or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications, and including the supporting structure thereof.

3. **Radio and Television, Broadcast Transmitting:** A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio or television programming, and including the support structure thereof.
4. **Radio and Television Receiving:** A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the supporting structure thereof.
5. **Satellite Dish:** A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses and including the support structure thereof. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television receive only) and satellite microwave antennas.
6. **Short-Wave Radio Transmitting and Receiving:** A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave radio communications, and including the supporting structure thereof.
7. **Support Structure:** Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.
8. **Temporary Mobile:** Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, also commonly referred to as a Cellular on Wheels (COW).
9. **Tower:** A self-supporting lattice, guyed or monopole structure constructed from grade which supports personal wireless service antennas. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

**Apartment:** A room or suite of rooms which is designed for, intended for, or occupied as a residence by a single family or an individual and is equipped with cooking facilities. Apartment includes dwelling unit and efficiency unit.

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

**Approval:** Includes both approval and approval with conditions

**Artificial Obstruction:** Any obstruction which is not a natural obstruction. (See definitions of Obstruction and Natural Obstruction.)

**Auto Parts Sales:** Stores that sell new automobile parts, tires, and accessories. May also include minor arts installation. Does not include tire recapping establishments, or businesses dealing exclusively in used parts.

**Automobile Repair, Major:** General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.

**Automobile Repair, Minor:** Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding twelve thousand (12,000) pounds gross weight, but not including any operation specified under "Automobile Repair, Major".

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

**Balcony:** A floor projecting from and supported by a structure without additional independent supports.

**Banks and Financial Services:** Financial institutions including: banks and trust companies; credit agencies; holding (but not primarily operating) companies; lending and thrift institutions; other investment companies; securities/commodity contract brokers and dealers; security and commodity exchanges and vehicle finance (equity) leasing agencies. See also, "Automatic Teller Machine," above.

**Basement:** That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling. (See definition of Story.)

**Bay:** Cantilevered area of a room.

**Bed & Breakfast:** An owner occupied single family residence that provides overnight accommodations to a limited number of visitors for a charge, not to exceed a stay of seven consecutive nights.

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

1. Part or all of the feature is located in a shoreland area.
2. The slope rises at least twenty-five (25) feet above the ordinary high water level of the water body.
3. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater.
4. The slope must drain toward the water body.

**Bluff Impact Zone:** A bluff and land located within twenty (20) feet from the top of a bluff.

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

**Boarding (House) Home, Foster Children:** A family dwelling where children out of their own homes are cared for.

**Broadcasting Studios:** Commercial and public communications uses including radio and television broadcasting and receiving stations and studios, with facilities entirely within buildings. Transmission and receiving apparatus, including antennas and towers, are included under the definition of "Telecommunications Facilities."

**Boundary Line:** Any line indicating the bounds or limits of any tract or parcel of land; also a line separating the various use districts as shown on the Zoning Map.

**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.

**Buildable Area:** The portion of a lot remaining after yards have been provided.

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

**Building Height:** A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deck line of a mansard roof, to the uppermost point on all other roof types.

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

**Building Material Stores:** Retail establishments selling lumber and other large building materials, where most display and sales occur indoors. Includes paint, wallpaper, glass, fixtures. Includes all building material stores which sell to the general public, even if contractor sales account for a major proportion of total sales. Includes incidental retail ready-mix concrete operations. Establishments primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in "Warehousing, Wholesaling and Distribution." Hardware stores are listed in the definition of "General Retail Stores," even if they sell some building materials.

**Building Permit:** A "building permit" is authorization from the City to commence construction and complete a structure in compliance with the plans approved by the City.

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

**Camping Trailers:** Shall mean any of the following:

1. **Camping Trailer:** A folded structure, mounted on wheels and designed for travel, recreation and vacation uses.
2. **Motor Home:** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed on an integral part of a self-propelled vehicle.
3. **Pickup Coach:** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
4. **Travel Trailer:** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer.

**Canopy:** An accessory roof-like structure, which is either attached to or detached from an allowable primary building; which is open on all sides, other than where attached; and, which is located over and designed to provide cover for entrances, exits, walkways, and approved off-street vehicle service areas.

**Carport:** A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on one or more sides.

**Cellar:** The portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

**Cemetery:** A parcel or tract of land used or intended to be used for the burial of the dead including columbariums, crematories, mausoleums and mortuaries when operated within the boundaries of such cemetery.

**Channel:** A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

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

**City Attorney:** The person designated by the City Council to be the City Attorney for the City of Osakis.

**City Building Official:** The person designation by the City Council to be the City Building Official for the City of Osakis.

**City Clerk:** The person designated by the City Council to be the City Clerk for the City of Osakis.

**City Council:** The governing body for the City of Osakis.

**City Engineer:** The person designated by the City Council to be the City Engineer for the City of Osakis.

**City Zoning Administrator:** The person designated by the City Council to be the Zoning Administrator for the City of Osakis.

**Clear Cutting:** The removal of an entire stand of trees.

**Clubs, Lodges, and Meeting Halls:** Permanent, headquarters-type meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for: business associations; civic, social and fraternal organizations; labor unions and similar organizations; political organizations; professional membership organizations; other membership organizations. Membership organization offices without member meeting facilities are instead classified under "Offices."

**Co-location:** The locating of wireless communications equipment from more than one provider on a single roof-mounted or structure-mounted facility.

**Commercial Motor Vehicle:** A motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle: has a gross vehicle weight of more than 26,000 pounds; has a towed unit with a gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds; is a bus; is of any size and is used in the transportation of hazardous materials, except for those vehicles having a gross vehicle weight of 26,000 pounds or less and carrying in bulk tanks a total of not more than 200 gallons of liquid fertilizer and petroleum products; or is outwardly equipped and identified as a school bus, except for school buses defined in Mn. Rules, Section 169.01, Subd. 6(5) as may be amended.

**Commercial Zoning District or Zone:** Any of the commercial zoning districts established by Chapter 16 (Zoning Districts Established).

**Commercial Recreation:** Bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, tavern, theater, indoor firearms range, boat rental, amusement rides, campgrounds, park, and similar uses.

**Commercial Use:** The principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services.

**Common Interest Development:** Any residential condominium, community apartment house, or stock cooperative.

**Common Open Space:** Any privately owned open space including private parks, nature areas, playgrounds, and trails, including accessory recreational buildings and structures which are an integral part of a development.

**Community Centers:** Multi-purpose meeting and recreational facilities typically consisting of one or more meeting or multi-purpose rooms, kitchen and/or outdoor barbecue facilities, that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.

**Comprehensive Plan:** The group of maps, charts and texts that make up the comprehensive long range plan of the City.

**Conditional Use:** A use, which because of special problems of control the use presents, requires

reasonable, but special, unusual and extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the City Comprehensive Plan.

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

**Condominium:** As defined by Civil Code Section 1351, a development where undivided interest in common in a portion of real property is coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map or parcel map. The area within the boundaries may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to any land except by easements for access and, if necessary, support.

**Congregate Care:** Congregate care housing facilities are multi-family residential projects reserved for senior citizens or the disabled, where each dwelling unit has individual living, sleeping, and bathing facilities, but where common facilities are typically provided for meals and recreation.

**Condominium:** A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes, Section 515.01 through 515.29.

**Construction Contractor's Yard:** An outdoor storage yard operated by a construction contractor for the storage of building materials and construction equipment.

**Convenience Store:** Retail stores of generally 3,500 square feet or less in gross floor area, which primarily carry prepackaged food and beverage products, but may also include other merchandise oriented to convenience shopping and travelers' needs.

**Convenience Food Establishment:** An establishment which serves food or in on disposable or edible containers in individual servings for consumption on or off the premises.

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

**Court:** An unoccupied open space other than a yard which is bounded on two (2) or more sides by the walls of the buildings.

**Crawl Space:** Shall have the definition given in the building code.

**Day Care Facility:** Any State licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habitation, rehabilitation, or developmental guidance on a regular basis, or periods of less than twenty-four (24) hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and other "non-residential programs" as defined by Minnesota Statutes, Section 245A.02, Subdivision 10.

**Deck:** Horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending above grade.

**Decorative Block:** A building block of cast concrete and aggregate rock that has a split-rock, brick-like, burnished, or ribbed texture on the side to be exposed, and is available in a variety of colors.

**Delicatessen:** A shop where ready to serve cold food, such as cooked meats, smoked fish, salads, relishes, etc. which are prepared in advance, is sold typically for consumption off the premises.

**Department Store:** A business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed and are exhibited and sold directly to the



customer for whom the goods and services are furnished.

**Deposition:** Any rock, soil, gravel, sand or other material deposited naturally or by man into a waterbody, watercourse, floodplain or wetlands.

**Detached:** Any structure that does not have a wall or roof in common with another structure on the same site.

**Development:** Any construction activity or alteration of the landscape, its terrain contour or vegetation, including the erection or alteration of structures. New development is any construction, or alteration of an existing structure or land use, or establishment of a land use, after the effective date of this Ordinance.

**Development Agreement.** A contract between the City and an applicant for a development project. A development agreement is intended to provide assurance to the applicant that an approved project may proceed subject to the policies, rules, regulations, and conditions of approval applicable to the project at the time of approval, regardless of any changes to City policies, rules, and regulations after project approval. In return, the City may be assured that the applicant will provide infrastructure, adhere to approval conditions and/or pay fees required by a new project.

**Development Plan:** A plan guiding the development of the property to the ultimate land use. The plan shall include but is not limited to: site analysis information, staging plan, grading plan, drainage plan and end use plan.

**Display (outdoor/outside):** A class of storage outside the principal building where merchandise is visible and may involve active sales as well as passive sales (where items can be taken inside for actual purchase). Outside display of merchandise may be temporary or permanent depending upon the conditions of the permit issued pursuant to this Chapter.

**Distribution Center:** A use where large volumes of commodities are received and organized for transport prior to final dispersal to the consumer. For the purpose of this definition a use shall be considered to be that area utilized for the distribution-related activities, not including office, laboratory or production space, of an individual occupant, owner or tenant of one or more structures or a portion thereof located on a single lot.

**District:** A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

**Diversion:** A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

**Dog Kennel:** Any place where more than three (3) dogs over six (6) months of age, are kept, except hospitals, clinics, and other premises operated by a licensed veterinarian exclusively for the care and treatment of animals.

**Domestic Animal Disclosure:** Any accessory building or portion thereof, accessory structure or area of any kind, including without limitation, pens, runs, kennels and domestic animal houses, that is principally used or designed for use as a place for keeping domestic animals. An electronic pet containment system is not considered a domestic animal enclosure.

**Draining:** The removal of surface water or ground water from land.

**Dredging:** To enlarge or clean out a waterbody, watercourse or wetland.

**Drive-In Establishment:** An establishment which accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed.

**Dry Cleaning:** See "Laundries and Dry Cleaning Plants" and "Personal Services."

**Duplex:** A residential structure containing two dwellings with one unit above the other.

**Duplex, Triplex, and Quad:** A dwelling structure on a single lot, having two (2), three (3), and four (4) units, respectively being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

**Dwelling:** A building or portion thereof, designated exclusively for residential occupancy, including one family, two family, and multiple family dwellings, but not including hotels, motels, boarding houses, mobile homes or trailers.

**Dwelling, Multiple (Apartment):** A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.

**Dwelling, Single Family:** A dwelling unit designed exclusively for occupancy by one family.

1. **Attached:** A dwelling which is joined to another at one or more sides by a party wall.
2. **Detached:** A dwelling unit not attached to another dwelling or structure.

**Dwelling, Two Family:** A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

1. **Double Bungalow:** A two family dwelling with two (2) units side-by-side.
2. **Duplex:** A two family dwelling with one unit above the other.

**Dwelling, Unit:** A residential building or portion thereof intended for occupancy by one family but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, tourist homes or trailers.

**Easement:** A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

**Efficiency Apartment:** A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets, or dining alcove.

**Elderly Senior Citizen Housing:** A public agency owned or controlled multiple dwelling building with open occupancy limited to persons over sixty (60) years of age.

**Elevator Penthouse:** An enclosure located on the top of a building which houses the working mechanisms of an elevator.

**Equal Degree of Encroachment:** A method of determining the location of encroachment lines so that floodplain land on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the floodplain along both sides of a stream for a significant reach.

**Essential Services:** The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings.

**Exterior Storage:** The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

**Extractive Use:** The use of the land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 through 93.51.

**Facade:** Any exterior elevation of a building.

**Family:** An individual or two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than three (3) persons not so related maintaining a common household and using common cooking and kitchen facilities.

**Farm:** A tract of land of ten (10) or more acres in size usually with a house and barn plus other buildings on which crops and often livestock are raised for a principal source of livelihood.

**Farm, Hobby:** A tract of land generally consisting of ten (10) or less acres in size with a house and accessory buildings on which crops and often livestock are raised but not as a principal source of income. A hobby farm shall not qualify for exemptions provided in this Ordinance for farms.

**Farmers' Market:** The temporary use of a site for the outdoor sales of food and farm produce items from vehicles.

**Farming:** Process of operating a farm for the growing and harvesting of crops which shall include those necessary accessory buildings, related to operating the farm, and the keeping of common domestic farm animals.

**Feasible:** Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

**Feedlot, Animal:** See Animal Feedlot.

**Fence:** A fence is defined for the purpose of this Ordinance as any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

1. **Fence, Boundary Line:** All fences located within five (5) feet of property line.
2. **Fence, Interior Yard:** All fences located five (5) feet beyond a property line.

**Filling:** The act of depositing any rock, soil, gravel, sand or other material so as to fill a waterbody, watercourse, or wetland.

**Firearm Sales:** Firearm sales include the retail sales of guns, ammunition, and related products and accessories.

**Flood:** A temporary rise in a stream flow or stage which results in inundation of the areas adjacent to the channel.

**Flood Frequency:** The average frequency, statistically determined, for which it is expected that a specific flood stage of discharge may be equaled or exceeded. By strict definition, such estimates are designated "exceedence frequency", but in practice the term "frequency" is used. The frequency of a particular stage or discharge is usually expressed as having a probability of occurring once within a specific number of years.

**Flood Fringe:** That portion of the floodplain outside of the floodway.

**Flood Profile:** A graph or a longitudinal plot of water surface elevation of a flood event along a reach of a stream or river.

**Floodplain:** The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

**Floodway:** The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood.

**Floor Area:** The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall

not include: basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The floor area of a residence shall not include the cellar area.

**Garage:** A structure for parking vehicles that is completely enclosed on four sides, with a solid roof.

**Garage, Private:** An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles and trucks not exceeding twelve thousand (12,000) pounds gross weight, of the family or families resident upon the premises, and in which no business service or industry is carried on.

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

**Garage Sale:** Any sale held for the purpose of selling, trading or otherwise disposing of unwanted household furnishings, personal goods or other tangible properties of a resident of the premises on which the sale is conducted in a residential zone.

**General Retail Stores:** Stores and shops selling many lines of merchandise. ~~These stores and lines of merchandise include:~~ (Approved May 6, 2013 under Ordinance #90)

**Governmental or Public Facilities:** Publicly owned structures used for the purposes of conducting city, county, state, or federal government business. These facilities include City Hall, and federal, state, or municipal equipment yards, fire and police stations, offices, recreation centers, sanitation facilities, schools, and similar facilities. Private commercial development projects leasing publicly owned land shall not be considered governmental or public facilities.

**Grade:** (Adjacent Ground Elevation) The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

**Grading:** Changing the natural or existing topography of land.

**Grand Opening:** An advertising event which has as its purpose, the promotion of a newly opened use, a change in the orientation of a use or reopening of a use following a remodeling, major renovation, or a management change.

**Grocery Store:** A retail business where the majority of the floor area open to the public is occupied by food products packaged for preparation and consumption away from the site of the store.

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

**Hardship:** The same as that term is defined in Minnesota Statutes, Chapter 462.

**Hazardous Waste:** Any refuse, sludge, or other waste material or combination of refuse, sludge, or other waste materials in solid, semi-solid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may: 1) cause or significantly contribute to an increase in mortality or an increase in serious or irreversible, or incapacitating reversible illness; or 2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, or transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammable, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

**Health/Fitness Facilities:** Fitness centers, gymnasiums, health and athletic clubs including any of the following: aerobics; indoor sauna, spa or hot tub facilities; indoor tennis, handball, racquetball, archery and shooting ranges and other indoor sports activities.

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

**Hotel:** A facility with guest rooms or suites, provided with or without meals or kitchen facilities, rented to the general public for overnight or other temporary lodging, typically less than thirty days. Also may include accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, meeting facilities, etc.

**Impervious Surface:** An artificial or natural surface through which water, air, or roots cannot penetrate.

**Incidental Business Activity:** A temporary activity conducted on the premises of a business such as a store, cafe, restaurant, bar, or night club, which is intended to attract additional customers to the primary business activity, otherwise draw attention to the primary business activity, or serve as a benefit for a non-profit organization not directly affiliated with the primary business activity. Examples include book readings and signings at bookstores, poetry readings at cafes, stand-up comedy performances at bars or night clubs, and similar activities.

**Incidental Use:** A use which is secondary to the primary use of a property and which does not intensify the use.

**Indoor Amusement/Entertainment Facilities.** Establishments not serving alcohol providing indoor amusement and entertainment services for a fee or admission charge, including: Four or more electronic games or coin-operated amusements in any establishment, or a premises where 50 percent or more of the floor area is occupied by amusement devices, are considered an electronic game arcade as described above; three or less machines are considered an accessory use to the primary use of the site.

**Industrial Use:** The use of land or buildings for the productions, manufacture, warehousing, storage or transfer of goods, products, commodities, or other wholesale items.

**Infectious Waste:** Laboratory waste, blood, regulated body fluids, sharps, and research animal waste that have not been decontaminated.

**Intensification of Use:** A change in the use of a structure or site, where the new use is required by Chapter 31 (General Requirements) to have more off-street parking spaces than the former use; or a change in the permitted operating characteristics of a use (for example, hours of operation), which generate more activity on the site.

**Intensive Vegetation Clearing:** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

**Interlock:** This is the painted line or barrier in a parking lot that separates two (2) facing rows of parking from one another.

**Intermittent:** A stream or portion of a stream that flows only in direct response to precipitation.

**Junk Yard:** An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto wrecking yard, but does not include uses established entirely within closed buildings.

**Land Reclamation:** The process of the re-establishment of acceptable topography (i.e., slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

**Laundries and Dry Cleaning Plants.** Service establishments engaged primarily in high volume laundry and garment services, including: power laundries (family and commercial); garment pressing and dry cleaning; linen supply; diaper service; industrial laundries; carpet and upholstery cleaners. Does not include coin-operated laundries or dry cleaning pick-up stores with limited dry cleaning equipment; see

“Personal Services.”

**Libraries and Museums.** Public or quasi-public facilities including aquariums, arboretums, art exhibitions, botanical gardens, historic sites and exhibits, libraries, museums, and planetariums, which are generally non-commercial in nature.

**Live/Work Facilities.** An integrated living unit and working space, occupied and utilized by a single housekeeping unit, in a nonresidential building, or commercial zoning district, or in a building specifically designed and constructed to provide live/work units.

**Lodging House:** A building other than a hotel, where the compensation for definite periods, lodging is provided for three (3) or more persons not of the principal family but not including a building providing this service for more than ten (10) persons.

**Lodging Room:** A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as one lodging room.

**Lot or parcel.** A recorded lot or parcel of real property under single ownership, lawfully created as required by the Subdivision Ordinance and city ordinances, including this Zoning Ordinance. Types of lots include the following.

1. **Corner Lot:** A lot located at the intersection of two or more streets, where they intersect at an interior angle of not more than 135 degrees. If the intersection angle is more than 135 degrees, the lot is considered an interior lot.
2. **Flag Lot:** A lot having access from the building site to a public street by means of private right-of-way strip that is owned in fee.
3. **Interior Lot:** A lot abutting only one street.
4. **Key Lot:** An interior lot, the front of which adjoins the side property line of a corner lot.
5. **Reverse Corner Lot:** A corner lot, the rear of which abuts a key lot.
6. **Through Lot:** A lot with frontage on two generally parallel streets.

**Lot Area:** Gross lot area is the total area included within the lot lines of a lot, exclusive of adjacent

**Lot Depth:** The average linear distance between the front and the rear lot lines or the intersection of the two side lot lines if there is no rear line. The Zoning Administrator shall determine lot depth for parcels of irregular configuration.

**Lot Width.** The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines. The Zoning Administrator shall determine lot width for parcels of irregular shape.

**Lot Area:** The area of a horizontal plane within the lot lines.

**Lot Area, Minimum:** Except as may be otherwise required by this Ordinance, the area of a horizontal place within the lot lines.

**Lot, Corner:** A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

**Lot, Frontage:** The narrowest lot boundary abutting a public street that meets minimum lot width requirements. If none of the boundaries abutting a public street meet minimum lot width requirements, then the lot frontage is the widest boundary abutting a street.

**Lot, Interior:** A lot, other than corner lot, including through lots.

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

**Lot Line, Front:** The lot line separating a lot from the street right-of-way along the lot frontage.

**Lot Line, Rear:** The lot line opposite and most distant from the lot frontage which connects the side lot lines.

**Lot Line, Side:** Lot lines extending away from the lot frontage, which connects the front and rear lot lines.

**Lot (Of Record):** A parcel of land, whether subdivided and/or otherwise legally described and recorded as of \_\_\_\_\_, or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one principal building or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage upon a street.

**Lot, Through:** A lot fronting on two (2) parallel streets.

**Lot, Triangular:** A lot in which the side lot lines converge into a single vertex. The vertex shall be deemed to be the rear lot line..

**Manufactured Home:** A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a 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 certification required by the secretary and complies with the standards established under Minnesota Statutes, Chapter 327.

**Manufactured Home Park:** Any site, lot, field, or tract of land upon which two (2) or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured homes park.

**Medical and Dental Clinic:** A structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.

**Medical Services – Clinics, Offices, and Laboratories:** Facilities primarily engaged in furnishing outpatient medical, mental health, surgical and other personal health services, but which are separate from hospitals, including: chiropractic offices; health management organizations (HMOs); medical and dental laboratories · medical, dental and psychiatric offices; out-patient care facilities; other allied health services and alternative health care services (e.g., acupuncture, etc.). Counseling services by other than medical doctors or psychiatrists are included under “Offices.”

**Medical Services – Hospitals:** Hospitals and similar facilities engaged primarily in providing diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, accessory retail uses and emergency heliports.

**Minerals:** Soil, clay, stone, sand and gravel and other similar solid material or substance to be mined from natural deposits.

**Mining:** All or any part of the process involved in the extraction of minerals by removing the overburden and extracting directly from the mineral deposits thereby exposed.

**Mixed Municipal Solid Waste:** Garbage, refuse, and other solid waste from residential, commercial,

industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining water, sludge, tree and agricultural wastes, tires, lead acid batteries, used oil and other materials, collected, processed, and disposed of as separate waste streams.

**Mixed-Use Project:** A project which combines both commercial and residential uses, where the residential component is typically located above the commercial.

**Model Home:** A home which is similar to others in a development and which is open to public inspection for the purpose of selling said other homes.

**Motel/Motor Hotel:** A building or group of detached, semi-detached or attached buildings containing guest rooms, or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests traveling by automobile.

**Monopole:** A structure composed of a single spire used to support antennae and related equipment.

**Mortuaries and Funeral Homes:** Funeral homes and parlors, where deceased are prepared for burial or cremation, and funeral services may be conducted.

**Motor Freight Terminal (Truck Terminal):** A building in which freight brought by motor truck is assembled and sorted for routing in intrastate and interstate shipment.

**Motor Fuel Station:** A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.

**Mounted:** Attached or supported.

**Multi-Family Dwellings:** A building or a portion of a building used and/or designed as residences for three or more families living independently of each other. Includes: triplexes, fourplexes (buildings under one ownership with three or four dwelling units, respectively, in the same structure) and apartments (five or more units under one ownership in a single building); townhouse development (three or more attached single-family dwellings where no unit is located over another unit); and senior citizen multi-family housing; see also "Common Interest Development."

**Municipal Code (See also City Code):** The City of Osakis City Code, as it may be amended from time to time by the Council.

**Natural Drainage System:** All land surface areas which by nature of their contour configuration, collect, store and channel surface water runoff.

**Natural Obstruction:** Any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within a waterbody, watercourse, or wetland by a non-human cause.

**Nightclubs and Bars:** Any bar, cocktail lounge, discotheque, or similar establishment which provides live entertainment (music and/or dancing, comedy, etc.) in conjunction with alcoholic beverage sales. Includes bars, taverns, pubs, karaoke bars, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery.

**Nonconforming Parcel:** A parcel that was legally created prior to the adoption of this Zoning Ordinance and which does not conform to current code provisions/standards (e.g., access, area or width requirements, etc.) prescribed for the zoning district in which the parcel is located.

**Nonconforming Sign:** A sign which lawfully existed prior to the effective date of this Ordinance, or any amendment thereto, but which fails by reason of such adoption or amendment to conform to all of the standards and regulations of the adopted or amended provision.



**Nonconforming Structure:** A structure that was legally constructed prior to the adoption of this Ordinance and which does not conform to current code provisions/standards (e.g., open space, distance between structures, etc.) prescribed for the zoning district in which the structure is located.

**Nonconforming Use:** A use of a structure (either conforming or nonconforming) or land that was legally established and maintained prior to the adoption of this Ordinance and which does not conform to current code provisions governing allowable land uses for the zoning district in which the use is located.

**Obstruction (Floodplain):** Any storage of material, or equipment, any dam, wall, wharf, embankment, levee, road, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, deposit, clearing of trees or vegetation, structure or matter in, along, across, or projecting, in whole or in part, into any floodplain.

**Occupancy:** All or a portion of a structure occupied by one tenant.

**Offices:** This Ordinance distinguishes between the following types of office facilities. These do not include: medical offices (see “Medical Services – Clinics, Offices and Laboratories”); or offices that are incidental and accessory to another business or sales activity that is the primary use. Incidental offices that are customarily accessory to another use are allowed as part of an approved primary use.

1. **Administrative/Business.** Establishments providing direct services to consumers, such as insurance and travel agents, real estate offices, utility company offices, etc.
2. **Government.** City, and other local, state, and federal government agency or service facilities. Includes post offices.
3. **Production:** Office-type facilities occupied by businesses engaged in the production of intellectual property. These uses include: advertising agencies; media postproduction services; architectural; engineering; planning and surveying services; photography and commercial art studios; computer software production and programming services writers and artists offices; educational, scientific and research organizations.
4. **Professional:** Professional offices including: accounting; auditing and bookkeeping services; detective agencies and similar services; attorneys; employment; stenographic; secretarial and word processing services; counseling services; literary and talent agencies; court reporting services; management and public relations services and data processing services.
5. **Temporary:** A mobile home, recreational vehicle or modular unit used as a temporary office facility. Temporary offices may include: construction supervision offices on a construction site or off-site construction yard; a temporary on-site real estate office for a development project; or a temporary business office in advance of permanent facility construction.
6. **Temporary Real Estate:** The temporary use of a dwelling unit within a residential development project as a sales office for the units on the same site, which is converted to residential use at the conclusion of its office use.

**Off-site:** An activity or accessory use that is related to a specific primary use, but is not located on the same legal parcel as the primary use.

**On-site:** An activity or accessory use that is related to a specific primary use, which is located on the same legal parcel as the primary use.

**Open Fencing:** A barrier constructed of material which is at least 50 percent transparent, such as glass, wood pickets, plastic panels or wrought iron.

**Open Space, Common:** Unroofed areas of a developed site that are available for active and/or passive recreational use by residents of a multi-family residential project.

**Open Space, Private:** Unroofed areas of a developed site that are available for active and/or passive recreational use by residents of an individual dwelling unit and are clearly defined and separated from

“public” areas of the site by fencing and/or building walls.

**Outdoor Commercial Recreation:** Facilities for various outdoor participant sports and types of recreation where a fee is charged for use, including: · amphitheatres · stadiums and coliseums · amusement and theme parks · swim and tennis clubs · health and athletic club outdoor facilities · tennis courts · miniature golf courses · water slides · skateboard parks · zoos May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, etc. Does not include parks and playgrounds, which are separately defined.

**Outdoor Dining.** A restaurant or other eating establishment where tables and seating are provided and food and/or beverages are served in outdoor areas with at least one open side.

**Outdoor Retail Sales, Temporary:** Temporary outdoor retail operations including: Christmas trees, pumpkins or the sale of other seasonal items farmers’ markets semi-annual sales of art/handcrafted items in conjunction with community festivals or art shows sidewalk or parking lot sales longer than one weekend retail sales from individual vehicles in temporary locations outside the public right-of-way

**Overgrown or Dead Vegetation:** Vegetation, including hedges, lawns, plants, shrubs, trees, and weeds that have not been cut or trimmed, or have died due to lack of maintenance or watering.

**Overlay Zoning District or Zone:** Any of the overlay zoning districts established by Chapter 16 (Zoning Districts Established).

**Off-Street Loading Space:** A space accessible from the street, alley or way, in a building or on the lot for the use of trucks while loading or unloading merchandise or materials.

**Open Sales Lot:** Any open land used or occupied for the purpose of buying, selling, and/or renting merchandise and for the storing of same prior to sale.

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

**Out-Patient Care:** Medical examination or service available to the public in a hospital. This service is provided without overnight care and shall be considered a separate, independent, principal use when combined or operated in conjunction with a hospital.

**Parking Space:** An area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

**Pedestrian-Oriented, Pedestrian Orientation:** Any physical structure or place with design qualities and elements that contribute to an active, inviting and pleasant place for pedestrians including:

1. Street furniture;
2. Design amenities related to the street level, including awnings;
3. Visibility into buildings at the street level;
4. Highly articulated facades at the street level with interesting uses of material, color, and architectural detailing;
5. Continuity of the sidewalk with a minimum of intrusions into pedestrian right-of-way;
6. Continuity of building facades along the street with few interruptions in the progression of

buildings and stores;

7. Signage oriented and scaled to the pedestrian rather than the motorist; and
8. Landscaping.

**Pedestrian-Oriented Use:** A use which is intended to encourage walk-in customers and which generally does not limit the number of customers by requiring appointments or otherwise excluding the general public. A pedestrian oriented use provides spontaneous draw from sidewalk and street due to intense and attractive visual interest, high customer turnover and intense social interaction.

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

**Person:** An individual, firm, partnership, association, corporation, or organization of any kind. Person also means an adult who is handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicap, and a child, whether handicapped or not, as defined by Minnesota Statutes, Section 245A.02, Subdivision 4.

**Personal Services:** Establishments providing non-medical services as a primary use, including: barber and beauty shops; shoe repair shops; clothing rental; dry cleaning pick-up stores with limited equipment; tailors; home electronics repair; tanning salons; laundromats (self-service laundries) and tattoo parlors. These uses may also include accessory retail sales of products related to the services provided.

**Pet Shops:** Retail stores selling birds, cats, dogs, fish, and other common household pets, including supplies for the care and feeding of the animals sold. This use may include pet grooming, but not the boarding of animals other than those for sale. (See Veterinary Clinics, Animal Hospitals, Kennels, Boarding.)

**Pharmacy:** A retail store where a licensed pharmacist prepares prescription medicines for sale, which may also sell over-the-counter medicines, personal care products, and other miscellaneous products.

**Philanthropic, Charitable, and Educational Non-Profit Organizations:** Nonpolitical and noncommercial foundations and other organizations providing philanthropic, charitable, and educational services, that qualify as non-profit organizations under federal tax law.

**Plant Nurseries and Garden Supply Stores:** Commercial agricultural establishments engaged in the production of ornamental plants and other nursery products, grown under cover or outdoors. Includes stores selling these products, nursery stock, lawn and garden supplies, and commercial scale greenhouses. The sale of house plants or other nursery products entirely within a building is also included under "General Retail Stores." Home greenhouses are included under "Residential Accessory Uses and Structures."

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

**Printing and Publishing:** Establishments engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; establishments manufacturing business forms and binding devices. "Quick printing" services are included in the definition of "Business Support Services."

**Private Residential Recreation Facilities:** Privately owned, non-commercial outdoor recreation facilities provided for members or project/neighborhood residents, including swim and tennis clubs, park and sport court facilities. Does not include golf courses or country clubs.

**Property Line:** The recorded boundary of a parcel of land.

**Property Owner:** The record owners of a parcel. For the purposes of land use permit application filing

and processing, “property owner” also includes authorized representatives of the property owner.

**Proposed Project:** A proposed new structure, new addition to an existing structure, or area of other new site development; these do not include the alteration of any portion of an existing structure other than an addition.

**Pole Building:** Any structure possessing the following characteristics: structural wood poles or timbers buried in ground on individual footings; metal wall coverings hung vertically of less than twenty-eight (28) gauge. Such definition shall not include or apply to decks, sign supports, earth retention structures, playground equipment, electric utilities, or any similar structure not covering or enclosing a specific area.

**Public Open Space.** A parcel or area of land or water that is restricted to active or passive recreational uses, that is owned and maintained by a public agency and is available for use by the general public.

**Public Safety Facilities.** Facilities operated by public agencies including fire stations, other fire prevention and fire fighting facilities, police and sheriff substations and headquarters, including interim incarceration facilities.

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

**Quadraminium:** A single structure which contains four (4) separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure.

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

**Recreational Vehicle:** A self-propelled vehicle which is used primarily for recreational purposes.

**Recyclable Material:** Materials that can be readily separated from mixed municipal solid waste for the purpose of recycling, including but not limited to paper, glass, plastics, metals, automobile oil and batteries. Recyclable materials that have been separated from the waste stream, processed, and sold or given away for reuse are no longer considered waste.

**Refuse and Waste Material:** Unused or discarded matter of any kind including asphalt, boxes, bricks, building materials, cartons, concrete, containers, crates, lumber, machinery, plaster, rocks, rubble, soil, tile, or appliances and parts thereof, furniture or equipment and parts thereof, scrap metal and other pieces of metal, ferrous or nonferrous, barrels, bottles, and cans. It also includes an accumulation of dead organic matter, debris, garbage, junk, offal, animal harborages vegetation, weeds, and similar materials or conditions. Any item, material, or substance mentioned above that is not being used for construction or repair of an improvement and has been placed upon real property or the public right-of-way.

**Religious Facilities/Places of Worship:** Facilities operated by religious organizations for worship, or the promotion of religious activities, including churches, mosques, synagogues, temples, etc., and religious schools; and accessory uses on the same site, such as living quarters for ministers and staff, and child day care facilities where authorized by the same type of land use permit required for the religious facility itself. Other establishments maintained by religious organizations, including full-time educational institutions, hospitals and other potentially related operations (for example, a recreational camp) are classified according to their respective activities.

**Remodel/Rehabilitate:** The upgrade of the interior or as distinguished from a secondary or accessory use exterior faces of a building or structure without altering to any degree the structural integrity. Remodeling may include the replacement of exterior walls according to the requirements of the Building Code provided that such remodeling can meet the standards of the zone clearance.

**Research and Development (R&D):** Indoor facilities for scientific research, and the design,

development and testing of electrical, electronic, magnetic, optical and mechanical components in advance of product manufacturing, that are not associated with a manufacturing facility on the same site. Includes chemical and biotechnology research and development. Does not include computer software companies (see “Offices – Production”), soils and other materials testing laboratories (see “Business Support Services”), or medical laboratories (see “Medical Services – Clinics, Offices, and Laboratories”).

**Residential Accessory Uses and Structures:** See “Accessory Uses and Structures, Residential.”

**Residential Care Facilities:** Facilities providing residential social and personal care for children, the elderly, and people with limited ability for self-care. Includes: board and care homes; children’s homes; transitional houses; orphanages; rehabilitation centers; self-help group homes, convalescent homes, nursing homes and similar facilities.

**Restaurant:** A retail business selling food and beverages prepared on the site, for on-or off premises consumption. These include eating establishments where customers are served from a walkup ordering counter for either on-or off-premises consumption, and establishments where most customers are served food at tables for on-premises consumption, but may include providing food for take-out. Also includes: coffee houses; and entertainment with up to two entertainers, nonamplified, in a room with food service.

**Resort, limited:** A group or groups of buildings, and outdoor assembly areas, that provides limited outdoor recreation activities that include, but are not limited to: swimming, tennis, water sports and similar activities, but does not include such things as golf, horseback riding, hiking etc. where large tracts (five or more acres) of land are required.. A resort may also furnish indoor recreation activities as well and may furnish services customarily furnished by a hotel, including restaurants and limited retail.

**Retail:** See “General Retail Stores.”

**Review Authority:** The individual or official city body (the Community Development Director, Planning Commission, or City Council) identified by this Zoning Ordinance as having the responsibility and authority to review, and approve or disapprove the permit applications described in Article 19-4 (Zoning Ordinance Administration).

**Roof-mounted:** Mounted above the eave line of a structure.

**Room Rental:** The monthly or annual renting of individual bedrooms within a dwelling to no more than two non-family members, whether or not meals are provided.

**Restaurant:** An establishment which serves food in or on non-disposable dishes to be consumed primarily while seated at tables or booths within the building.

**Roof Line:** The top of the coping; or, when the building has a pitched roof, the intersection of the outside wall with the roof.

**Schools:** Public and private educational institutions, including: boarding schools; high schools; business; secretarial; and vocational schools; military academies; community colleges, colleges and universities; professional schools (law, medicine, etc.); elementary, middle, and junior high schools; seminaries/religious ministry training facilities, establishments providing courses by mail. Also includes specialized schools with at least two classrooms, offering instruction in the following: Art ; drama; ballet and other dance ; driver education; bartending and cooking; language; computers and electronics; music. Also includes facilities, institutions and conference centers that offer specialized programs in personal growth and development, such as fitness, environmental awareness, arts, communications, and management. Does not include pre-schools and child day care facilities (see “Child Day Care Facilities”). See also the definition of “Studios for Art, Dance, Music, Photography, etc.” for smaller scale facilities offering specialized instruction.

**Service Station:** A retail business selling gasoline or other motor vehicle fuels, which may also provide services which are incidental to fuel services. These secondary services may include vehicle engine

maintenance and repair, towing and trailer rental services, and convenience stores. Does not include the storage or repair of wrecked or abandoned vehicles, vehicle painting, body or fender work, or the rental of vehicle storage or parking spaces.

**Service Station, Pump Island.** A raised area on the site of a service station which accommodates pumps for dispensing fuel into vehicles, which is surrounded by vehicle circulation areas.

**Setback.** The distance by which a structure, parking area or other development feature must be separated from a lot line, other structure or development feature, or street centerline. Setbacks from private streets are measured from the edge of the easement. See also "Yard." Figure 6-5 (Setbacks) shows the location of front, side, street side, rear, and interior setbacks.

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

**Sewage Treatment System:** A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, which utilizes subsurface soil treatment and disposal.

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

**Shopping Center:** An integrated grouping of commercial stores, under single ownership or control.

**Shore Impact Zone:** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the structure setback.

**Short-term Rental:** A commercial use which is subordinate to the residential Principal Use of a Dwelling Unit, in which the Dwelling Unit is made available for periods of less than one calendar month in return for remuneration. If a tenant leases a Dwelling Unit for a period of at least one calendar month, this is not a Short-term Rental, but instead is a residential Use

**Sign.** An object, device, display, or structure, or any part thereof, situated outdoors or indoors, which is used to identify, display, or direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design symbols, fixtures, colors, illumination, or projected image. Specific definitions related to signs can be found in Chapter 30. (Signs).

**Site:** A parcel or adjoining parcels that have been legally tied under single ownership or single control, considered a unit for the purposes of development or other use.

**Site Coverage:** The percentage of total site area occupied by structures, and paving for vehicle use. Structure/building coverage includes the primary structure, all accessory structures (e.g., carports, garages, patio covers, storage sheds, trash dumpster enclosures, etc.) and architectural features (e.g., chimneys, balconies, decks above the first floor, porches, stairs, etc.). Structure/building coverage is measured from exterior wall to exterior wall. Pavement coverage includes areas necessary for the ingress, egress, outdoor parking, and circulation of motor vehicles.

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

**Solid Waste:** Garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility, and other discarded waste materials and sludge, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials, in irrigation return flows; or source, special nuclear, or byproduct

material as defined by the Atomic Energy Act of 1954, as amended.

**Stand.** A structure for the display and sale of products with no space for customers within the structure itself.

**Storage, Indoor.** The storage of various materials entirely within a structure, as the primary use of the structure. The storage of materials accessory and incidental to a primary use is not considered a land use separate from the primary use.

**Story.** The portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above, the space between the floor and the ceiling above. A semi-subterranean garage shall not be considered a story if the top of the garage is six feet or less above grade.

**Street.** A public thoroughfare accepted by the city, which affords principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley as defined in this chapter.

**Street Line.** The boundary between a street right-of-way and property.

**Structure.** Anything constructed or erected, the use of which requires attachment to the ground or attachment to something located on the ground. For the purposes of this Zoning Ordinance, the term "structure" includes "buildings."

**Studios for Art, Dance, Music, Photography, etc.** Small scale facilities with one classroom/ instruction space, typically accommodating one group of students at a time, in no more than one instructional space. Larger facilities are included under the definition of "Schools – Specialized education and training." These include facilities for: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics instruction, and gymnastics studios with no other fitness facilities or equipment; yoga; and pilates.

**Steep Slope:** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil; characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

**Storage, Outdoor:** Storage of any property not fully enclosed in a building or completely screened so as not to be visible from adjoining properties or street rights-of-way.

**Story:** The portion of a building including beneath the upper surface of a floor and upper surface of floor next above, except that the top most story shall be that portion of a building included between the upper surface of the top most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unfinished underfloor space is more than six (6) feet above "grade" as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above "grade" as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story.

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

**Structure:** Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built or and/or composed of parts joined together in some definite manner whether temporary or permanent in character.

**Surface Water-Oriented Commercial Use:** The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conduct of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

**Telecommunications Facilities.** Public, commercial and private electromagnetic and photoelectrical transmission, broadcast, repeater and receiving stations for radio, television, telegraph, telephone, data network, and wireless communications, including commercial earth stations for satellite based communications. Includes antennas, commercial satellite dish antennas, and equipment buildings. Does not include telephone, telegraph and cable television transmission facilities utilizing hard-wired or direct cable connections.

**Temporary Structure.** A structure without any foundation or footings, and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**Temporary Use.** A use of land that is designed, operated and occupies a site for a limited period of time, in compliance with the terms of the applicable temporary use permit.

**Theaters.** Indoor facilities for public assembly and group entertainment, other than sporting events, including: civic theaters, and facilities for “live” theater and concerts motion picture theaters public and semi-public auditoriums similar public assembly uses. Does not include outdoor theaters, concert and similar entertainment facilities, and indoor and outdoor facilities for sporting events.

**Toe of the Bluff:** The lower point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.

**Townhouses:** Structures housing three (3) or more dwelling units contiguous to each other only by the sharing of one common wall, such structures to be of the townhouse or rowhouse type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of eight (8) dwelling units and each dwelling unit shall have separate and individual front and rear entrances.

**Trailer, Construction:** A trailer temporarily located on a construction site for storage of equipment and other materials used in connection with development of property.

**Trailer, Semi-Tractor:** A trailer with a set or sets of wheels at the rear only, which may be supported in front by a truck, tractor or towing vehicle, and which is used for the purpose of, but not limited to, storage, transportation of freight, or holding freight for sale or lease.

**Usable Open Space:** A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways and parking areas shall not constitute usable open space.

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

**Variance:** The waiving by Board action of the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

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

**Vertex:** The corner point of a triangle, rectangle, or other geometric figure bounded by lines.

**Veterinary Clinic:** A clinic operated by a licensed veterinarian exclusively for the diagnosis, treatment, correction, relief, or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; the performance of obstetrical procedures for animals, including determination of pregnancy and correction of sterility or infertility; and the rendering of advice or recommendations with regard to any of the above.

**Vehicle Maintenance and Repair.** The repair, alteration, restoration, towing, painting, cleaning (including



self-service and attended car washes), or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This use includes the following categories:

1. **Major Repair/Body Work.** Repair facilities dealing with entire vehicles. These establishments provide towing, collision repair, other body work, and painting services; and also include tire recapping establishments.
2. **Maintenance/Minor Repair.** Minor facilities specialize in limited aspects of repair and maintenance (e.g., muffler and radiator shops, quick-lube, etc.). "Vehicle maintenance and repair" does not include automobile parking, repair shops that are part of a vehicle dealership on the same site (see "Vehicle Sales and Rental"); automobile service stations, which are separately defined; or automobile dismantling yards.

**Vehicle Sales and Rental.** Retail establishments selling and/or renting automobiles, trucks and vans. "Vehicle sales and rental" does not include: the sale of auto parts/accessories separate from a vehicle dealership (see "Auto Parts Sales"); bicycle and moped sales (see "General Retail Stores"); mobile home sales; tire recapping establishments; businesses dealing exclusively in used parts; or "Service Stations," which are separately defined.

**Veterinary Clinics, Animal Hospitals, Kennels, Boarding.** Office and indoor medical treatment facilities used by veterinarians, including large and small animal veterinary clinics, and animal hospitals. Kennels and boarding operations are public or commercial facilities for the keeping, boarding or maintaining of four or more dogs four months of age or older, or four or more cats, except for dogs or cats in pet shops. See also "Pet Shops."

**Warehousing, Wholesaling and Distribution:** These facilities include:

1. **Warehousing:** Facilities for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include: warehouse, storage or ministorage facilities offered for rent or lease to the general public; warehouse facilities in which the primary purpose of storage is for wholesaling and distribution (see "Wholesaling and Distribution," below); or terminal facilities for handling freight.
2. **Wholesaling and Distribution:** Establishments engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other whole salers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes: agents, merchandise or commodity brokers, and commission merchants assemblers, buyers and associations engaged in the cooperative marketing of farm products merchant wholesalers - stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.
3. **Wholesale Design Showrooms:** Wholesale business facilities for the display and marketing of home and business fixtures and furnishings.

**Wing Wall.** An extension of an exterior building wall using the same materials and colors of the other exterior building walls, which has the effect of partially or entirely "fencing" an outdoor area.

**Wireless Communication Facility.** Any public or private structure that supports antennae, microwave dishes, and other related equipment that sends and/or receives radiofrequency signals.

**Waste:** Infectious waste, nuclear waste, pathological waste, sewage sludge, solid waste, and hazardous waste.

**Waste Facility:** Property used for the accumulation, storage, processing, or disposal of waste.

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

**Watercourse:** A channel or depression through which water flows, such as rivers, streams, or creeks,

and may flow year around or intermittently.

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

**Wetlands.** An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:

1. Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetlands types 1, 2, 3, 4, 6, 7 and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S. 1956".)
2. Mineral soils with gley horizons or organic soils belonging to the Histosol order (peat and mulch).
3. Soil which is waterlogged or covered with water at least three (3) months of the year.
4. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and such property, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage, but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

**Zero Lot Line.** The location of a building on a lot in such a manner that one or more building sides rests directly on a lot line.

**Yard:** An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky, except for projections permitted by this Ordinance.

**Yard, Front:** The area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located. In the case of a corner lot abutting one or more major roads, both yards shall be considered front yards. A major road is any road that is of a collector designation or greater.

**Yard, Rear:** A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

**Yard, Required:** That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

**Yard, Side:** A yard between the side line of the lot and the nearest line of the principal building and extending from the front lot line of the lot to the rear yard.

**Zoning District:** Any of the residential, commercial, public, or overlay districts established by Chapter 16 of this Ordinance (Zoning Districts Established), within which certain land uses are allowed or prohibited, and certain site planning and development standards are established (e.g., setbacks, height limits, site coverage requirements, etc.).

**Zoning Ordinance:** The City of Osakis Zoning Ordinance, referred to herein as "this Ordinance."

## CHAPTER 3 - BOARD OF ADJUSTMENT AND APPEALS

### SECTION

- 3.01: Board Designation
- 3.02: Powers and Duties
- 3.03: Applicability
- 3.04: Procedures
- 3.05: Stay of Proceedings
- 3.06: Appeals

#### **3.01: BOARD DESIGNATION.**

The Planning Commission shall serve as the Board of Adjustment and Appeals and shall have the duties as set forth by Minnesota Statutes.

#### **3.02: POWERS AND DUITES.**

The Board of Adjustment and Appeals shall have the power and duties of hearing and deciding appeals or requests on the following cases:

- A. Appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.
- B. Requests for variance from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.
- C. Appeals from any action of the City Building Official in denying or granting a building permit.

#### **3.03: APPLICABILITY.**

An appeal shall only be applicable to an interpretation of legislative intent of provisions of this Ordinance. City Staff opinions and evaluations as they pertain to the impact or result of a request are not subject to the appeal procedure.

#### **3.04: PROCEDURES.**

- A. An appeal from the ruling of an administrative officer of the City shall be made by the property owner or their agent within thirty (30) days after the making of the order being appealed.
- B. The property owner or their agent shall file with the City a notice of appeal stating the specific grounds upon which the appeal is made.
- C. Any appeal filed shall be comprehensive and include all matters subject to question. Subsequent appeals filed by the same individual or group which are intended to cause unjustifiable delay in the decision making process shall not be accepted by the City.
- D. The filing of an appeal shall be accompanied by a fee as provided for by the City.
- E. The Board of Adjustment and Appeals shall make a Finding of Fact and its decision by resolution within sixty (60) days from the date at which the Board of Adjustment and Appeals first considered the appeal.

#### **3.05: STAY OF PROCEEDINGS.**

An appeal stays all proceedings in furtherance of the action being appealed unless it is certified to the Board of Adjustment and Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of record on application, on

notice to the City.

**3.06: APPEALS.**

Any person or persons or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment and Appeals, shall have the right to seek review within thirty (30) days of the decision with a court of record of such decision in the manner provided by the laws of the State of Minnesota, and particularly Minnesota Statutes, Section 462 as such Statute may be from time to time amended, supplemented or replaced.

## CHAPTER 4 - AMENDMENTS TO ZONING ORDINANCE

### SECTION:

- 4.01: Initiate
- 4.02: Application and Procedure
- 4.03: Approvals Required
- 4.04: Effective Date
- 4.05: Criteria

#### **4.01: INITIATE.**

The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Ordinance. The procedural requirements of Section 3.02 shall not apply to such proposed amendments initiated by the City except to the extent required by Minnesota State Statute. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate.

#### **4.02: APPLICATION AND PROCEDURE.**

An amendment to this Ordinance (text or map) requires a public hearing and is to be processed in accordance with the procedures set forth in Chapter 9, (Zoning Application Procedures) of this Ordinance. The information required for all amendment applications generally consists of items outlined in Chapter 9 (Zoning Applications Procedures) of this Ordinance, and shall be submitted unless exempted by the City.

#### **4.03: APPROVALS REQUIRED.**

Approval of a proposed amendment shall require a majority vote of all members of the City Council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or industrial shall require a two-thirds (%) [four (4) out of five (5) members of the City Council] majority vote of all members of the City Council.

#### **4.04: EFFECTIVE DATE.**

The amendment shall not become effective until such time as the City Council approves an Ordinance and the Ordinance is published in the official newspaper.

#### **4.05: CRITERIA.**

The Planning Commission and City Council shall consider possible effects of the proposed amendment. Factors to be considered in determining the possible effects of the proposed amendment shall include, but are not limited to, the following:

- A. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.
- B. The proposed application is or will be compatible with present and future land uses of the area.
- C. The proposed application conforms to all performance standards contained in this Ordinance.
- D. The proposed application can be accommodated with existing public services and will not overburden the City's service capacity.
- E. Traffic generation by the proposed use is within capabilities of streets serving the property.

## CHAPTER 5 - AMENDMENTS TO COMPREHENSIVE PLAN

### SECTION:

- 5.01: Purpose
- 5.02: Initiate
- 5.03: Application and Procedure
- 5.04: Criteria
- 5.05: Map Change
- 5.06: Compatibility Factors
- 5.07: Supplemental Data
- 5.08: Coordination with other Plans

#### **5.01: PURPOSE.**

The adopted Comprehensive Plan is the official statement of the City that sets forth major policies concerning desired future development of the community. The Comprehensive Plan is the controlling land use planning instrument for the City, and as such land development regulations and related actions are required to conform with the Plan. This Section pertains to lands within the City limits. Those portions of the Comprehensive Plan that apply to areas outside the City limits but within an urban growth boundary shall be amended in accordance with applicable procedures set forth in the Plan or Joint Agreements, as applicable.

#### **5.02: INITIATE.**

Comprehensive Plan amendments may be initiated by an application submitted by the property owners or their authorized agents or a majority vote of the City Council. Comprehensive Plan Amendments filed in conjunction with an annexation application shall be reviewed concurrently. The procedural requirements of Chapter 9 (Zoning Application Procedures) of this Ordinance shall not apply to such proposed amendments initiated by the City except to the extent required by Minnesota State Statute. Any person owning real estate within the City may initiate a request to amend the Comprehensive Plan.

#### **5.03: APPLICATION AND PROCEDURE.**

Application for a Comprehensive Plan amendment (text or map) requires a public hearing and is to be in accordance with the procedures set forth in Chapter 9, (Zoning Application Procedures) of this Ordinance. The information required as applicable for all amendment applications generally consists of items outlined in Chapter 9 (Zoning Application Procedures) of this Ordinance, and shall be submitted unless exempted by the City.

#### **5.04: CRITERIA.**

Factors to be considered in determining the possible effects of the proposed Comprehensive Plan amendment shall include, without limitation, the following:

- A. Response to changing conditions and community attitudes.
- B. Whether there is a public need for the change and the change being proposed is the best means of meeting the identified public need.
- C. Whether there is a net benefit to the community that will result from the change.

#### **5.05: MAP CHANGE.**

To change a future land use map designation, the proposed map amendment must do one of the following:

- A. Respond to a substantial change in conditions beyond the property owner's control applicable to the area within which the subject property lies.

- B. Better implement applicable Comprehensive Plan policies than the current map designation.
- C. Correct an obvious mapping error.
- D. Address an identified deficiency in the Comprehensive Plan.

**5.06: COMPATIBILITY FACTORS.**

In addition, the following compatibility factors shall be considered for proposed amendments to the Comprehensive Plan Future Land Use Map:

- A. Visual elements (scale, structural design and form, materials, and so forth);
- B. Noise effects;
- C. Noxious odors;
- D. Lighting;
- E. Signage;
- F. Landscaping for buffering and screening;
- G. Traffic;
- H. Effects on off-site parking; and
- I. Effects on land, air and water quality.

**5.07: SUPPLEMENTAL DATA.**

The applicant may need to provide documentation to address the public facilities and services elements that may be necessary for the proposed designation. Such services may include water, sewer, storm drainage, transportation, police and fire protection, and schools.

**5.08: COORDINATION WITH OTHER PLANS.**

The Comprehensive Plan amendment(s) may be coordinated with, and take into consideration, the Comprehensive Plans adopted by Counties, Townships or Cities with which the City has, in part, common borders or related regional issues.

## CHAPTER 6 - VARIANCES

### SECTION:

- 6.01: Purpose
- 6.02: Undue Hardship
- 6.025 Practical Difficulties
- 6.03: Application and Procedure
- 6.04: Criteria
- 6.05: Conditions
- 6.06: Expiration of Variance
- 6.07: Shoreland Management District

#### **6.01: PURPOSE.**

The purpose of this Section is to provide for deviations from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance.

#### **6.02: UNDUE HARDSHIP.**

Undue hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the Ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

#### **6.025: PRACTICAL DIFFICULTIES.**

*"Practical Difficulty" as used in connection with the granting of a variance means the property in question cannot be put to reasonable use under conditions allowed by this Ordinance. The granting of a variance may be issued only if it is "in harmony with the general purpose and intent" of the ordinance and consistent with the comprehensive plan. "Practical Difficulties" are described as follows:*

- A. *The property owner proposed to use the property in a reasonable manner not permitted by an official control.*
- B. *The plight of the land owner is due to circumstances unique to the property not created by the landowner.*
- C. *The variance, if granted, will not alter the essential character of the locality.  
(Approved May 6, 2013 under Ordinance # 90)*

#### **6.03: APPLICATION AND PROCEDURE.**

A variance requires a public hearing and is to be processed in accordance with the procedures set forth in Chapter 9, (Zoning Application Procedures) of this Ordinance. The information required for all zoning applications generally consists of items outlined in Chapter 9 (Zoning Application Procedures) of this Ordinance, and shall be submitted unless exempted by the City.

#### **6.04: CRTERIA.**

The City Council shall not approve any variance request unless they find failure to grant the variance will result in undue hardship on the applicant, and, as may be applicable, the following criteria have been met:

- A. **Physical Characteristics.** That because of the particular physical surroundings, shape, or topographical conditions of the specific parcel of land involved, a particular hardship to the owner



would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

- B. Unique to Parcel. That the conditions upon which an application for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.
- C. Purely Financial. That the purpose of the variance is not based exclusively upon a financial hardship, or a desire to increase the value or income potential of the parcel of land.
- D. Self-Created. That the alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons having an interest in the parcel of land and is not a self-created hardship.
- E. Public Welfare. That the granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the parcel of land is located.
- F. Nuisance Avoided. That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, or endanger the public safety.
- G. Minimum Action. That the requested variance is the minimum action required to eliminate the hardship.
- H. Use Variance. That the requested variance does not involve a use that is not allowed within the respective zoning district.

#### **6.05: CONDITIONS.**

Conditions may be imposed in the granting of a variance to ensure compliance with and to protect adjacent properties and the public interest.

#### **6.06: EXPIRATION OF VARIANCE.**

Unless otherwise specified, the approved variance shall become null and void within one (1) year of the date of approval unless the property owner or applicant has substantially commenced construction of any building, structure, addition or alteration, or request as part of the approved variance or unless a petition for a time extension has been granted by the Zoning Administrator. Such extension request shall be submitted in writing at least thirty (30) days prior to expiration of the variance and shall state facts showing a good faith effort to complete work permitted under the original approval.

#### **6.07: SHORELAND MANAGEMENT DISTRICT.**

A variance may not circumvent the general purposes and intent of the Shoreland Management District Ordinance. No variance may be granted that would allow any use that is prohibited in the underlying zoning district in which the subject property is located. The Commission of the Department of Natural Resources or its assigned agent (Area Hydrologist) shall be notified in writing and said notice shall be postmarked at least ten (10) days in advance of the public hearing of any request of a variance included within the Shoreland Management Area. Notice of final action for any of the applications identified above shall be sent to the Commissioner of the Department of Natural Resources and postmarked within ten (10) days of final action.

## CHAPTER 7 - CONDITIONAL USE PERMITS

### SECTION:

- 7.01: Purpose
- 7.02: Application and Procedure
- 7.03: Criteria
- 7.04: Conditional Approval
- 7.05: Lapse of Permit
- 7.06: Shoreland Management District

#### **7.01: PURPOSE.**

The purpose of a conditional use permit is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety and to require conditions related to the establishment of said use necessary to carry out the intent and purpose of the Ordinance.

#### **7.02: APPLICATION AND PROCEDURE.**

A conditional use permit requires a public hearing and is to be processed in accordance with the procedures set forth in Chapter 9 (Zoning Application Procedures) of this Ordinance. The information required for all zoning applications generally consists of items outlined in Chapter 9 (Zoning Application Procedures) of this Ordinance, and shall be submitted unless exempted by the City.

#### **7.03: CRITERIA.**

The Planning Commission shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce any adverse effects, and shall make a recommendation to the City Council within the guidelines as mandated by State Statutes. At a minimum, the Planning Commission shall consider the following standards as it would apply to the particular use at the proposed location. The request:

- A. Will not be detrimental to or endanger the public health, safety, morals, comfort, convenience or general welfare of the neighborhood or the City.
- B. Will be harmonious with the applicable specific and general objectives of the Comprehensive Plan of the City and this Ordinance.
- C. The proposed use is or will be compatible with future land use map of the Comprehensive Plan of the City.
- D. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
- E. The proposed use will not tend to or actually depreciate the area in which it is proposed.
- F. Will not be hazardous or disturbing to existing or future neighboring uses.
- G. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems, and schools.
- H. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- I. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
- J. Will have vehicular approaches to the property which are so designed as not to create traffic

congestion or an interference with traffic or surrounding public thoroughfares.

- K. Traffic generation by the proposed use is within capabilities of streets serving the property.
- L. Will have adequate facilities to provide sufficient off-street parking and loading space to serve the proposed use.
- M. The proposed use conforms with all performance standards contained within this Ordinance.
- N. Will not result in the complete or extreme destruction, loss or damage of a natural, scenic, or historic feature of major importance.
- O. Will conform to the type of uses that are generally permitted within the district.

#### **7.04: CONDITIONAL APPROVAL.**

In recommending or approving any conditional use permit, the City may impose conditions which are considered necessary to meet the standards of this Ordinance and to protect the best interests of the surrounding area or the City as a whole. Violation of any such condition is a violation of this Ordinance. These conditions may include but are not limited to the following:

- A. Ingress and egress to property and proposed structures thereon with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
- B. Negative or undue effects on nearby property as they may relate to off-street parking and loading areas, economic effects, noise, glare, or odor.
- C. The location and design of refuse and service areas as they may relate to the site, public right of ways and nearby properties.
- D. Location, availability and compatibility of utilities.
- E. Diking, fencing, berming, screening, landscaping or other facilities to protect adjacent or nearby property.
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
- G. Required yard setbacks and other open space.
- H. General compatibility with adjacent and other property in the district.

#### **7.05: LAPSE OF PERMIT.**

If within one year after granting a conditional use permit, as permitted by the conditional use permit, shall not have been completed or utilized, then such a conditional use permit shall become null and void unless a petition for extension of time in which to complete or to utilize the use has been granted by the City Council. Such extension shall be required in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. The request for extension shall state facts showing a good faith attempt to complete or use the use permitted in the conditional use permit. Such petition shall be presented to the City Council for decision.

#### **7.06: SHORELAND MANAGEMENT DISTRICT.**

The Commission of the Department of Natural Resources or its assigned agent (Area Hydrologist) shall be notified in writing and said notice shall be postmarked at least ten (10) days in advance of the public hearing of any request of a conditional use permit included within the Shoreland Management District. Notice of final action for any of the applications identified above shall be sent to the Commissioner of the Department of Natural Resources and postmarked within ten (10) days of final action.

## CHAPTER 8 - INTERIM USES

### SECTION:

- 8.01 Purpose and Intent
- 8.02 Application and Procedure
- 8.03 General Standards
- 8.04 Termination

#### **8.01: PURPOSE AND INTENT.**

The purpose and intent of allowing interim uses is:

- A. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
- B. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
- C. To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

#### **8.02: APPLICATION AND PROCEDURE.**

Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the standards and procedures for a conditional use permit as established by Chapter 7 (Conditional Use Permits) of this Ordinance. An interim use permit requires a public hearing and is to be processed in accordance with the procedures set forth in Chapter 9 (Zoning Application Procedures) of this Ordinance. The information required for all zoning applications generally consists of items outlined in Chapter 9 (Zoning Application Procedures) of this Ordinance, and shall be submitted unless exempted by the City.

#### **8.03: GENERAL STANDARDS.**

An interim use shall comply with the following:

- A. Meet the standards of a conditional use permit set forth in Chapter 7 of this Ordinance.
- B. The use is allowed as an interim use in the respective zoning district.
- C. The date or event that will terminate the use can be identified with certainty.
- D. The use will not impose additional unreasonable costs on the public.
- E. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

#### **8.04: TERMINATION.**

An interim use shall terminate on the happening of any of the following events, whichever occurs first:

- A. The date stated in the permit.
- B. Upon violation of conditions under which the permit was issued.
- C. Upon change in the City's zoning regulations which renders the use non-conforming.

- D. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

## CHAPTER 9 - ZONING APPLICATION PROCEDURES

### SECTION:

- 9.01: Scope
- 9.02: Application
- 9.03: Site Plan/Certificate of Survey
- 9.04: Supplemental Data
- 9.05: Pre-Application Meeting
- 9.06: Incomplete Application
- 9.07: Further Data
- 9.08: Technical Reports
- 9.09: Notice of Hearing
- 9.10: Public Hearing
- 9.11: Notice to Applicant
- 9.12: Filing of Notice of Action
- 9.13: Reconsideration
- 9.14: Inspection
- 9.15: Timeline
- 9.16: Certificate Taxes Paid

#### **9.01: SCOPE.**

Certain applications of this Ordinance require study and action by the City Council, the Planning Commission, City staff, the applicant, and various experts, in varying combinations dependent upon the nature of the request. These include proposed conditional use permits, interim use permits, variances, zoning ordinance text or map amendments, comprehensive plan text or map amendments and appeals on zoning questions. An application shall be processed in accordance with the procedure set forth below.

#### **9.02: APPLICATION.**

Applications shall be filed with the Zoning Administrator on an official application form(s) provided by the City. Said applications shall be accompanied by a fee as established by Ordinance. In addition, the application shall also be accompanied by detailed written and graphic materials fully explaining the rationale for the proposed change, development or use. The number of copies to be provided and any additional data shall be determined by the Zoning Administrator. Applications must be complete before they are accepted. The application shall be accompanied by detailed illustrations containing such information as is necessary to show compliance with this Ordinance.

#### **9.03: SITE PLAN/CERTIFICATE OF SURVEY.**

A site plan of the subject property (in some instances a certificate of survey prepared by a licensed land surveyor may be required as deemed necessary by the Zoning Administrator and/or City Engineer), depicting the following, as applicable:

- A. Name and address of developer/owner;
- B. Name and address of architect/designer, if applicable;
- C. Date of plan preparation and dates and descriptions of all revisions;
- D. Name of project or development;
- E. All proposed improvements, including (unless waived by the Zoning Administrator):
  - 1. Required and proposed setbacks;
  - 2. Location, setback, and dimensions of all existing and proposed buildings and structures;
  - 3. Location of all adjacent buildings located within one-hundred (100) feet of the exterior

- boundaries of the property in question;
4. Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles;
  5. Location, number, and dimensions of proposed loading spaces;
  6. Location, width, and setbacks of proposed curb cuts and driveways;
  7. Vehicular and pedestrian circulation;
  8. Sidewalks, trails, and walkways;
  9. Location and type of all proposed lighting, including details of all proposed fixtures;
  10. Location of recreation and service areas;
  11. Location of all proposed outdoor storage including details for screening;
  12. Location of all exterior heating, ventilation and air conditioning equipment including details for screening;
  13. Location of rooftop equipment and proposed screening;
  14. Location of proposed fire lanes and fire hydrants;
  15. Proposed building exterior materials and color;
  16. Existing and/or proposed sign locations and dimensions;
  17. Existing and/or proposed drainage by contours (two foot maximum);
  18. Location and proposed ownership of existing and/or proposed stormwater facilities;
  19. Existing and proposed landscaping by size and type of plant material;
  20. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures; and
  21. Location, size, and type of water and sewer system mains and proposed service connections.

**9.04: SUPPLEMENTAL DATA.**

Additional information, data and other plans and information as required by the Zoning Administrator may be required including but not limited to:

- A. Color drawings or renderings and/or sample exterior building materials proposed for all principal and accessory buildings.
- B. Typical floor plan and room plan drawn to scale with a summary of square footage for each use or activity.
- C. Vicinity map showing the property in relation to near by highways or major street intersections.
- D. When required, evidence of completion of National Pollutant Discharge Elimination System (NPDES) permitting program.
- E. If applicable, evidence of compliance with federal, state and local pollution and nuisance laws and regulations, including, but not limited to glare, smoke, dust, odors and noise. The burden of proof for compliance with appropriate standards shall lie with the applicant.

**9.05: PRE-APPLICATION MEETING.**

A pre-application meeting shall be required by City staff at which the appropriate application procedures, requirements and applicable provisions relating to the request will be reviewed and explained.

**9.06: INCOMPLETE APPLICATION.**

An application will be deemed complete unless the City sends written notice within fifteen (15) business days of submission of the application indicating that it is not complete and indicating what information is missing. This notice shall be considered given by its deposit in the U.S. Mail, first class postage prepaid, addressed to any listed applicant at the address given on the application form.

**9.07: FURTHER DATA.**

The City Council, Planning Commission, and City staff may request additional information from the applicant concerning the application or may retain expert opinions at the expense of the applicant, or may require as a condition of proceeding with its consideration of any matter, that the applicant furnish expert opinion and data at the expense of the applicant.

**9.08: TECHNICAL REPORTS.**

The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where applicable, and provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council. The technical reports are to be entered in and made part of the record of the Planning Commission and forwarded to the City Council.

**9.09: NOTICE OF HEARING.**

- A. For applications involving any of the following, the Zoning Administrator shall set a date for a public hearing.
  - 1. Zoning Ordinance and/or Comprehensive Plan Amendments.
  - 2. Conditional Use Permits.
  - 3. Interim Use Permits.
  - 4. Variances
- B. Notice of such hearing shall consist of a legal property description, a general description of the property location, and a description of the request. Said notice shall be published in the official newspaper at least ten (10) days prior to the hearing and no more than thirty (30) days prior to the hearing. Written notices shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property, according to the records available to the City within three hundred fifty (350) feet of each parcel included in the request. In addition the public hearing notice shall be mailed to the Department of Natural Resource Area Hydrologist, County Highway Department and/or the Minnesota Department of Transportation if the application impacts shorelands, county highways or state highways.
- C. Failure of the City to send, or a property owner to receive notice shall not invalidate any proceedings under this Section, provided that a bona fide attempt has been made to comply with the requirements of this Section.

**9.10: PUBLIC HEARING.**

- A. Presentation of Application. The applicant or a representative of the applicant shall appear before the Planning Commission in order to present the case for the application and to answer questions concerning the request.
- B. Recommendation of Planning Commission. The Planning Commission shall recommend such



actions or conditions relating to the application as it deems necessary or desirable to carry out the intent and purpose of this Ordinance and the Comprehensive Plan. Such recommendation shall be either included in the minutes or be in the form of a written resolution forwarded to the City Council.

- C. Record Before City Council. The Zoning Administrator shall place the report and recommendation of the Planning Commission and the City staff on the agenda for the next regular City Council meeting after Planning Commission action. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- D. City Council Review. Subject to the limitations of Minnesota Statutes Section 15.99, as amended, supplemented or replaced from time to time, the City Council shall act upon an application after it has received the report and recommendation from the Planning Commission and the City staff. If, upon receiving the reports and recommendations of the Planning Commission and the City staff, the City Council desires further consideration or finds that inconsistencies exist in the review process, data submitted or recommended action, the City Council may, before taking final action, refer the matter back to the Planning Commission with a statement detailing the reasons for referral. This procedure shall be followed only one (1) time on an application, except for good cause. The City Council may refer an application back to the Planning Commission if it determines that changes in the application made after the Planning Commission recommendation require such action.
- E. City Council Action. Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council (i) may, as it deems necessary, set and hold a second public hearing, and (ii) shall make findings of fact and impose any condition on approval that it considers necessary to protect the public health, safety, and welfare, and shall make its decision as to the application.

**9.11: NOTICE TO APPLICANT.**

The Zoning Administrator shall notify the applicant of the decision of the City Council in writing, including any relevant resolution and findings that may have been passed by the City Council.

**9.12: FILING OF NOTICE OF ACTION.**

A certified copy of any Zoning Ordinance amendment, conditional use permit, or variance authorized shall be filed with the County Recorder if the action has been approved.

**9.13: RECONSIDERATION.**

Whenever an application has been considered and denied by the City Council, a similar application affecting substantially the same property shall not be considered again by the Planning Commission or City Council before the expiration of six (6) months from the date of its denial and any succeeding denials.

**9.14: INSPECTION.**

The City reserves the right upon issuing any zoning approval to inspect the premises to ensure compliance with the provisions of this Section or any conditions additionally imposed.

**9.15: TIMELINE.**

Timeline. Pursuant to Minnesota Statutes Section 15.99, as amended, supplemented or replaced from time to time, an application shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City in accordance with Minnesota Statutes or a time waiver is granted in writing by the applicant.

**9.16: CERTIFICATE OF TAXES PAID.**

Prior to approving any application for zoning or land use request, the applicant shall provide certification

to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the application relates.

## **CHAPTER 10 - BUILDING PERMITS REQUIRED**

### **SECTION:**

- 10.01: Building Permits Required
- 10.02: Certificate of Survey Required – Property Pins Exposed, Project Staked
- 10.03: Expiration and Extension of Building Permit
- 10.04: Certification of Taxes Paid

### **10.01: BUILDING PERMITS REQUIRED.**

Except as hereinafter provided, no person, firm, or corporation shall construct, erect, structurally alter, remodel, demolish or move any building or structure or parts thereof within the corporate limits of the City of Osakis without first securing a building permit from the City. The review and approval of site improvements pursuant to the requirements of City adopted Building and Fire codes shall be in addition to the site and building design plan review process established under Chapter 11, (Site and Building Plan Review) of this Ordinance, if applicable. The site plan approval process established under Chapter 11, (Site and Building Plan Review) of this Section does not imply compliance with the requirements of Building and Fire codes. Application for a building permit shall be made on form(s) to be furnished by the City.

### **10.02: CERTIFICATE OF SURVEY REQUIRED – PROPERTY PINS EXPOSED, PROJECT STAKED.**

Construction projects exempt from the application requirements of Chapter (Site and Building Plan Design Review) which involve new construction, additions and enlargements may be required to submit a certificate of survey if the property pins are not found or established. Furthermore, property pins must be exposed and the project staked out prior to the issuance of a building permit, unless specifically waived by the Zoning Administrator.

### **10.03: EXPIRATION AND EXTENSION OF BUILDING PERMIT.**

Expiration of permits shall be in accordance with the Building Code unless otherwise specified. If the work for which a permit was issued does not commence within 180 days or if the work is suspended or abandoned for a period of 180 days, the permit shall be considered void and invalid. The Building Official may grant, in writing, extensions for periods of not more than 180 days each. The extension shall be requested in writing prior to the expiration of the permit and justifiable cause demonstrated. The decision of the Building Official may be appealed to the Board of Adjustment and Appeals.

### **10.04: CERTIFICATION OF TAXES PAID.**

Prior to approving an application for building permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the application relates.

**CHAPTER 11 - ADMINISTRATIVE SITE AND BUILDING PLAN REVIEW  
(NEW MULTIPLE DWELLING APARTMENT, COMMERCIAL AND INSTITUTIONAL CONSTRUCTION)**

**SECTION:**

- 11.01: Purpose
- 11.02: General Provisions
- 11.03: Information Requirement
- 11.04: Enforcement
- 11.05: Certification of Taxes Paid

**11.01: PURPOSE.**

The purpose of this Chapter is to establish a formal plan review procedure for new multiple dwelling (apartment), commercial and institutional construction and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through their officially submitted plan documents.

**11.02: GENERAL PROVISIONS.**

- A. Plan Required: In addition to other plan requirements outlined in this Ordinance, site and building plans will be required and shall be submitted to and approved by the Zoning Administrator and Building Official prior to the issuance of any building permit.
- B. Planning Commission Review: All building and site plans for new multiple dwelling (apartment), commercial and institutional construction shall be subject to review and approval of the Planning Commission.
- C. Plan Agreements: All site and construction plans officially submitted to the City shall be treated as a formal agreement between the building contractor, owner, and the City. Once approved, no changes, modifications, or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the Building Official for their review and approval.

**11.03: INFORMATION REQUIREMENT.**

The information required for all site and building plan review applications generally consists of the following items, and shall be submitted unless exempted by the City:

- A. Site Plan: A site plan of the subject property (in some instances a certificate of survey prepared by a licensed land surveyor may be required as deemed necessary by the Zoning Administrator and/or City Engineer), depicting the following, as applicable:
  - 1. Location of all buildings on lots including both existing and proposed structures.
  - 2. Location of all adjacent buildings located within one hundred (100) feet of the exterior boundaries of the property in question.
  - 3. Location and number of existing and proposed parking spaces.
  - 4. Vehicular circulation (area and on site).
  - 5. Architectural elevations (type and materials used on all external surface).
  - 6. Location and type of all proposed exterior lights.
  - 7. Curb cuts, driveways, number of parking spaces and loading areas.
  - 8. Site plan details such as trash receptacles, screening etc.

B. Dimension Plan:

1. Lot dimensions and area.
2. Dimensions of proposed and existing structures.
3. "Typical" floor plan and "typical" room plan.
4. Setbacks of all existing buildings and structures located on property in question.
5. Proposed setbacks of future buildings or structures.
6. Sanitary sewer and water plan with estimated use per day.

C. Grading Plan:

1. Existing contours.
2. Proposed grading elevations.
3. Drainage configuration.
4. Storm sewer catch basins and invert elevations.
5. Spot elevations.
6. Proposed road profile.

D. Landscape Plan:

1. Location of all existing trees, type, diameter, and which trees will be removed.
2. Location, type and diameter of all proposed plantings.
3. Location and material used for all screening devices.

**11.04: ENFORCEMENT.**

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

**11.05: CERTIFICATION OF TAXES PAID.**

Prior to approving an application for plan review, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the application relates.

## CHAPTER 12 - FEES AND COST RECOVERY

### SECTION:

- 12.01: Purpose
- 12.02: Schedule of Fees
- 12.03: Base Zoning Fee
- 12.04: Cost Recovery

#### **12.01: PURPOSE.**

The costs to the City for receiving, analyzing, processing, hearing and final process for requests of changes, modification, or special consideration under this Ordinance, such as requests for rezoning (map or text), comprehensive plan amendments, conditional use permits, variances and site & building plan reviews are considered to be unique to the applicant requesting such consideration, and it is the intent of this Chapter to provide that all costs of the City incurred by such requests shall be borne by the applicant. The reimbursement to the City, in addition to the base fee, shall be limited to actual costs of the City. Actual costs shall include all engineering, legal, planning, or other consultant fees or costs paid by the City for other consultants for expert review of a development application.

#### **12.02: SCHEDULE OF FEES.**

The City Council shall establish a schedule of fees, charges and expenses, and a collection procedure for building permits, appeals, and other matters pertaining to this Section. The schedule of fees shall be posted in City Hall and may be altered from time to time by Ordinance adoption by the City Council.

#### **12.03: BASE ZONING FEE.**

Each applicant shall pay a non-refundable base zoning fee at the time an application is presented to the City for a zoning request. This fee is intended to reimburse the City for its reasonable costs for administrative processing of a development application. If this fee proves to be insufficient to cover such costs, such additional costs will be charged to the applicant.

#### **12.04: COST RECOVERY.**

In the event additional review by the City or its assigns is anticipated and/or needed during zoning application review and the City incurs professional fees, either legal, engineering or professional planners, or any other cost, including but not limited to, postage and publication expenses, or other similar circumstance, the applicants shall reimburse the City for those fees, and the City officials may require an escrow deposit, cashier's check or letter of credit for these fees prior to the final action on the application for development plan review. Such escrow or letter of credit shall be in the form approved by the City Attorney. The City shall have the authority to use the provisions of Minnesota Statutes Chapter 429, as amended, supplemented, or replaced from time to time, to assess costs against any property in violation of any of the provisions of this Section, and any such assessment shall, at the time at which taxes are certified to the County Auditor, be certified for collection in the manner that other special assessments are so certified.

## CHAPTER 13 - PERFORMANCE AGREEMENT

### SECTION:

#### 13.01: Purpose and Procedure

#### **13.01: PURPOSE AND PROCEDURE.**

Upon approval of a conditional use permit, variance, site and/or building plan the City may require the applicant to enter into a performance agreement prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said agreement shall guarantee conformance and compliance with the conditions of the approval and the codes of the City. The performance agreement shall include, without limitation, the following items and conditions:

- A. **Performance Security.** The applicant may be required to provide financial security to assure compliance with the agreement and conditions of the approval. The security shall be in the form of cash escrow or irrevocable letter of credit. Other security arrangements may be allowed at the sole discretion of the City. The security shall be in an amount determined by the Zoning Administrator or Building Official under the direction and approval of the City Council, to cover estimated costs of labor and materials for the proposed improvements or development. The proposed improvements or development may be implemented in stages with prior approval of the City Council.
- B. **Security Release.** The City may hold any required financial security until the proposed improvements or development are completed and a certificate of occupancy indicating compliance with the application approval and Building Code of the City has been issued by the City Building Official, or a certificate of completion has been issued by the City Engineer.
- C. **Security Forfeiture.** Failure of the applicant to comply with the conditions of the application approval and/or the ordinances of the City shall result in forfeiture of the security.
- D. **Hold Harmless and Indemnification of City.** The applicant shall agree to indemnify and hold harmless the City, its agents, employees, representatives and consultants against any and all claims, demands, losses, damages and expenses (including attorney's fees) arising out of, related to or resulting from the applicant's negligent or intentional acts, or any violation of any safety law, regulation or code in the implementation of the performance agreement, without regard to any inspection or review made or not made by the City, its agents, employees, representatives or consultants or failure to take any other prudent precaution.
- E. **Fees.** The applicant shall agree in writing to pay any and all reasonable attorney's fees, consultant fees and related costs incurred by the City to enforce the terms and conditions of any application approval or provisions of any performance agreement relating to said permits. The performance agreement shall also include additional standard conditions as approved from time to time by the City Council, as well as specific conditions related to the approval. This section is not a limitation on reasonable conditions to be included in any specific performance agreement.

## CHAPTER 14 - ENFORCEMENT AND PENALTIES

### SECTION:

- 14.01: Enforcement
- 14.02 Enforcement Procedure
- 14.03: Correction of Zoning Violation
- 14.04 Enforcement Remedies

#### **14.01: ENFORCEMENT.**

The Zoning Ordinance shall be administered and enforced by the Zoning Administrator. It shall be unlawful to violate a provision of this Ordinance. The Zoning Administrator may institute in the name of the City of Osakis any appropriate actions or proceedings against a violator.

#### **14.02: ENFORCEMENT PROCEDURE.**

For the enforcement of the provisions of the Zoning Ordinance, the first zoning violation notice shall be sent by regular mail, and the second notice will be sent by certified mail, return receipt requested to the property owner of which the violation is taking place. A copy of all zoning violation notices shall be sent to the City Council, Planning Commission, Building Official, Law Enforcement Agency, and City and/or County Attorney. All zoning violation notices shall contain the following information:

- A. A description of the violation that is taking place.
- B. A picture (if possible) of the violation that is taking place.
- C. Legal Description, Location and/or address of the property at which the violation is taking place.
- D. Identification of the section of the Zoning Ordinance that is being violated.
- E. Date the violation was discovered.
- F. Steps necessary to correct the violation.
- G. Deadline in which the violation must be corrected, which is at the discretion of the Zoning Administrator, but which in no case may be longer than thirty (30) days from the date the first notice is mailed.

#### **14.03: CORRECTION OF ZONING VIOLATION.**

Upon correction of the violation in the manner stipulated by the zoning violation notice at any point during this enforcement process, the City shall take no further enforcement activity with respect to such specific violation incident.

#### **14.04: ENFORCEMENT REMEDIES.**

Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies:

- A. Withhold Permits. The City shall have the authority to withhold or deny any and all permits or City approvals until the violation is corrected to the satisfaction of the Zoning Administrator.
- B. Stop Work Order. The City shall have the authority to issue a stop work order on the property in violation.
- C. Abatement. The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice. Abatement action by the City shall not proceed until after a hearing before the City Council.



- D. Injunctive Relief. The City shall have the authority to seek an injunction in court to stop any violation of this Section.
- E. Civil Remedies. The City shall have the authority to institute appropriate civil action including injunctive and other equitable processes to enforce the provisions of this Section and, at the discretion of the civil court, shall recover reasonable court costs and attorney's fees that are incurred due to the enforcement of the subject violation.
- F. Assessment. The City shall have the authority to use the provisions of Minnesota Statutes Chapter 429, as amended, supplemented, or replaced from time to time, to assess charges against any property in violation of any of the provisions of this Section, and any such assessment shall, at the time at which taxes are certified to the County Auditor, be certified for collection in the manner that other special assessments are so certified.
- G. Criminal Remedies. The City shall have the authority to institute appropriate misdemeanor action or misdemeanor criminal action for a violation of this Section. All violations not otherwise noted shall be petty misdemeanors with a fine not to exceed Three Hundred and No/100 Dollars (\$300.00) per violation. All violations specifically noted as misdemeanors shall, upon conviction, be punished by fine or imprisonment pursuant to State law definitions of a misdemeanor in effect upon the date of conviction.
- H. Cumulative Remedies. The powers and remedies of this Section shall not be individually limited and are not exclusive. Failure to exercise any remedy shall not be a waiver of that remedy.

## CHAPTER 15 - NON-CONFORMING BUILDINGS, STRUCTURES AND USES

### SECTION:

- 15.01: Purpose
- 15.02: Non-conforming Lots
- 15.03: Non-conforming Uses or Structures
- 15.04: Structural Changes
- 15.05: Maintenance
- 15.06: Restorations and Alterations Required By Law for the Benefit of Health, Safety and Welfare

### **15.01: PURPOSE.**

It is the purpose of this Chapter to provide for the regulation of non-conforming 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. This Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Ordinance that all non-conforming uses shall be eventually brought into conformity.

### **15.02: NON-CONFORMING LOTS.**

- A. No lot of record shall be reduced in size below the district requirements of this Ordinance.
- B. A lot of record shall be deemed buildable even though the lot area and/or dimensions are less than those required for the district provided the following conditions are met:
  - 1. Evidence is provided that the lot in question met minimum requirements for the division of property under ordinance regulations in effect at the time the property was divided.
  - 2. It has frontage on a public street.
  - 3. The lot is at least sixty percent (60%) of the minimum lot area and lot width required as specified in the applicable district and other provisions of the Ordinance are complied with.
  - 4. If two (2) or more lots are in single ownership and if all or part of the lots do not meet the width and area requirements of this Ordinance, the contiguous lots shall be considered to be an undivided parcel for the purposes of this Ordinance and the Subdivision Ordinance.

### **15.03: NON-CONFORMING USES OR STRUCTURES.**

Non-conforming use or structure may be continued subject to the following limitations and such further regulations as the City Council may require for securing the purposes of this Ordinance.

- A. A non-conforming use of land or structure shall not be enlarged or increased in size or land area, nor shall such non-conforming use be moved to any part of the parcel of land upon which the same was not conducted prior to the adoption of the Ordinance.
- B. A non-conforming use shall not be changed unless changed to a conforming or more conforming use; such use shall not thereafter be changed to a non-conforming use.
- C. If any existing non-conforming use of building or land is discontinued for a period of one (1) year it cannot be resumed.
- D. If a structure occupied by a legal nonconforming use or a legal nonconforming structure is destroyed by fire or other peril to the extent that repair or replacement costs exceeds fifty percent (50%) of the assessors estimated market value of the structure and no building permit has been applied for within 180 days of when the structure is damaged, the structure shall not be replaced or repaired except in conformity with this Ordinance. In the event a building permit to replace or

repair such a building is applied for within 180 days of when the structure is damaged, the City may impose reasonable conditions on a building permit issued thereto to mitigate any newly created impact on adjacent property.

- E. Alterations may be made to a residential building containing non-conforming residential units when alterations will improve the livability of the unit provided the number of dwelling units in the building is not increased.

**15.04: STRUCTURAL CHANGES.**

No existing structure devoted to a non-conforming use shall be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a conforming use.

**15.05: MAINTENANCE.**

Maintenance of a building or other structure containing or used for a non-conforming use will be permitted when it includes necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.

**15.06: RESTORATION AND ALTERATIONS REQUIRED BY LAW FOR THE BENEFIT OF HEALTH, SAFETY, AND WELFARE.**

Nothing in this Ordinance shall prevent the strengthening, restoration, or alteration of a structure or building maintained for a nonconforming use when such action is required by: (1) Americans With Disabilities Act of 1990 (ADA) or its amendments, (2) Occupational Health and Safety Act (OSHA) or its amendments, or (3) any other state or federal law which requires changes based on health, safety, or welfare. This Ordinance shall not prevent such strengthening, restoration, or alterations even if the building is enlarged so long as the purpose of the restoration, strengthening, or alteration is required by ADA, OSHA, or other state or federal law dealing with health, safety, and welfare. Proof of such requirement shall be provided by the applicant.

## CHAPTER 16 - GENERAL ZONING DISTRICT PROVISIONS

### SECTION:

- 16.01: Establishment of Districts
- 16.02: Zoning Map
- 16.03: Zoning District Boundaries
- 16.04: Appeals
- 16.05: Annexations

### **16.01: ESTABLISHMENT OF DISTRICTS.**

The City of Osakis is hereby divided into classes of "Zoning Districts" as listed below and as shown on the Official Zoning Map.

UR	Urban Reserve District
R-1	Low-Density Residential District
R-2	Medium to High Residential District
R-M	Residential Mobile Home District
C-1	Central Business District
C-2	General Commerce District
C-3	Highway Commercial District
I-1	General Industry District
PRDO	Planned Residential Development District Overlay
SH	Shoreland Overlay District
FP	Floodplain Management Overlay District

### **16.02: ZONING MAP.**

The location and boundaries of the districts established by this text are hereby set forth on the official "Osakis Zoning Map." Said map shall be on file with the Zoning Administrator, 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 Ordinance by reference.

### **16.03: ZONING DISTRICT BOUNDARIES.**

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

### **16.04: APPEALS.**

Appeals concerning the exact location of a zoning district boundary line shall be heard by the Planning Commission serving as the Board of Adjustment and Appeals pursuant to Chapter 3 (Board of Adjustment and Appeals) of this Ordinance.

### **16.05: ANNEXATIONS.**

Any land annexed into the City in the future shall be placed in the UR Urban Reserve District unless a zoning district designation has been assigned to said property in the Joint Resolution for annexation, Ordinance or other such document adopted for the purpose of enacting the annexation.

## CHAPTER 17 - UR, URBAN RESERVE DISTRICT

### SECTION:

- 17.01: Purpose
- 17.02: Permitted Uses
- 17.03: Conditional Uses
- 17.04: Interim Uses
- 17.05: Accessory Uses
- 17.06: Lot Area and Setback Requirements
- 17.07: Lot Coverage and Height

### **17.01: PURPOSE.**

The purpose of the UR, Urban Reserve District is to preserve a low density, rural environment in a manner conducive to future urbanization. The district is intended to function as a "holding" zone for future urban development, preventing subdivision of an urban density until such time as suitable infrastructure can be provided.

### **17.02: PERMITTED USES.**

Subject to applicable provisions of this Ordinance, the following are permitted uses in the UR District:

- A. Single family detached dwellings at a density of not more than one (1) dwelling unit per five (5) acres of land, provided that no more than one 5 acre parcel is allowed per 40 acres.
- B. Agricultural Field Crop Production.
- C. Hobby farms.
- D. Nurseries, greenhouses and tree farms, with limited retail sales.
- E. Public parks, playgrounds, recreational uses, wildlife areas and game refuges.
- F. State licensed residential facility or a housing with services establishment registered under Minnesota Statutes Chapter 144D, serving six or fewer persons, noting the following:
  - 1. Special conditions for residential programs: It is the policy of the State and Nation that persons shall not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings.
  - 2. Permitted single-family residential use: Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations, except that a residential program whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use. This exception shall not apply to residential programs licensed before July 1, 1995. Programs otherwise not allowed under this Ordinance shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.
  - 3. Residential program: "Residential program" means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner, to provide services for persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in

an intermediate care facility for four or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under Chapter 254B. Residential programs include home and community-based services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

- G. Licensed day care facility serving twelve (12) or fewer persons.
- H. Group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.
- I. Public parks and playgrounds.
- J. Essential services.

### **17.03: CONDITIONAL USES.**

The following are conditional uses in the UR District and are governed by Chapter 7 (Conditional Use Permits) of this Ordinance:

- A. Bed and breakfast establishments, provided that:
  - 1. A maximum of four (4) bed and breakfast units be established in the structure.
  - 2. The facility shall have a State license (hotel and food), and comply with building and fire codes as may be required or applicable.
  - 3. The facility shall be owner or manager occupied.
  - 4. The principal structure shall have a minimum size of one thousand five hundred (1,500) gross square feet and shall be located on a lot which meets the minimum lot size of the district in which it is located.
  - 5. The bed and breakfast units are located within the principal structure.
  - 6. Not more than one (1) full time person, who is not a resident of the structure, shall be employed by the bed and breakfast facility.
  - 7. Dining and other facilities shall not be open to the general public but shall be used exclusively by the registered guests and residents.
  - 8. Two (2) off-street parking spaces shall be provided for the home plus one (1) off-street parking space for each bed and breakfast unit.
  - 9. Not more than one (1) identification sign not exceeding four (4) square feet in area may be attached to each wall which faces a street. The sign shall be reflective of the architectural features of the structure and may not be internally or externally illuminated.
  - 10. Adequate lighting shall be provided between the principal structure and the parking area for safety purposes. Any additional external lighting is prohibited.
- B. Commercial riding stables, domestic animal kennels and hospitals and similar uses provided that:
  - 1. Minimum lot size shall be ten (10) acres.
  - 2. Any building in which animals are kept, whether roofed shelter or enclosed structure, shall be

located a distance of three hundred (300) feet from any lot line.

3. The animals shall, at a minimum, be kept in an enclosed pen or corral.
4. All applicable MPCA rules are complied with.
5. All other applicable State and local regulations pertaining to nuisance, health and safety conditions are completed with.
6. The provisions of Chapter 31 (General Requirements) of the Ordinance are considered and satisfactorily met.

**17.04: INTERIM USES.**

Subject to applicable provisions of this Ordinance, the following are interim uses in the UR District and are governed by Section 5 of this Ordinance:

- A. Commercial activities and personal services accessory to a single family use in permitted non-residential facilities, provided that:
  1. The commercial activity and/or personal service is clearly secondary to the principal use of the facility.
  2. Commercial activities are limited to those allowed within a commercial or light industrial zoning classification.
  3. Personal services are limited to those uses and activities which are allowed as a permitted or permitted accessory uses within a Commercial Zoning District.
  4. The area devoted to the retail activity or personal service shall not occupy more than the gross floor area of the principal structure on the lot.

**17.05: ACCESSORY USES.**

Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the UR District:

- A. Accessory uses incidental and customary to uses allowed as permitted, conditional and interim uses within this Chapter.
- B. Home occupations as regulated by Chapter 28 (Home Occupations) of this Ordinance.
- C. Fences as regulated by this Ordinance.
- D. Personal or accessory antenna as provided under Chapter 31 this Ordinance.
- E. Off-street parking.
- F. Except as otherwise limited, private recreational facilities, accessory to an existing principal permitted use on the same lot and which is operated for the enjoyment and convenience of the residents of the principal use and their occasional guests.
- G. Recreational vehicles and equipment as regulated by this Ordinance.
- H. Signs as regulated by Chapter 30 of this Ordinance.

**17.06: LOT, AREA AND SETBACK REQUIREMENTS.**

The following minimum requirements shall be observed in the UR District:

- A. Lot Area: Five (5) Acres
- B. Lot Width: One Hundred Fifty (150) feet
- C. Setbacks:
  - 1. Front Yards: Thirty (30) feet.
  - 2. Rear Yards: Thirty (30) feet.
  - 3. Side Yards: Twenty (20) feet on each side, or thirty (30) feet on the side yard abutting a public right of way.

**17.07: LOT COVERAGE AND HEIGHT.**

The following requirements shall be observed in the UR District:

- A. The total impervious surface coverage on a lot shall not exceed ten (10) percent.
- B. All residences shall be limited to a maximum height of two and one-half (2 ½) stories or forty-five feet. Accessory farm buildings are not subject to the building height limitations of this Chapter.



## CHAPTER 18 - R-1, LOW DENSITY RESIDENTIAL DISTRICT

### SECTION:

- 18.01: Purpose
- 18.02: Permitted Uses
- 18.03: Conditional Uses
- 18.04: Interim Uses
- 18.05: Accessory Uses
- 18.06: Lot Area and Setback Requirements
- 18.07: Lot Coverage and Height
- 18.08: Minimum Ground Floor Area
- 18.09: Parking, Garages and Driveways
- 18.09: Prohibited Buildings and Materials

### **18.01: PURPOSE.**

The R-1, Low Density Residential District, is established to provide for an environment of predominantly low density, single family residential uses, including detached and attached single family and two family homes, triplexes and quadraminiums, along with directly related, complementary uses.

### **18.02: PERMITTED USES.**

Subject to applicable provisions of this Ordinance, the following are permitted uses in the R-1 District:

- A. Owner Occupied, Single-family detached dwellings and manufactured homes which are not less than twenty-four (24) feet in width regardless of construction type.
- B. Owner Occupied, Single-family attached dwellings not exceeding four attached housing units.
- C. State licensed residential facility or a housing with services establishment registered under Minnesota Statutes Chapter 144D, serving six or fewer persons, noting the following:
  - 1. Special conditions for residential programs: It is the policy of the State and Nation that persons shall not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings.
  - 2. Permitted single-family residential use: Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations, except that a residential program whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use. This exception shall not apply to residential programs licensed before July 1, 1995. Programs otherwise not allowed under this Ordinance shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.
  - 3. Residential program: "Residential program" means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner, to provide services for persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in an intermediate care facility for four or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or

chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under Chapter 254B. Residential programs include home and community-based services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

- D. Licensed day care facility serving twelve (12) or fewer persons.
- E. Group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.
- F. Public parks and playgrounds.
- G. Use of a single-family dwelling for non-owner occupied rental purposes provided:
  - 1. The property must satisfy off-street parking requirements contained in this Ordinance.
  - 2. Have a ceiling height of at least seven (7) feet.
  - 3. Contain adequate ventilation and fire escapes as determined by the Building Official.
  - 4. Meet all applicable fire code.
  - 5. The single-family unit shall be utilized as a single household or one single family household plus one separate housing unit.
  - 6. The unit must be leased or rented for a period of at least one calendar month. Rental of a single-family dwelling for periods for less than one calendar month are considered short-term rental and prohibited.
- H. Existing Limited Resort Facilities (see definition in Chapter 2) and incidental commercial services in connection with and incidental to the operation of a resort activity existing at the time of Ordinance adoption. Expansions shall be processed as residential Planned Residential Development and/or a Common Interest Community and adhere to applicable Shoreland District requirements.
- I. Essential services.

### **18.03: CONDITIONAL USES.**

Subject to applicable provisions of this Ordinance, the following are conditional uses in the R-1 District and are governed by Chapter 7 (Conditional Use Permits) of this Ordinance:

- A. Church/worship facility, cemetery, crematory, mausoleum, government, public utilities and public service uses, hospitals, sanitariums, homes for the aged, institutions of an educational, philanthropic or charitable nature and related facilities when required for the public health, safety or welfare and Governmental and public related utility buildings and structures provided that:
  - 1. The requirements of Chapter 7 relating to Conditional Uses of this Ordinance are considered and satisfied.
  - 2. When abutting a residential use in an area guided toward future residential development within the Comprehensive Plan the required side yard width is doubled and a landscaped buffer yard is provided. The required landscaped buffer yard shall screen the buildings/structures and parking lots from the view of the abutting residential use. The Zoning Administrator shall approve the appropriateness of the landscaped buffer yard after consulting the standards for buffer yards contained in Chapter 31 (General Requirements) of this Ordinance.
  - 3. The parking requirements of this ordinance applicable to the contemplated use are achieved.

B. Bed and breakfast establishments, provided that:

1. A maximum of four (4) bed and breakfast units be established in the structure.
2. The facility shall have a State license (hotel and food), and comply with building and fire codes as may be required or applicable.
3. The facility shall be owner or manager occupied.
4. The principal structure shall have a minimum size of one thousand five hundred (1,500) gross square feet and shall be located on a lot which meets the minimum lot size of the district in which it is located.
5. The bed and breakfast units are located within the principal structure.
6. Not more than one (1) full time person, who is not a resident of the structure, shall be employed by the bed and breakfast facility.
7. Dining and other facilities shall not be open to the general public but shall be used exclusively by the registered guests and residents.
8. Two (2) off-street parking spaces shall be provided for the home plus one (1) off-street parking space for each bed and breakfast unit.
9. Not more than one (1) identification sign not exceeding four (4) square feet in area may be attached to each wall which faces a street. The sign shall be reflective of the architectural features of the structure and may not be internally or externally illuminated.
10. Adequate lighting shall be provided between the principal structure and the parking area for safety purposes. Any additional external lighting is prohibited.

**18.04: INTERIM USES.**

Subject to applicable provisions of this Ordinance, the following are interim uses in the R-1 District and are governed by Chapter 8 (Interim Uses) of this Ordinance:

- A. Agricultural Field Crop Production.

**18.05: ACCESSORY USES.**

Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the R-1 District:

- A. Accessory uses incidental and customary to uses allowed as permitted, conditional and interim uses within this Chapter.
- B. Home occupations as regulated by Chapter 28 (Home Occupations) of this Ordinance.
- C. Fences as regulated by Chapter 31, this Ordinance.
- D. Personal or accessory antenna as provided under Chapter 31 of this Ordinance.
- E. Off-street parking.
- F. Except as otherwise limited, private recreational facilities, accessory to an existing principal permitted use on the same lot and which is operated for the enjoyment and convenience of the residents of the principal use and their occasional guests.
- G. Recreational vehicles and equipment as regulated by Chapter 31 of this Ordinance.

- H. Signs as regulated by Chapter 30 of this Ordinance.
- I. Gardening and other horticultural uses where no sale of products is conducted on the premises.
- J. Non-commercial greenhouses, provided they do not exceed two hundred (200) square feet in area.

**18.06: LOT AREA AND SETBACK REQUIREMENTS.**

The following minimum requirements shall be observed in the R-1 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

- A. Lot Area:
  - 1. Single Family:
    - a. Minimum Lot Area: Ten thousand (12,000) square feet.
    - b. Minimum Lot Width: Seventy-five (75) feet, as measured at the building setback line.
    - c. Minimum Lot Depth: One hundred (100) feet.
  - 2. Two Family:
    - a. Minimum Lot Area Per Dwelling Unit: Seven thousand five hundred (7,500) square feet.
    - b. Minimum Total Lot Area: Fifteen thousand (15,000) square feet.
  - 3. Triplexes and Quadraplexes:
    - a. Minimum Lot Area Per Dwelling Unit: Five thousand (5,000) square feet.
    - b. Minimum Total Lot Area: Twenty thousand (20,000) square feet.
- B. Principal Structure Setbacks:
  - 1. Front Yard: Thirty (30) feet.
    - a. Where a lot is located at the intersection of two (2) or more streets or highways which bound two (2) or more sides of the lot, no building shall project beyond the front yard line of either street.
    - b. Where a lot is adjacent to a State or County Highway, the setback shall be fifty (50) feet on all lot lines.
  - 2. Side Yard: Ten (10) feet.
  - 3. Rear Yard: Twenty (20) feet.
- C. Accessory Structures Setbacks as regulated by Chapter 31 (General Requirements) of this Ordinance.

**18.07: LOT COVERAGE AND HEIGHT.**

The following requirements shall be observed in the R-1 District:

- A. The total impervious surface coverage on a lot shall not exceed thirty (30) percent.
- B. All single family residences shall be limited to a maximum height of two and one-half (2.5) stories

or thirty-five (35) feet, whichever is less.

**18.08: PARKING, GARAGES AND DRIVEWAY.**

Each dwelling unit shall have a minimum of two off-street parking spaces. A minimum of a two-stall garage of no less than 440 square feet shall be required at the time of construction of the dwelling with a cement or asphalt driveway.

**18.09: PROHIBITED BUILDINGS AND MATERIALS.**

The following shall not be allowed in the R-1 District: Any structure more than seven (7) feet in height or more than One hundred twenty (120) square feet, with or without a permanent floor, having a design that uses augured pillars (or columns) as footing; and/or columns or poles as the major support for such structure, and/or ~~exterior roofs and~~ sidewalls consisting of non-architectural ~~raised, ribbed or corrugated metal panels with exposed metal fasteners or~~ vinyl or plastic materials.  
*(Approved August 11, 2009)*

## CHAPTER 19 - R-2, MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT

### Section:

- 19.01: Purpose
- 19.02: Permitted Uses
- 19.03: Conditional Uses
- 19.04: Interim Uses
- 19.05: Accessory Uses
- 19.06: Lot Area and Setback Requirements
- 19.07: Lot Coverage and Height
- 19.08: Multiple Family Appearance

### **19.01: PURPOSE.**

The R-2, Medium to High Density Residential District, is established to provide for an environment of predominantly medium (three to eight units) to high density (over eight units) apartments and congregate living arrangements, along with directly related, complementary uses.

### **19.02: PERMITTED USES.**

Subject to applicable provisions of this Ordinance, the following are permitted uses in the R-2 District:

- A. Multiple Family Dwellings (Apartment): three (3) to eight (8) units.
- B. Residential condominiums or cooperative housing (processed as a PUD).
- C. State licensed residential facility serving from seven (7) through sixteen (16) persons.
- D. Group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve thirteen (13) to sixteen (16) children.
- E. Public parks and playgrounds.
- F. Essential services.

### **19.03: CONDITIONAL USES.**

Subject to applicable provisions of this Ordinance, the following are conditional uses in the R-2 District and are governed by Chapter 7 of this Ordinance:

- A. Multiple Family Dwellings (Apartment): over eight (8) units.
- B. Congregate Care Housing.
- C. Church/worship facility, cemetery, crematory, mausoleum, government, public utilities and public service uses, hospitals, sanitariums, homes for the aged, institutions of an educational, philanthropic or charitable nature and related facilities when required for the public health, safety or welfare, provided that: Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutions limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues provided that side yards shall be doubled those required for the district.

### **19.04: ACCESSORY USES.**

Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the R-2 District:

- A. Accessory uses incidental and customary to uses allowed as permitted, conditional and interim uses within this Chapter.

- B. Home occupations as regulated by Chapter 28 (Home Occupations) of this Ordinance.
- C. Fences as regulated by Chapter 31 this Ordinance.
- D. Personal or accessory antenna as provided under Chapter 31 of this Ordinance.
- E. Off-street parking.
- F. Except as otherwise limited, private recreational facilities, accessory to an existing principal permitted use on the same lot and which is operated for the enjoyment and convenience of the residents of the principal use and their occasional guests.
- G. Recreational vehicles and equipment as regulated by Chapter 31 of this Ordinance.
- H. Signs as regulated by Chapter 30 of this Ordinance.
- I. Gardening and other horticultural uses where no sale of products is conducted on the premises.
- J. Non-commercial greenhouses, provided they do not exceed two hundred (200) square feet in area.

**19.05: INTERIM USES.**

Subject to applicable provisions of this Ordinance, the following are interim uses in the R-2 District and are governed by Chapter 8 (Interim Ordinances) of this Ordinance:

- A. None.

**19.06: LOT AREA AND SETBACK REQUIREMENTS.**

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

A. Lot Area:

1. Triplexes and Quadraplexes:

- a. Minimum Lot Area Per Dwelling Unit: Five thousand (5,000) square feet.
- b. Minimum Total Lot Area: Twenty thousand (20,000) square feet.

2. For the basis of computing the number of permitted units within a multiple residence, the following shall apply:

- a. 2,000 square feet for each efficiency unit; and/or
- b. 3,000 square feet of lot area for each one (1) bedroom unit; and/or
- c. 3,500 square feet of lot area for each two (2) bedroom unit; and/or
- d. 4,000 square feet of lot area for each three (3) bedroom unit; and/or
- e. For each additional bedroom (over 3) per unit, an additional 500 square feet of lot area.

B. Principal Structure Setbacks:

1. Triplexes and Quadraplexes:

- a. Front Yard: Thirty (30) feet.

- b. Where a lot is located at the intersection of two (2) or more streets or highways which bound two (2) or more sides of the lot, no building shall project beyond the front yard line of either street.
  - c. Side Yard: Ten (10) feet.
  - d. Rear Yard: Twenty (20) feet.
2. Multiple family units:
- a. Front yard setback of not less than thirty (30) feet is required.
  - b. Interior side yards (not adjacent to street right-of-ways) require a minimum of twenty (20) feet plus one (foot) of side yard setback for each one (1) foot of building height over twenty (20) feet.
  - c. A rear yard with a depth of not less than thirty (30) feet is required.
  - d. Corner lots, (side yards adjacent to street right-of-ways) require a minimum of thirty (30) feet.
3. Condominium and cooperative units.
- a. Front yard setback of not less than thirty (30) feet is required.
  - b. Interior side yards (not adjacent to street right-of-ways) require a minimum of twenty (20) feet plus one (foot) of side yard setback for each one (1) foot of building height over twenty (20) feet.
  - c. A rear yard with a depth of not less than thirty (30) feet is required.
  - d. Corner lots, (side yards adjacent to street right-of-ways) require a minimum of thirty (30) feet.
- C. Accessory Structures Setbacks as regulated by Chapter 31, (General Requirements) of this Ordinance.

**19.07: LOT COVERAGE AND HEIGHT.**

The following requirements shall be observed in the R-2 District:

- A. The total ground area of all residential buildings shall not exceed a lot coverage of forty-five (45) percent.
- B. Triplex and quadraplex: Maximum building height is 35 feet or the average height of the adjacent structures, whichever is less.
- C. Multiple family dwelling: Maximum building height is four stories or forty-five (45) feet.

**19.08: MULTIPLE FAMILY APPEARANCE.**

- A. All multiple family dwelling buildings shall be designed and constructed to have the equivalent of a front appearance on each exterior surface. All accessory or ancillary buildings, including garages, shall be designed and constructed with the same facing materials as the principal building. Such material shall be used in the same or better proportions as used on said principal building.
- B. Any detracting aspects (i.e. parking or exterior storage) of the multiple family dwelling development shall be integrated into the site design so as to minimize the impact on adjacent residential areas. Mitigation of these aspects shall include landscaping and fencing treatments.



## **CHAPTER 20 - RM, SINGLE FAMILY RESIDENTIAL MANUFACTURED HOME PARK DISTRICT**

### **SECTION:**

- 20.01: Purpose
- 20.02: Permitted Uses
- 20.03: Accessory Uses
- 20.04: Application
- 20.05: Design Standards

### **20.01: PURPOSE.**

The purpose of the RM, Single Family Manufactured Home Park District is to provide a separate district for manufactured home parks, distinct from other residential uses in areas guided for low density residential land uses by the Comprehensive Plan.

### **20.02: PERMITTED USES.**

The following are permitted uses within the RM Manufactured Home Residential District:

- A. Manufactured homes in manufactured home parks.
- B. Public parks and playgrounds.
- C. Essential services.
- D. Storm shelters.
- E. Offices for the administration of the Manufactured Home Park.
- F. On-site laundry facilities to service tenants of the Manufactured Home Park.

### **20.03: ACCESSORY USES.**

The following are permitted accessory uses in an R-M Manufactured Home Residential District:

- A. Accessory uses incidental and customary to uses allowed as permitted, conditional and interim uses within this Chapter.
- B. Home occupations as regulated by Chapter 28 (Home Occupations) of this Ordinance.
- C. Fences as regulated by Chapter 31 of this Ordinance.
- D. Personal or accessory antenna as provided under Chapter 31 of this Ordinance.
- E. Off-street parking.
- F. Except as otherwise limited, private recreational facilities, accessory to an existing principal permitted use on the same lot and which is operated for the enjoyment and convenience of the residents of the principal use and their occasional guests.
- G. Signs as regulated by Chapter 30 of this Ordinance.

### **20.04: APPLICATION.**

The following procedure must be followed to obtain approval for a manufactured home park:

- A. The property owner shall first apply in writing to the Zoning Administrator on such form as provided by the City. Such application shall include a development plan and a plat plan prepared by and bearing the seal of a Minnesota Registered Surveyor or Registered Engineer, showing the

following:

1. Exact legal description of entire development property.
2. Name, address, resume, and three references in the field of manufactured home park development and management.
3. The existing survey of the entire development site.
4. Location and size of all individual lots, storage areas, recreation areas, laundry and drying areas, roadways, parking sites, central office and shelters.
5. Location and size of all streets abutting the park and all proposed driveways from such streets to said park.
6. Street construction and surfacing plans and specifications, including parking areas and sidewalks.
7. Plans for sanitary sewage disposal, surface water drainage, water supply systems, electrical service, and gas service.
8. Setback dimensions of all lots and the entire manufactured home park from adjacent roads, properties, natural areas such as rivers, lakes, streams, ponds, and the like.
9. Delineation and identification of any and all wetlands on or near the development site.
10. Plans for any and all structures.
11. Location, owner, legal description of all easements on the site.
12. Detailed landscaping plans and specifications.
13. Lighting plans and specifications.
14. Location and width of sidewalks.
15. Description of the method of collecting and disposing of garbage and refuse.
16. Detailed description of maintenance procedures and grounds supervision.
17. Proposed development schedule including proposed deadlines for completion of each stage.
18. Such other information as required by the City Engineer, City Building Official, Zoning Administrator, City Council, and/or Planning Commission.

#### **20.05: DESIGN STANDARDS.**

All manufactured home parks site plans shall conform to the following standards:

##### **A. Park site.**

1. Shall be drained and properly graded and meet criteria required in shoreland and/or floodplain areas, meet City engineering and building inspection requirements, and other regulations as applicable.
2. Shall have at least two points of ingress and egress for vehicles and these access points must get written approval from the appropriate road authority for the proposed access. The access points must meet their specific design requirements.
3. Total Land Area Required: Minimum total park area shall be five (5) acres and not less than

250 feet in width.

B. Individual lots.

1. Lot area: a minimum of 6,500 square feet for the exclusive use of the occupant.
2. Width: no less than 65 feet.
3. Depth: no less than 100 feet.
4. Each lot must provide a raised gravel base sized for the manufactured home installed on the site. Each lot must have sod removed from the base area.
5. Each manufactured home lot shall have frontage on an approved roadway and the corner of each manufactured home lot shall be marked. Each site shall be numbered.
6. Frost piers shall be installed, according to the manufacturer's specifications, on all lots at the time of manufactured home installation.
7. Manufactured Home Parks which are established after the adoption of this ordinance shall not allow manufactured homes which are greater than eight (8) years old to be moved into the park.

C. Setbacks.

1. There shall be a front, side and rear yard setback of ten (10) feet from each structure to the lot line. Lots that abut any public street shall have a setback of thirty (30) feet measured from property line. Where a public street is adjacent to a property line, a twelve (12) foot landscape area shall be required. Screening and buffer zones shall be established on the perimeter of the manufactured home park in compliance with the provisions of this chapter.
2. Accessory structures such as an awning, cabana, storage cabinet, carport, windbreak, deck or porch for purposes of setback requirements, shall be considered to be a part of the manufactured home.
3. There shall be an unused area not less than ten (10) feet in depth along each street or roadway and this area shall be seeded, sodded and/or landscaped, except for required walkways, driveways, or utilities.
4. There shall be an open space of at least six (6) feet between manufactured homes and their accessory buildings.

D. Maximum Height:

1. Principal Building: One and one-half stories or twenty-five (25) feet, whichever is less.
2. Accessory Building: Accessory buildings shall comply with the provisions of Chapter 31 of this Ordinance.

E. Floor Area:

1. Principal Building: Minimum: eight hundred (800) square feet.

F. Off-street automobile parking.

1. Each lot shall have off-street parking spaces for two (2) automobiles. These parking spaces shall comply with the off-street parking regulations outlined in this Chapter.
2. Each park shall maintain a hard surfaced off-street parking lot for guests of occupants in the amount of one (1) space for each four (4) sites. Each parking space shall be a minimum of

nine (9) feet by eighteen (18) feet. An exception to this requirement may be made in cases of on-site garages and adequate off-street parking stalls on individual lots.

3. Access drives from roadways to all parking spaces and sites shall be hard surfaced.
4. Parking on street shall be discouraged and, if allowed, restricted to only one side of the street. All on-street parking plans are to be approved by the City.

G. Utilities.

1. All manufactured homes shall be connected to a public water and sanitary sewer system.
2. Disposal of surface storm water shall conform to city storm water management plans and shall be approved by the City Engineer and City Council.
3. All utility connections shall be approved by the City.
4. The source of fuel for cooking, heating, or other purposes at each site shall be as approved by the City.
5. All utilities shall be underground including those for street and exterior lighting purposes. There shall be no overhead wires or supporting poles.
6. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related mobile and manufactured home equipment.
7. The manufactured home park owner shall pay all required utility connection fees to the City.

H. Internal roadways and streets.

1. Roadways shall be hard surfaced to meet the standards for at least a seven-ton street, unless the applicant can demonstrate that a lesser roadway will be feasible along with plans to keep heavy service type trucks from entering the park. All roadway surface plans are to be approved by the City Engineer and City Council.
2. All roads shall have concrete, mountable, roll type curbs and gutters.
3. All streets shall have a road bed of not less than twenty-four (24) feet in width. No parking shall be permitted on the street unless the roadbed is at least thirty-two (32) feet in width, and in this case will still be limited to one (1) side for street parking purposes.
4. All streets and ways are hereby declared public only to the extent that they shall be under the supervision and control of the police enforcement powers of the City with respect to traffic laws and such other laws as shall be applicable to public ways and places.

I. Landscaping.

1. Each individual lot shall be properly landscaped with grass or sodding. In open areas and park areas, a minimum of ten (10) trees per acre is required. Trees shall be bound and burlapped. Tree varieties and sizes proposed are subject to approval by the City.
2. A compact hedge, tree line, or landscaped area shall be installed around each manufactured home park and be maintained at all times.
3. All areas shall be landscaped in accordance with a plan approved by the City Council.

J. Recreation.

1. The owners of all manufactured home parks shall improve, for the use of occupants, at least ten percent (10%) of the park's total land area for recreational use (tennis courts, children's

play equipment, swimming pool, golf green, and the like). In lieu of land dedication for public park purposes, a cash contribution as established by City Code shall be paid to the City.

K. Shelters.

1. Each manufactured home park shall include suitable storm and disaster shelter facilities constructed to accommodate the park residents. The storm shelters must meet standards specified in the state regarding manufactured home park shelter design (Minnesota Rules Chapter 1370.0100 to 1370.0230, as amended from time to time) from the Minnesota Department of Administration Building Code and Standards Division.

L. General Regulations.

1. The owner of a manufactured home park shall be responsible for assuring that the following regulations are complied with by the park and its occupants:
  - a. All areas of the park shall be properly drained, and maintained clean and free from refuse and debris.
  - b. Distinctive design elements and/or themes common throughout the manufactured home park are strongly encouraged.
  - c. The placement of more than one (1) manufactured home on any single lot shall not be permitted.
  - d. Manufactured homes shall not be used for residential purposes if they:
    - i. Do not conform to the requirements of the Manufactured Home Code of the State of Minnesota (Minnesota Rules, Chapter 1350, as may be amended from time to time).
    - ii. Have not been issued a permit by the City Building Official. This includes additions, decks, and accessory structures over 120 square feet in area.
    - iii. Are in an unsanitary condition or have the exterior in bad repair.
    - iv. Are structurally unsound and do not protect the inhabitants against all elements.
    - v. Are not properly blocked, anchored, or utilities not properly connected.
  - e. No persons shall be allowed to reside in a park except those occupying manufactured homes on established individual sites or a central office or caretaker building.
  - f. No manufactured home may be inhabited by a greater number of occupants than that for which it was developed or allowed by state building code.
  - g. Each manufactured home shall be installed in accordance with the manufacturer's specific installation instructions, City building code requirements, and such installation plans and foundation plans prepared by a Minnesota certified engineer. All manufactured homes shall be permanently anchored to prevent uplifting due to wind.
  - h. The area beneath each manufactured home shall be enclosed with appropriate skirting material that is of compatible color and material of the manufactured home, shall not be in disrepair, and the enclosed skirting shall have access for inspection. Vinyl or aluminum that has been painted is acceptable.
  - i. No public address or loud speaker system shall be permitted in such park, unless permitted by the City Council for special or one-time uses of limited duration such as block parties or emergencies.
  - j. Outdoor storage of vehicles and other equipment shall comply with this Chapter. The

manufactured home park shall provide a secured area for storage on-site, in compliance with the specifications of this chapter.

- k. The installation or construction of any structures or improvements within a park shall require a building permit as required by the City. All plans for such installation or construction shall meet the requirements of the Minnesota Department of Health and the City's zoning and building codes.

M. Location.

1. It shall be unlawful within this zoning district for any person to park any mobile or manufactured home on any street or highway, or other public place or on any tract of land owned by any person, occupied or unoccupied within the City, except as provided for in this chapter.
2. Emergency or temporary stopping or parking is permitted on any public street or highway for not longer than three (3) hours subject to any other and further prohibitions, and parking regulations or ordinances for that street or highway.
3. No person shall park or occupy any mobile or manufactured home which is situated outside of an approved manufactured home park.

N. Temporary mobile or manufactured home permits.

1. Temporary mobile or manufactured home permits may be issued by the City Council for the temporary use of a mobile or manufactured home as a temporary office when the mobile or manufactured home is located outside of an authorized manufactured home park. The City Council may establish such conditions for the mobile or manufactured home as it deems appropriate to insure the health, safety, and general welfare. Such temporary permits shall be limited to periods of not more than ninety (90) days. Upon written application, the City Council may renew such permits. A fee, established by the City Council by resolution, must accompany each application for, and renewal of, a temporary mobile or manufactured home permit. Each temporary mobile or manufactured home permit must be displayed in a conspicuous location on the outside of the mobile or manufactured home.

O. Inspection of manufactured home parks.

1. Compliance with Chapter: The City Building Official is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this chapter, including the power to enter at reasonable times upon any private or public property for such purposes.
2. Registration record: The City Building Official, County Sheriff, or their duly authorized representatives, shall have the power to inspect the register containing a record of all residents of the manufactured home park.
3. Access: It shall be the duty of the park management to give the City Building Official free access to all lots, at reasonable times, for the purpose of inspection.
4. Repairs: It shall be the duty of every occupant of a manufactured home park to give the owner thereof or his/her agent or employee access to any part of such manufactured home park at reasonable times for the purpose of making such repairs or alterations as are necessary to comply with this chapter.
5. Emergency: Whenever the Zoning Administrator, after notification by the City Building Official, finds that an emergency exists which requires immediate action to protect the public health or safety, an order may be ordered, without notice of hearing, reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency, including the suspension of the permit or license. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom

such an order is directed shall comply therewith immediately, but upon petition to the Zoning Administrator shall be afforded a hearing before the Planning Commission as soon as possible. Pending any such hearing, such emergency orders shall be in full force and effect unless later removed, modified, or changed by the Zoning Administrator, Planning Commission, or the City Council.

P. Required illumination of the park.

1. All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night. Such illumination specifications shall be reviewed and approved by the Zoning Administrator and City Engineer.
2. All parts of the park system: 0.6 foot candle.
3. Potentially hazardous locations, such as major street intersections and steps or stepped ramps, to be individually illuminated with a minimum of 0.6 foot candle.

Q. Walkways.

1. All parks shall be provided with safe, convenient, durable and convenient to maintain, all-season pedestrian access of adequate width for intended use, between individual manufactured homes, the park streets, and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.
2. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall be a minimum of thirty-six (36) inches wide and shall be constructed adjacent to the concrete curb of all streets. Common walkways shall connect to municipal trails where feasible.
3. All manufactured homes shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street.

R. Service buildings and other community service buildings.

1. The requirements of this section shall apply to service buildings, recreation buildings, and other community service facilities, indoor recreation areas, and commercial areas supplying essential goods or services for the exclusive use of park occupants.
2. Structural requirements of buildings: All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, insects, and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.
3. Barbecue pits, outdoor fireplaces, and cooking shelters: Cooking shelters, barbecue pits, and outdoor fireplaces shall be so located, constructed, maintained, and used as to minimize fire hazards and smoke nuisance both on the property on which used and on neighboring properties, and shall comply with all appropriate ordinances, laws, or other regulations. Wood burning stoves and incinerators are not allowed.

S. Refuse handling.

1. The storage, collection, and disposal of refuse in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding, accident or fire hazards, or air pollution.

T. Insect and rodent control.

1. Grounds, buildings, and structures: Grounds, buildings, and structures shall be maintained

free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with any requirements of the County Health Department, Minnesota Department of Health, City Council, or other duly authorized authority over such matters.

2. Parks: Parks shall be maintained free of accumulation of debris which may provide rodent harborage or breeding places for flies, mosquitoes, and other pests.
3. Storage areas: Storage areas shall be so maintained as to prevent rodent harborage. Lumber, pipe and other building material shall be stored at least one foot above ground.
4. Screens: Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.

U. Fuel supply and storage.

1. Approved natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems. No outside or buried fuel tanks will be allowed.

V. Fire protection.

1. Litter, rubbish, and the like. Manufactured home parks shall be kept free of litter, rubbish, and other flammable material.
2. Fire extinguishers: Portable fire extinguishers rated for class A, B, and C fires shall be kept visible in services buildings and at other locations conveniently and readily accessible for use by all of the occupants and shall be maintained in good operating condition. Their capacity shall be not less than ten (10) pounds.
3. Fire hydrants: Fire hydrants shall be installed in accordance with the following requirements:
  - a. The water supply system shall permit the operation of standard City fire hydrants.
  - b. Fire hydrants shall be spaced throughout the park in such locations and to such specifications as required by the City Fire Chief and/or City Building Official.

W. Miscellaneous requirements.

1. The following are responsibilities of the manufactured home park owners:
  - a. The person to whom a license for a manufactured home park is issued shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its facilities, and equipment in good repair and in a clean and sanitary condition.
  - b. The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter.
  - c. It shall be the duty of the operator of the manufactured home park to keep a register containing a record of all manufactured home owners and occupants located within the park. The register shall contain the date of arrival and departure of each manufactured home and the make, type and license number of each manufactured home. The park shall keep the register available for inspection at all times by law enforcement officers, public health officials, and other officials whose duty necessitates acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park.



## CHAPTER 21 - C-1, CENTRAL COMMERCIAL DISTRICT

### SECTION

- 21.01: Purpose
- 21.02: Permitted Uses
- 21.03: Conditional Uses
- 21.04: Interim Uses
- 21.05: Accessory Uses
- 21.06: Height, Setback and Lot Coverage Requirements
- 21.07: Building Guidelines

#### **21.01: PURPOSE.**

The C-1 District is intended to provide a district accommodating those retail, service and office functions which are characteristic to a traditional "downtown" area and to allow the present downtown area to expand, develop and redevelop, with emphasis on specialty shops and office uses.

#### **21.02: PERMITTED USES.**

Subject to applicable provisions of this Ordinance, the following are permitted uses in a C-1 District:

- A. General Retail Sales and Services not exceeding 7,500 square feet per establishment that include the retail sale of new products or the provision of services to the general public that produce minimal off-site impacts. General retail sales and services include the following uses:
  - 1. Antiques and collectibles
  - 2. Automobile parts and accessories
  - 3. Bakery / catering service
  - 4. Barber shop / beauty salon
  - 5. Bookstore
  - 6. Bicycle sales and repair
  - 7. Clothing and accessories
  - 8. Department and discount stores
  - 9. Drug store
  - 10. Dry-cleaning establishment
  - 11. Electronics sales and repair
  - 12. Film developing / photographic supplies
  - 13. Florist
  - 14. Hardware store
  - 15. Household furnishings and appliances
  - 16. Locksmith
  - 17. Musical instruments

- 18. Office and school supplies
- 19. Pet Store
- 20. Picture framing
- 21. Shoe repair / tailor
- 22. Sporting goods / bait and tackle
- 23. Videos Store
- B. Repair and maintenance services for small consumer electronics, household goods, bicycles and apparel.
- C. Professional offices and professional services, including but not limited to: financial institutions, accounting and attorney firms, real estate firms and chiropractic clinics
- D. Medical, optical and dental services
- E. Beauty shops/salons and barber shops
- F. Coffee shops, cafes and delicatessens
- G. Eating and drinking establishments
- H. Recreational services contained within an enclosed structure including theaters and bowling lanes.
- I. Community/governmental buildings and public parks
- J. Sports and Health Facility

**21.03: CONDITIONAL USES.**

Subject to applicable provisions of this Ordinance, the following are conditional uses in a C-1 District and regulated by Chapter 7 of this Ordinance:

- A. Drive-in facilities for banks or savings and loan associations provided that:
  - 1. The driveway access shall not be on a residential street.
  - 2. The stacking lane and its access must be designed to control traffic in a manner to protect the pedestrian ways, buildings and green area on the site.
  - 3. The service windows and driveway shall be screened from view if adjacent to a residentially used property.
- B. Accessory, enclosed retail, rental or service activity other than that allowed as a permitted use or conditional use within this section, provided that:
  - 1. Such use is allowed as a permitted use in a C-1 District.
  - 2. Such use does not constitute more than thirty (30) percent of the lot area and not more than fifty (50) percent of the gross floor area of the principal use.
  - 3. Adequate off-street parking and off-street loading in compliance with the requirements of this Ordinance.
  - 4. All signing and informational or visual communication devices shall be in compliance with the

Chapter 30 of this Ordinance.

- C. Owner Occupied, Single-family detached dwellings existing at the time of Ordinance adoption, provided that:
  - 1. Residential uses shall be limited and may be permitted only where they do not create conflicts present or future, between the non-residential and residential use and activities, both on and off the subject property.
  - 2. Residential use shall be governed by all applicable standards of the R-1 Zoning District, Building and Fire Codes.
- D. Tattoo and Massage Parlors

**21.04: ACCESSORY USES.**

Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the C-1 District:

- A. Accessory uses incidental and customary to uses allowed as permitted, conditional and interim uses within this Section.
- B. Signs as provided under Chapter 30 of this Ordinance.
- C. Parking as provided under Chapter 31 of this Ordinance.
- D. Fences as provided under Chapter 31 of this Ordinance.
- E. Personal or accessory antenna as provided under Chapter 31 of this Ordinance.

**21.05: INTERIM USES.**

The following uses require an Interim Use Permit within the C-1 District when occurring for more than seven consecutive days and/or when reoccurring more than five times per year and are further governed by Chapter 8 of this Ordinance.

- A. Temporary uses such as holiday tree lots, newsstands, sidewalk display sales, etc.
- B. Temporary buildings for construction purposes, for a period not to exceed construction.
- C. Outdoor storage.
- D. Outdoor dining.

**21.06: HEIGHT, SETBACK AND LOT COVERAGE REQUIREMENTS.**

The following minimum requirements shall be observed in the C-1 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

- A. Minimum Lot Area. None.
- B. Minimum Lot Width. None.
- C. Minimum Lot Depth. None.
- D. Minimum Front Setback. None.
- E. Minimum Side Setback. None, unless abutting a residential zoning district (not separated by a right-of-way), then a minimum side yard of twenty (20) feet shall be required. The required setback shall be landscaped as required by the Zoning Administrator so as to buffer the

commercial use from the adjacent residential use.

- F. Minimum Rear Setback. None, unless abutting a residential zoning district (not separated by a right-of-way), then a minimum side yard of twenty (20) feet shall be required. The required setback shall be landscaped as required by the Zoning Administrator so as to buffer the commercial use from the adjacent residential use.
- G. Maximum Impervious Surface Coverage: No maximum impervious surface coverage exists in this district.
- H. Building height. The maximum building height shall be 45 feet.
- I. Street frontage -there shall be a minimum street frontage of 15 feet, exclusive of frontage on any alley.

**21.07: BUILDING GUIDELINES.**

- A. Rehabilitation and Renovation of Existing Structures and/or infill development within the C-1 Central District.
  - 1. The historic character of each property should be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property should be avoided.
  - 2. Most properties change over time; those changes that have acquired historic significance in their own right should be retained and preserved.
  - 3. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property should be preserved.
  - 4. Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture, and other visual qualities and, where possible, materials.
  - 5. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials should not be used. The surface cleaning of structures, if appropriate, should be undertaken using the gentlest means possible.
  - 6. New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property. The new work should be compatible with the massing, size, scale, and architectural features of the existing structure so as to protect the historic integrity of the property and its environment.
  - 7. New additions and adjacent or related new construction should be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
  - 8. Clapboards should be repaired or replaced with wood siding with the same profile (smooth surface /horizontal placement) and style. Alternate clapboard siding material may be considered, provided the original profile and style match the original. Painting should match the original. Clapboard or other wood siding should be used with horizontal placement. Decorative wood detail should be maintained and repaired, and if needed replaced; such repairs/replacement should copy the original in material, style, size and configuration.
  - 9. Paint colors should be from an "historic color" selection and should complement the age and style of the structure. Property owners should consider color patterns/palettes employed along Main Street and surrounding buildings for ideas and consider the impact of color choices on the streetscape. Property owners should use a limited number of colors on a single structure. Loud or highly contrasting colors are discouraged, colors with low reflectance that are subtle, neutral or earth tone are preferred.

10. If masonry (brick) has deteriorated and/or re-pointing or replacement required all work and replacement should match the existing as closely as possible in style, color, type, bond pattern and size. When re-pointing a mortar appropriate for the brick type should be used. When cleaning the gentlest method possible should be used since sandblasting or chemical cleaning may damage exterior brick and lead to penetration of dirt and moisture. Masonry should not be painted or covered with false facades.
11. Sign design, layout, placement, material and color should be historic suitability. Most historic commercial structures have a natural location for signage (horizontal lintel over store entrance is one example), so this space should be utilized if possible. Color and style should complement the structure, design, and function of the building. Lighting the sign should be done with exterior lights or spotlights.
12. Awnings should be historically appropriate. Design, material, logo, style, configuration, location, and color should be consistent with those originally exhibited on historic structures. Material should consist of fabric, canvas, or alternative compatible with the original structure. Hard or shed roof awnings with solid roofing material such as shingles or metal are discouraged.
13. When possible repairing and maintaining existing roof material is encouraged. Property owners should consider using professional architects and contractors with roofing experience to determine the extent of the repair. When replacement is required, the material should complement the structure's age, style, and protection requirements. The material and color of roofs should be in harmony with the rest of the structure.
14. Property owners should avoid the following:
  - a. Pursuing changes to structures which create a false sense of historical development, such as adding features or architectural elements from other buildings.
  - b. Creating a false historical appearance.
  - c. Introducing a new building or site feature that is out of scale or of an otherwise inappropriate design.
  - d. Introducing a new landscape feature, including plant material, that is visually incompatible with the site, or that alters or destroys the historic site patterns or vistas.
  - e. Locating any new construction on the building site where important landscape features will be damaged or destroyed, for example, removing a lawn and walkway and installing a parking lot.
  - f. Placing parking facilities directly adjacent to historic buildings where automobiles may cause damage to the buildings or to important landscape features.
  - g. Introducing new construction onto the building site that is visually incompatible in terms of size, scale, design, materials, color, and texture; which destroys historic relationships on the site; or which damages or destroys important landscape features.
  - h. Removing or radically changing features of the setting that are important in defining the historic character. The setting is the area or environment in which a historic property is found. Elements of setting include the relationship of buildings to each other, setbacks, fence patterns, views, driveways and walkways and street trees.

## CHAPTER 22 - C-2, GENERAL COMMERCE DISTRICT

### SECTION

- 22.01: Purpose
- 22.02: Permitted Uses
- 22.03: Conditional Uses
- 22.04: Interim Uses
- 22.05: Accessory Uses
- 22.06: Height, Setback and Lot Coverage Requirements

#### **22.01: PURPOSE.**

The purpose of the C-2 General Commercial District is to provide space for concentrated general business and commercial activities where the vehicular-oriented activities can be maximized with minimal infringement on residential neighborhoods and with minimal conflicts with uses allowed in the Central Commercial District. It is intended that the C-2 District be used as a transition between low density residential and highway commercial and to provide opportunities for residential, neighborhood-service commercial, low impact commercial uses, government facilities, schools, churches, hospitals, libraries and other similar public and institutional uses.

#### **22.02: PERMITTED USES.**

Subject to applicable provisions of this Ordinance, the following are permitted uses in a C-2 District:

- A. General Retail Sales and Services that include the retail sale of new products or the provision of services to the general public that produce minimal off-site impacts. General retail sales and services include the following uses:
  - 1. Antiques and collectibles
  - 2. Automobile parts and accessories
  - 3. Bakery / catering service
  - 4. Barber shop / beauty salon
  - 5. Bookstore
  - 6. Bicycle sales and repair
  - 7. Clothing and accessories
  - 8. Department and discount stores
  - 9. Drug store
  - 10. Dry-cleaning establishment
  - 11. Electronics sales and repair
  - 12. Film developing / photographic supplies
  - 13. Florist
  - 14. Hardware store
  - 15. Household furnishings and appliances
  - 16. Locksmith

- 17. Musical instruments
  - 18. Office and school supplies
  - 19. Pet Store
  - 20. Picture framing
  - 21. Shoe repair / tailor
  - 22. Sporting goods / bait and tackle
  - 23. Videos Store
- B. Grocery store or market not exceeding 7,500 square feet per establishment.
  - C. Repair and maintenance services for small consumer electronics, household goods, bicycles and apparel
  - D. Professional offices and professional services, including but not limited to: financial institutions, accounting and attorney firms, real estate firms and chiropractic clinics
  - E. Building material sales and contractor (lumber) yards
  - F. Furniture Store
  - G. Garden Supply Store
  - H. Medical, optical and dental services
  - I. Beauty shops/salons and barber shops
  - J. Coffee shops, cafes and delicatessens
  - K. Eating and drinking establishments
  - L. Recreational services contained within an enclosed structure including theaters and bowling lanes.
  - M. Community/governmental buildings and public parks
  - N. Housing above the first floor, providing the lower level commercial use(s) are compatible with residential uses above
  - O. Automotive Repair, Minor
  - P. Automobile Sales
  - Q. Sports and Health Facility
  - R. Hotel, Motel
  - S. Limited production and processing uses that include activities that are consistent and compatible with retail sales and services. These uses produce minimal off-site impacts due to their limited nature and scale. Limited production and processing includes the following uses:
    - 1. Apparel and other finished products made from fabrics
    - 2. Computers and accessories, including circuit boards and software

3. Electronic components and accessories
4. Film, video and audio recording
5. Food and beverage products, except no live slaughter or grain milling
6. Jewelry, ornamental ceramics and pottery
7. Precision medical and optical goods
8. Signs and advertising devices
9. Visual arts, not including performances
10. Watches and clocks
11. Wood crafting and carving
12. Wood furniture and upholstery.

**22.03: CONDITIONAL USES.**

Subject to applicable provisions of this Ordinance, the following are conditional uses in a C-2 District and regulated by Chapter 7 of this Ordinance:

- A. Owner Occupied, Single-family detached dwellings, provided that:
  1. Residential uses shall be limited and may be permitted only where they do not create conflicts present or future, between the non-residential and residential use and activities, both on and off the subject property.
  2. Residential use shall be governed by all applicable standards of the R-1 Zoning District, Building and Fire Codes.
- B. Church/worship facility, cemetery, crematory, mausoleum, government, public utilities and public service uses, hospitals, sanitariums, homes for the aged, institutions of an educational, philanthropic or charitable nature and related facilities when required for the public health, safety or welfare and Governmental and public related utility buildings and structures provided that:
  1. The requirements of Chapter 7 relating to Conditional Uses of this Ordinance are considered and satisfied.
  2. When abutting a residential use in an area guided toward future residential development within the Comprehensive Plan the required side yard width is doubled and a landscaped buffer yard is provided. The required landscaped buffer yard shall screen the buildings/structures and parking lots from the view of the abutting residential use. The Zoning Administrator shall approve the appropriateness of the landscaped buffer yard after consulting the standards for buffer yards contained in Chapter 31 (General Requirements) of this Ordinance.
  3. The parking requirements of this ordinance applicable to the contemplated use are achieved.
- C. Tattoo & Massage Parlors
- D. Automobile Gasoline/Convenience Facility
- E. Car Wash
- F. Body Shops, Creameries, Locker Plant, Excavating and Cabinet and Furniture Building existing at



the time of Ordinance adoption

**22.04: ACCESSORY USES.**

Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the C-2 District:

- A. Accessory uses incidental and customary to uses allowed as permitted, conditional and interim uses within this Section.
- B. Signs as provided under Chapter 30 of this Ordinance.
- C. Parking as provided under Chapter 31 of this Ordinance.
- D. Fences as provided under Chapter 31 of this Ordinance.
- E. Personal or accessory antenna as provided under Chapter 31 of this Ordinance.

**22.05: INTERIM USES.**

The following uses require an Interim Use Permit within the C-2 District when occurring for more than seven consecutive days and/or when reoccurring more than five times per year and are further governed by Chapter 8 of this Ordinance.

- A. Temporary uses such as holiday tree lots, newsstands, sidewalk display sales, etc.
- B. Temporary buildings for construction purposes, for a period not to exceed construction.
- C. Outdoor storage.
- D. Outdoor dining.

**22.06: HEIGHT, SETBACK AND LOT COVERAGE REQUIREMENTS.**

The following minimum requirements shall be observed in the C-2 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

- A. Minimum Lot Area. 10,000 square feet.
- B. Minimum Lot Width. 50 feet abutting a public right of way..
- C. Minimum Lot Depth. 75 feet
- D. Minimum Front Setback. 15 feet.
- E. Minimum Side Setback. 10 feet, unless abutting a residential zoning district (not separated by a right-of-way), then a minimum side yard of twenty (20) feet shall be required. The required setback shall be landscaped as required by the Zoning Administrator so as to buffer the commercial use from the adjacent residential use.
- F. Minimum Rear Setback. 20 feet, unless abutting a residential zoning district (not separated by a right-of-way), then a minimum side yard of thirty (30) feet shall be required. The required setback shall be landscaped as required by the Zoning Administrator so as to buffer the commercial use from the adjacent residential use.
- G. Maximum Impervious Surface Coverage: 50%
- H. Building height. The maximum building height shall be 45 feet.

## CHAPTER 23 - C-3, HIGHWAY COMMERCIAL DISTRICT

### SECTION

- 23.01: Purpose
- 23.02: Permitted Uses
- 23.03: Conditional Uses
- 23.04: Interim Uses
- 23.05: Accessory Uses
- 23.06: Height, Setback and Lot Coverage Requirements
- 23.07: Building Requirements

#### **23.01: PURPOSE.**

The purpose of the Highway Commercial District is to accommodate the type of businesses which are oriented to the traveling public and require highway access and adequate vehicle parking. The businesses located in this district include those that benefit from access and visibility from the Highways 127 & 27 corridors, CSAH 3 & 51 corridors and future arterial highways.

#### **23.02: PERMITTED USES.**

Subject to applicable provisions of this Ordinance, the following are permitted uses in a C-3 District:

- A. General Retail Sales and Services that include the retail sale of new products or the provision of services to the general public that produce minimal off-site impacts. General retail sales and services include the following uses:
  - 1. Antiques and collectibles
  - 2. Automobile parts and accessories
  - 3. Bakery / catering service
  - 4. Barber shop / beauty salon
  - 5. Bookstore
  - 6. Bicycle sales and repair
  - 7. Clothing and accessories
  - 8. Department and discount stores
  - 9. Drug store
  - 10. Dry-cleaning establishment
  - 11. Electronics sales and repair
  - 12. Film developing / photographic supplies
  - 13. Florist
  - 14. Hardware store
  - 15. Household furnishings and appliances
  - 16. Locksmith
  - 17. Musical instruments

- 18. Office and school supplies
- 19. Pet Store
- 20. Picture framing
- 21. Shoe repair / tailor
- 22. Sporting goods / bait and tackle
- 23. Videos Store
- B. Grocery store or market
- C. Repair and maintenance services for small consumer electronics, household goods, bicycles and apparel
- D. Professional offices and professional services, including but not limited to: financial institutions, accounting and attorney firms, real estate firms and chiropractic clinics
- E. Building material sales and contractor (lumber) yards
- F. Furniture Store
- G. Garden Supply Store
- H. Medical, optical and dental services
- I. Beauty shops/salons and barber shops
- J. Coffee shops, cafes and delicatessens
- K. Eating and drinking establishments
- L. Bowling allies, pool halls, video game arcades
- M. Community/governmental buildings and public parks
- N. Housing above the first floor, providing the lower level commercial use(s) are compatible with residential uses above
- O. Automotive Repair, Minor
- P. Automobile Sales
- Q. Sports and Health Facility
- R. Hotel, Motel
- S. Farm equipment/implement and marine, motor sport and boating equipment
- T. Cabinet and carpentry shops, electrical service, heating, plumbing, soft water service
- U. Business and professional lease space
- V. Personal services, including but not limited to: barber/beauty shops, salons, manicurists, cosmetology services, photography studio and similar uses
- W. Private non-profit clubs and lodges

- X. Recreational services contained within an enclosed structure including theaters and bowling lanes.
- Y. Amusement parks and facilities.
- Z. Grouped (multiple tenant) professional office/service establishments
- AA. Churches, worship facilities.
- BB. Limited production and processing uses that include activities that are consistent and compatible with retail sales and services. These uses produce minimal off-site impacts due to their limited nature and scale. Limited production and processing includes the following uses:
  - 1. Apparel and other finished products made from fabrics
  - 2. Computers and accessories, including circuit boards and software
  - 3. Electronic components and accessories
  - 4. Film, video and audio recording
  - 5. Food and beverage products, except no live slaughter or grain milling
  - 6. Jewelry, ornamental ceramics and pottery
  - 7. Precision medical and optical goods
  - 8. Signs and advertising devices
  - 9. Visual arts, not including performances
  - 10. Watches and clocks
  - 11. Wood crafting and carving
  - 12. Wood furniture and upholstery.

**23.03: CONDITIONAL USES.**

Subject to applicable provisions of this Ordinance, the following are conditional uses in a C-3 District and regulated by Chapter 7 of this Ordinance:

- A. Owner Occupied, Single-family detached dwellings existing at the time of Ordinance adoption, provided that:
  - 1. Residential uses shall be limited and may be permitted only where they do not create conflicts present or future, between the non-residential and residential use and activities, both on and off the subject property.
  - 2. Residential use shall be governed by all applicable standards of the R-1 Zoning District, Building and Fire Codes.
- B. Automobile Gasoline/Convenience Facility
- C. Car Wash
- D. Automobile Repair, Major
- E. RV Park

- F. Grouped Retail/Wholesale Trade. A combination of two or more individual retail and/or wholesale trade establishments (i.e. a multiple tenant commercial/shopping center) of goods such as automobile parts/accessories, building materials, consumer electronics, furniture and flooring, paint/wallpaper, hardware, household appliance sales/service, clothing/apparel, garden supplies, new passenger automobiles, used passenger automobiles, farm equipment and marine, motor sport and boating equipment.

G. Storage Facilities: Inside Storage.  
(Approved May 6, 2013 under Ordinance # 90)

**23.04: ACCESSORY USES.**

Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the C-3 District:

- A. Accessory uses incidental and customary to uses allowed as permitted, conditional and interim uses within this Section.
- B. Signs as provided under Chapter 30 of this Ordinance.
- C. Parking as provided under Chapter 31 of this Ordinance.
- D. Fences as provided under Section Chapter 31 of this Ordinance.
- E. Personal or accessory antenna as provided under Section Chapter 31 of this Ordinance.

**23.05: INTERIM USES.**

The following uses require an Interim Use Permit within the C-3 District when occurring for more than seven consecutive days and/or when reoccurring more than five times per year and are further governed by Chapter 8 of this Ordinance.

- A. Temporary uses such as holiday tree lots, newsstands, sidewalk display sales, etc.
- B. Temporary buildings for construction purposes, for a period not to exceed construction
- C. Outdoor storage
- D. Outdoor dining

**23.06: HEIGHT, SETBACK AND LOT COVERAGE REQUIREMENTS.**

The following minimum requirements shall be observed in the C-3 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

- A. Minimum Lot Area. 15,000 square feet.
- B. Minimum Lot Width. 75 feet abutting a public right of way.
- C. Minimum Lot Depth. 100 feet.
- D. Minimum Front Setback. 30 feet.
- E. Minimum Side Setback. 10 feet, unless abutting a residential zoning district (not separated by a right-of-way), then a minimum side yard of thirty (30) feet shall be required. The required setback shall be landscaped as required by the Zoning Administrator so as to buffer the commercial use from the adjacent residential use.
- F. Minimum Rear Setback. Same as Side Setback.

G. Maximum Impervious Surface Coverage: 75%

**23.07: BUILDING REQUIREMENTS.**

- A. A high level of design and architectural detail are preferred for structures in the C-3 Highway Commercial District. Complimentary architectural quality, façade materials and colors are desired in comparison to adjacent facilities.
- B. Buildings shall be designed to prevent the appearance of straight, unbroken lines in their horizontal and vertical surface. There shall be no more than two structures in a row without a break in the horizontal and/or vertical elevations. Facades facing a public right of way with more than forty (40) feet in width or height shall feature breaks/divisions in materials, separate entrances/entrance treatments, variations in roof lines and/or variations in building setbacks.
- C. At least fifty (50) percent of the area of all facades of new construction and/or reconstructed facades facing public rights-of-way shall be comprised of brick, stone, stucco, decorative concrete block or architectural tilt-up/tip-up panels and/or windows doors. Projects renovating or rehabilitating existing structures shall provide as much adornment as possible to existing facades facing public rights-of-way.
- D. Provision for handling all freight shall be on those sides of any buildings which do not face on any street or proposed street. In the event loading docks must face a public street the dock shall be fully screened from the view the roadway.
- E. Common Areas. All common areas shall be maintained by the property owner.

## CHAPTER 24 - I-1, GENERAL INDUSTRIAL DISTRICT

### SECTION

- 24.01: Purpose
- 24.02: Permitted Uses
- 24.03: Conditional Uses
- 24.04: Interim Uses
- 24.05: Accessory Uses
- 24.06: Height, Setback and Lot Coverage Requirements
- 24.07: Building Requirements

#### **24.01: PURPOSE.**

The purpose of the I-1 General Industrial District is to provide space for light and heavy manufacturing activities that involve a minimum degree of refuse byproducts and air or noise pollution, and requiring a relatively low level of on-premise processing. These activities may include secondary commercial functions which are conducted on site.

#### **24.02: PERMITTED USES.**

Subject to applicable provisions of this Ordinance, the following are permitted uses in an I-1 District:

- A. Assembly plants, bottling establishments, cabinet/woodworking establishments, call centers, contractor (electrical, plumbing, heating/ventilation, etc) facilities, contractor's supply yard, storage yards for lumber, coal, brick and stone, provided such use is entirely enclosed within a substantial opaque fence not less than six feet in height, electric appliances assembly, industrial research laboratories, lumberyards, mail order facilities.
- B. Manufacturing, assembly, compounding, treatment, packaging or repackaging of: musical instruments, toys, novelties, rubber or metal stamps; small electrical parts, or signs; articles or merchandise from the following previously prepared materials: cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, paper, plastic, precious or semi-precious metals and stones, shell, textiles, tobacco, wood excluding planning mill, yarn, and paint not requiring a boiling process; food products such as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, toiletries. Uses contemplated under this section must have a low potential for noise, odor, waste or pollution problems and low transportation and other service requirements.
- C. Minor and major automotive repair.
- D. Offices/showroom/retail space as a portion of the principal industrial use provided they do not exceed a combined twenty-five (25) percent of the total square footage of the principal use.
- E. Printing/binding establishments.
- F. Storage facilities: wholesale and mini-storage.
- G. Utility structures.
- H. Warehousing and wholesale merchandising.
- I. Limited production and processing uses that include activities that are consistent and compatible with retail sales and services. These uses produce minimal off-site impacts due to their limited nature and scale. Limited production and processing includes the following uses:
  - 1. Apparel and other finished products made from fabrics
  - 2. Computers and accessories, including circuit boards and software

3. Electronic components and accessories
4. Film, video and audio recording
5. Food and beverage products, except no live slaughter or grain milling
6. Jewelry, ornamental ceramics and pottery
7. Precision medical and optical goods
8. Signs and advertising devices
9. Visual arts, not including performances
10. Watches and clocks
11. Wood crafting and carving
12. Wood furniture and upholstery.

**24.03: CONDITIONAL USES.**

Subject to applicable provisions of this Ordinance, the following are conditional uses in an I-1 District and regulated by Chapter 7 of this Ordinance:

- A. Freight truck terminals, provided access and circulation do not cause conflict with general traffic movement on the adjacent roadway(s).
- B. Grouped Retail/Wholesale Trade. A combination of two or more individual retail and/or wholesale trade establishments (i.e. a multiple tenant commercial/shopping center) of goods such as automobile parts/accessories, building materials, consumer electronics, furniture and flooring, paint/wallpaper, hardware, household appliance sales/service, clothing/apparel, garden supplies, new passenger automobiles, used passenger automobiles, farm equipment and marine, motor sport and boating equipment.

**24.04: ACCESSORY USES.**

Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the C-3 District:

- A. Accessory uses incidental and customary to uses allowed as permitted, conditional and interim uses within this Section.
- B. Signs as provided under Chapter 30 of this Ordinance.
- C. Parking as provided under Chapter 31 of this Ordinance.
- D. Fences as provided under Chapter 31 of this Ordinance.
- E. Personal or accessory antenna as provided under Chapter 31 of this Ordinance.

**24.05: INTERIM USES.**

The following uses require an Interim Use Permit within the C-3 District when occurring for more than seven consecutive days and/or when reoccurring more than five times per year and are further governed by Chapter 8 of this Ordinance.

- A. Temporary buildings for construction purposes, for a period not to exceed construction
- B. Outdoor storage



#### **24.06: HEIGHT, SETBACK AND LOT COVERAGE REQUIREMENTS.**

The following minimum requirements shall be observed in the I-1 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

- A. Minimum Lot Area. 32,670 (three fourths on an acre) square feet.
- B. Minimum Lot Width. 100 feet abutting a public right of way.
- C. Minimum Lot Depth. 150 feet.
- D. Minimum Front Setback. 30 feet.
- E. Minimum Side Setback. 30 feet, unless abutting a residential zoning district (not separated by a right-of-way), then a minimum side yard of fifty (50) feet shall be required. The required setback shall be landscaped as required by the Zoning Administrator so as to buffer the commercial use from the adjacent residential use.
- F. Minimum Rear Setback. Same as Side Setback.
- G. Maximum Impervious Surface Coverage: 80%

#### **24.07: BUILDING REQUIREMENTS.**

- A. Every applicant for a permit to develop or expand any industrial property in the City shall be required to submit a complete and accurate statement concerning the specific nature of the use to which the property is to be put. It shall be required by the Council that any use established in an industrial district shall be so operated that the entire community and surrounding communities shall be protected from a nuisance brought about by an excess of smoke, noise, odors, vibrations or any other activity that might be termed detrimental to the public health, safety or general welfare of surrounding inhabitants. In order to assure compliance with the performance standards set forth above, the Planning Commission may require the owner or operator of any permitted use or conditional use to make such investigations and tests as may be required to show adherence to the performance standards.
- B. The Council may require any additional information, corrections, or control, deemed necessary for the protection of the public. The council shall have the right to hire expert consultants, at the permittees expense, to assist in establishing and/or enforcing performance standards for any industrial use.
- C. Any lights used for exterior illuminations shall be directed away from adjacent properties
- D. Every operation shall be carried on in accordance with local fire and safety codes.
- E. All subsequent additions and outbuildings constructed after the erection of an original building or buildings shall be reviewed by the Zoning Administrator.

## CHAPTER 25 - PLANNED RESIDENTIAL DEVELOPMENT OVERLAY (PRDO)

### SECTION:

- 25.01: Intent
- 25.02: General Requirements
- 25.03: Procedure for Processing
- 25.04: Data Required
- 25.05: Amendments and Administration
- 25.06: Operating and Maintenance Requirements for Common Open Space and Service Facilities

### **25.01: INTENT.**

To allow for the development of residential areas under a flexible regulatory process as compared to the more rigid development regulations common to traditional zoning districts. The Planned Residential Development Overlay (PRDO) District provides for a joint planning design effort by developers and city officials rather than the City establishing maximum limits to which the developers must conform. Benefits resulting from the PRDO District include an opportunity to protect and preserve valuable natural resources and amenities and to create new public amenities, such as parks, trails, open spaces, and housing variety; in so doing, contributing more than a conventional development does to a higher quality living environment. The PRDO will provide for the development as an integrated, coordinated unit as opposed to traditional parcel-by-parcel, approach to development. It is further intended that PRDO Developments are to be characterized by central management, integrated planning and architecture, joint or common use of parking, maintenance of open space and other similar facilities, and a harmonious selection and efficient distribution of uses.

### **25.02: GENERAL REQUIREMENTS.**

The City Council, after receiving the recommendation of the Planning Commission, may authorize departures from traditional dimension standards requirements of this Ordinance for a PRDO, consistent with the intent and uses permitted in the R-1 and R-2 Districts of the Zoning Ordinance, if the Council determines, after considering the Planning Commission's recommendation and reviewing a complete plan, that the development is consistent with the general purposes of this Ordinance and that the project complies with the special requirements in this Section and general development goals of the City.

- A. Ownership: The tract of land included in the PRDO is under unified control at the time of application and is scheduled to be developed as one development.
- B. Minimum Size: *There is no minimum size requirement for the PRDO. The area included in the project consists of not less than five (5) acres of contiguous land.* (Ordinance No. 82 - January 3, 2012)
- C. Density: Increased density may be permitted if intended and demonstrated to encourage the preservation of natural topography and geological features, however the provisions of this Chapter shall not require the City to provide concessions in setbacks, density or lot size to protect waterways or waterbodies, steep slopes or other areas which would normally not be developable.
- D. Minimum Lot Size: The minimum lot size requirements of other Sections of this Ordinance do not apply to a PRDO except that the minimum lot size requirements of the underlying zone shall serve as a guideline to determine the maximum dwelling unit density of a total development. The maximum dwelling unit density shall be determined by the area remaining after appropriate space for street right-of-ways and any other public dedications have been determined and subtracted from the total PRDO area. If the property involved in the PRDO includes land in more than one (1) zoning district, the number of dwelling units or the square footage residential uses in the PRDO shall be proportional to the amount that would be allowed separately on the parcels located in each of the underlying zoning districts.
- E. Set-Back and Side Yard Requirements: Notwithstanding other provisions of this Section, every lot in a PUD abutting the perimeter of the PUD shall conform to yard requirements for the underlying district *within new developments*. Side yards between buildings in a PRDO shall be not less than

twenty (20) feet but such buildings may be built without reference to the property lines of the individual lots on which they are built. Buildings shall be spaced no less than twenty (20) feet apart to allow emergency vehicles freedom to maneuver between buildings.  
(Ordinance No. 82 - January 3, 2012)

- F. Access to Public Right-of-way: The site of a PRDO shall abut, and the major internal street or streets serving the PRDO shall be connected to, at least one (1) collector street or street that meets City standards. (Ordinance No. 82 - January 3, 2012)
- G. Utility Requirements: Utilities, including telephone and electrical systems, installed within a PRDO shall be placed underground. Utility appurtenances which can be effectively screened may be excepted from this requirement if the City finds that such exception will be consistent with the objective of this Section and the character of the proposed PRDO.
- H. Open Space: Common open space shall be either held in common ownership by all owners in the PRDO or dedicated for public use with approval of the City Council. Whenever possible, common open space shall be linked to the open space areas of adjoining developments. Common open space shall be of such size, shape, character, and locations as to be useable for its proposed purpose. In addition to the conventional park dedication requirements, a minimum of ten percent (10%) of the residential portion of each PRDO shall be reserved for common open space held in common ownership or dedicated for public use with approval of the Council.
- I. Parking. Off-street parking and loading space shall be provided in each PRDO in the same ratios for types of buildings and uses as required in the underlying zoning district.
- J. Street Width. Requirements outlined in the subdivision ordinance for street widths may be relaxed depending on the number of off-street parking locations and the anticipated density in the PRDO. The Planning Commission, City Engineer and City's Emergency Services (Fire, Ambulance and Police) shall review each PRDO to determine street width requirements.
- K. Landscaping. In any PRDO, the developer shall prepare and submit a landscaping plan as a part of the Final Plan, which shall include a detailed planting list with sizes and species indicated to be approved by the City Council. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the PRDO plan.
- L. Public services. The proposed project shall be served by the City water and sewer system and fire hydrants shall be installed at such locations as required by the City Engineer or the Fire Chief to provide fire protection.
- M. Site improvement agreement. Prior to the issuance of a building permit as part of the PRDO, the permit applicant, builder, or developer shall execute and deliver to the City Council a Development Agreement.

### **25.03: PROCEDURE FOR PROCESSING.**

- A. Informational Meeting. Upon filing of an application for a PRDO, the applicant of the proposed PRDO shall arrange for and attend an informational meeting with City staff. At such conference, the applicant shall be prepared to generally describe their proposal for a PRDO. The primary purpose of the meeting shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the conformity to the provisions of this code before incurring substantial expense in the preparation of detailed plans, surveys, and other data.
- B. General concept plan.
  - 1. Purpose. The general concept plan provides an opportunity for the applicant to submit a plan to the City showing their basic intent and the general nature of the entire development without incurring substantial cost. This concept plan serves as the basis for the informational meeting so that the proposal may be considered at an early stage. The following elements of the proposed general concept plan represent the immediate significant elements which the City

shall review and for which a decision shall be rendered:

- a. Overall maximum PUD density range.
  - b. General location of major streets and pedestrian walkways.
  - c. General location and extent of public and/or common open space.
  - d. General location of residential with approximate intensities of development.
  - e. Staging and timetable of development.
  - f. Other special criteria for development.
2. Process. The process for the filing and review of a PRDO shall mirror the process for the filing of a sketch plan, preliminary and final plat, as outlined in the City's Subdivision Ordinance. A public hearing shall not be required for the General Concept Plan or the Final Plan. A hearing shall be conducted by the Planning Commission during the Development Stage Plan review, as outlined in this section.
  3. Optional submission of development stage plan. In cases of a single stage PRDO or where the applicant wishes to begin the first stage of a multiple stage PRDO more expeditiously, he or she may at his or her option submit development stage plans for the proposed PRDO simultaneously with the submission of the general concept plan. In such case, the applicant shall comply with all the provisions of this Section applicable to submission of the development stage plan.
  4. Limitation of general concept plan approval. Unless a development stage plan has been filed within nine (9) months from the date the City Council grants general concept plan approval or, in any case, where applicant fails to file development stage and final plans to proceed with development in accordance with the provisions of this code and of an approved general concept plan, the approval may be revoked by the City Council. The City Council, at its discretion, may extend the filing date for a development stage plan when cause is demonstrated. Approval of the general concept plan should be limited to the general acceptability of the land uses proposed and their relationships to the area. Such action shall in no way bind the City Council to subsequent action on more detailed plans.

C. Development stage plan.

1. Purpose. The purpose of the development stage plan is to provide a specific and particular plan upon which the Planning Commission will base its recommendation to the City Council and with which substantial compliance is necessary for the preparation of the final plan.
2. Submission of development stage plan. Upon approval of the general concept plan, the applicant shall file with the Zoning Administrator a development stage plan consisting of the information and submissions required under the development stage of the entire PRDO, or for one (1) or more stages thereof in accordance with a staging plan approved as part of the general concept plan. The development stage plan shall refine, implement and be in substantial conformity with the approved general concept plan.
3. Review and action by City staff and Planning Commission. Upon receipt of a completed development stage plan, the Zoning Administrator shall refer such plan to the appropriate City staff, Planning Commission and other review agencies.
4. Process.
  - a. Developer makes application for subdivision (first phase of PRDO, development stage plan) at least thirty (30) days prior to the Planning Commission meeting.
  - b. Following the submission of a complete application, the Planning Commission shall

conduct a public hearing, following published notice and mailed notice to property owners within 350 feet of the proposed PRDO. Notice shall occur not less than ten (10) or more than thirty (30) days prior to the hearing. Failure of a property owner to receive notice shall not invalidate the process. The Planning Commission shall review the development stage plan and submit a written report and recommendation to the City Council. If the Planning Commission fails to make a report within thirty (30) days after receipt of the application, the City Council may proceed without the report. Such report shall contain the findings and recommendations of the Planning Commission with respect to the conformity of the development stage plan to the approved general concept plan, with respect to the merit or lack of merit of any departure of the development stage plan from substantial conformity with the general concept plan, and with respect to the compliance of the development stage plan with the provisions of this code and all other applicable federal, state and local codes and ordinances.

- c. Within sixty (60) days of the receipt of a complete application, the City Council will take action to grant approval, grant conditional approval, or deny approval of the plan.
  - d. Upon City Council approval, the City Attorney shall draft a PRDO Development Agreement which stipulates the specific terms and conditions established and approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor, City Clerk, and the applicant.
  - e. Where the development stage plan is denied approval, City Council action shall be by resolution setting forth the reasons for its actions. A certified copy of the document evidencing said City Council action shall be delivered to the applicant. The applicant will have sixty (60) days to submit a revised development stage plan to the Planning Commission according to this Chapter. After the sixty (60) day period, a revised general concept plan must be submitted to the Planning Commission unless otherwise arranged with the Zoning Administrator.
  - f. If subsequent submittals of the development stage plan are denied approval two (2) times within one (1) year of the original submission date, the applicant will be required to submit a revised general concept plan according to this Chapter.
  - g. Limitation on Development Stage Plan approval. Unless a final plan covering the area designated in the first stage of the development stage plan has been filed within six (6) months from the date the City Council grants development stage plan approval, or in any case where the applicant fails to file final plans and to proceed with development in accordance with the provisions of this section and/or an approved development stage plan, the approval shall expire. The City Council may, at its discretion, extend for not more than one (1) additional period of six months the filing deadline for any final plan when, for good cause, such extension is necessary. In any case where development plan approval expires, the City Council shall forthwith adopt a resolution repealing the general concept plan approval and the development stage plan approval for that portion of the PRDO that has not received final plan approval, and re-establish the zoning and other ordinance provisions that would otherwise be applicable.
5. Review and evaluation criteria. The evaluation of the proposed development stage plan shall include, but not be limited to, the following criteria:
- a. Adequate property control is provided to protect the individual owner's rights and property values and the public responsibility for maintenance and upkeep.
  - b. The interior circulation plan plus access from and onto public rights-of-way does not create congestion or dangers and is adequate for the safety of the project resident and the general public.
  - c. A sufficient amount of usable open space is provided.
  - d. The arrangement of buildings, structures and accessory uses does not unreasonably

disturb the privacy or property values of the surrounding residential uses.

- e. The architectural design of the project is visually compatible with the surrounding area. Architectural style or type of buildings shall not solely be a basis for denial or approval of the development stage plan. However, the overall appearance and compatibility of individual buildings to other site elements of surrounding development will be given primary consideration in the review stages of the Planning Commission and City Council.
  - f. The drainage and utility system plans are submitted to the City Engineer and shall be subject to approval of the City Engineer.
  - g. The development schedule insures a logical development of the site which will protect the public interest and conserve land.
  - h. Proposed unit and accessory use requirements are in compliance with the district provisions in which the development is planned.
6. Final plan.
- a. Purpose. The final plan is to serve as a complete, thorough and permanent public record of the PRDO and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PRDO process. It shall serve in conjunction with other City ordinances as the land use regulation applicable to the PRDO.
  - b. Submission of the final plan. Upon approval of the development stage plan, the applicant shall file with the Zoning Administrator a final plan consisting of the information and submissions required by the final plan stage, for the entire PRDO or for one (1) or more stages. The final plan is intended only to add detail to, and to put in final form, the information contained in the general concept plan and the development stage plan which shall conform to the development stage plan in all respects.
  - c. Review of final plan. The Zoning Administrator and City Engineer shall review the final plans to assure their compliance with the general concept and development stage plans. The Zoning Administrator and City Engineer shall require appropriate revisions by the applicant wherever they do not comply. The City Engineer shall report findings to the Zoning Administrator, who then shall notify the applicant in writing of their recommendations for approval, conditional approval or denial of the final plan.
  - d. City Council action. The City Council may approve the PRDO final plan with a majority vote.
  - e. Recording of final plan. Within thirty (30) days of the Zoning Administrator's notice of approval, the applicant shall record the final plan, or such portions thereof as are appropriate, with the Office of the County Recorder.
  - f. Building and other permits. No building permit shall be granted on land for which a plan for a PRDO is in the process of review or which does not conform to the approved final plan. Upon receiving notice from the Zoning Administrator that the approved final plan has been recorded and upon appropriate application of the applicant, building and other permits may be issued to the applicant if the following conditions are met:
    - i. Public open space, if applicable, has been deeded to the City and officially recorded.
    - ii. A development agreement has been approved and executed by all parties.
    - iii. The homeowner's association (if applicable) by-laws, covenants and deed restrictions have been approved by the City Attorney and officially recorded.
    - iv. The construction plans for proposed structures have been approved by the Building

Official.

- v. All detailed site plans have been approved by the Zoning Administrator.
7. Limitation of final plan approval. Within one (1) year after the approval of a final plan for PRDO, or such shorter time as may be established by the appropriate development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension has been granted as hereinafter provided, automatically renders void the PRDO permit and all approvals of the PRDO plan. The area encompassed within the PRDO shall thereafter be subject to those provisions of the zoning ordinances and other ordinances applicable in the district in which it is located. In such case, the City Council shall forthwith adopt a resolution repealing the PRDO permit and PRDO approvals and re-establishing the zoning and other ordinance provisions that would otherwise be applicable.

**25.04: DATA REQUIRED.**

- A. Development Stage Plan. An application for approval of a development plan for a proposed PRDO shall be filed with the Zoning Administrator by the owner(s) of title of property for which the PRDO is proposed. A filing fee, as established from time to time by City Council Ordinance, shall accompany the Development Review Application. Eighteen (18) copies of the application and accompanying statements shall be submitted and shall include:
  1. A vicinity map at a scale approved by the Zoning Administrator showing property lines, streets, easements, existing zoning, and such other items as the Planning Commission may require to show the relationship of the proposed PRDO to the comprehensive plan of the City, to existing schools and other community facilities and services, and to the surrounding area;
  2. A preliminary plan of the entire area in such detail as to show the land uses being requested, the densities being proposed, the proposed lots and blocks and the off-street parking system;
  3. A written statement explaining in detail, and with supporting documentation, the specifics of the development plan as it relates to the type of dwelling units proposed and the resultant population, the extent and nature of non-residential development and the resulting traffic generated and parking demands created;
  4. The proposed schedule and/or phasing for the development of the site;
  5. The location, shape, size and character of public or private/common open space which is suitable for the PUD, in accordance with the Subdivision Ordinance requirements for park and open space dedication.
  6. The location and size of all utilities including telephone, electricity, gas, cable, water, sanitary sewer and storm sewer.
  7. Landscape Plan including a detailed planting list.
  8. Size and location of all street right-of-ways and proposed paved widths, in conformance with the City's Subdivision Ordinance.
  9. A statement setting forth the reasons why, in the opinion of the applicant, the PRDO will be in the public interest and consistent with the objectives specified for PRDO 's.
- B. Final Plan Data Requirements. A final application and its supporting documentation shall give the same information as is required of plats under the subdivision control ordinance of the City in addition to such other information as required by this ordinance and by the Planning Commission as a condition for approval of the preliminary plan. In addition, the application shall be accompanied by such other documentation, such as:
  1. The location, size, use and arrangement, including height in stories and feet, and total square

feet of ground area coverage and floor area, for proposed building, and existing buildings which will remain, if any.

2. The location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces, access alleys, and all other circulation elements including bicycle, pedestrian walkways, and the total site coverage of all circulation elements.
3. Approximate area, and potential floor area, devoted to commercial or office uses.
4. Approximate area, and potential floor area, devoted to industrial uses.
5. Schedule of construction. When the PRDO is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each stage or unit and the proportion of the total PRDO public or common open space and dwelling units to be provided or constructed during each such stage, and the overall chronology of development to be followed from stage to stage.
6. Care and maintenance of open spaces or service facilities. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities shall be submitted. If it is proposed that such open space be owned, operated and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted during the development stage.
7. A preliminary and final plat prepared by a land surveyor, duly registered in the state, in accordance with Minnesota Statutes Section 505 and the City's Subdivision Ordinance, as may be amended from time to time, which shall contain a notarized certification by such surveyor that the plat represents a survey made by the surveyor and that the monuments shown herein exist as located, and all dimensions are correct, and a notarized certification by the owner or owners of the adoption of the plat and the dedication of streets and other public areas as required.
8. Detailed utility and infrastructure construction plans, grading plan and drainage plan, approved by the City Engineer.
9. A statement summarizing all changes which have been made to any document, plan data, or information previously submitted, together with revised copies of any such document, plan or data.
10. Such other and further information as the Zoning Administrator, City Engineer, Planning Commission or City Council shall find necessary to a full consideration of the entire proposed PRDO or any stage thereof.
11. Title opinion provided by the developer showing good and marketable title in the names of the owners of the property. This opinion, together with an updated abstract, should be submitted to the City Attorney for review.
12. The Planning Commission may, by a written order, excuse any applicant from submitting any specific item of information required herein which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

#### **25.05: AMENDMENTS AND ADMINISTRATION.**

- A. Generally. Amendments may be made in the approved final plan when they have shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the City.
  1. Minor changes in location, siting and height of buildings and structures may be authorized by the Zoning Administrator if requested, and if caused by unforeseen circumstances and if they



are consistent with the intent and purpose of the final plan and do not increase the size of any building or structure any more than ten percent than originally proposed in the development stage plan.

2. All other changes in use, rearrangement of lots, blocks and open space must be authorized by the Planning Commission and City Council under procedures outlined in Section 25.03 Development Stage Plan.

**25.06: OPERATING AND MAINTENANCE REQUIREMENTS FOR COMMON OPEN SPACE AND SERVICE FACILITIES.**

- A. Whenever common open space or service facilities are provided within the PRDO, the PRDO plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard.
- B. Common open space and service facilities within a PRDO shall be placed under the ownership of one or more of the following or may include a method deemed most appropriate by the City Council.
  1. Landlord control, where only use by tenants is anticipated.
  2. Property owners association, provided all of the following conditions are met:
    - a. Prior to the use, occupancy, sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document as specified in Minnesota Statutes Section 515B, as may be amended from time to time, shall be filed with the Zoning Administrator prior to the filings of the declaration of documents or floor plans with the County Recorder's Office.
    - b. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject the properties to the terms of the declaration.
    - c. The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation may be formed and if such an association or corporation is formed property owners must be members of the association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.
    - d. The declaration shall additionally, amongst other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City, or fails to pay taxes or assessments on properties as they become due, and in the event the City incurs any expenses not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its pro rata share of the expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which such assessment is made.
    - e. Membership in the association must be mandatory for each owner and any successive buyer and the association must be responsible for liability insurance, taxes, and the maintenance of the open space facilities to be deeded to it.
    - f. The open space restrictions must be permanent and not for a given period of years.
    - g. Property owners must pay their pro rata share of the cost of the association by means of

an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with state law and the association must be able to adjust the assessment to meet changing needs.

- h. The by-laws and rules of the association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PRDO plan.
3. Staging of common open space. The construction and provision of all of the common open space and public improvements and recreational facilities that are shown on the final development plan for a PRDO must proceed at the same rate as the construction of dwelling units or other private facilities.

**CHAPTER 26 - RESERVED  
SHORELAND MANAGEMENT OVERLAY DISTRICT**

## CHAPTER 27 - FLOODPLAIN MANAGEMENT OVERLAY DISTRICT

### SECTION:

- 27.01: Statutory Authorization, Findings of Fact and Purpose
  - A. Statutory Authorization
  - B. Findings of Fact
  - C. Statement of Purpose
- 27.02: General Provisions
  - A. Lands to Which Ordinance Applies
  - B. Establishment of Official Zoning Map
  - C. Regulatory Flood Protection Elevation
  - D. Interpretation
  - E. Abrogation and Greater Restrictions
  - F. Warning and Disclaimer of Liability
  - G. Severability
  - H. Definitions
  - I. Annexations
- 27.03: Establishment of Zoning Districts
  - A. Districts
  - B. Compliance
- 27.04: Floodway District (FW)
  - A. Permitted Uses
  - B. Standards for Floodway Permitted Uses
  - C. Conditional Uses
  - D. Standards for Floodway Conditional Uses
- 27.05: Flood Fringe District (FF)
  - A. Permitted Uses
  - B. Standards for Flood Fringe Permitted Uses
  - C. Conditional Uses
  - D. Standards for Flood Fringe Conditional Uses
  - E. Standards for All Flood Fringe Uses
- 27.06: Procedures for Determining One Percent (1%) Annual Chance Flood Elevations (100-Year Flood Elevations) In Zone A
  - A. "This Section Reserved for Future Uses"
  - B. Procedures for Floodway and Flood Fringe Determinations
- 27.07: Subdivisions
  - A. Land Suitability Review Criteria
  - B. Requirements for Floodway/Flood Fringe Determinations
  - C. Removal of Special Flood Hazard Area Designation
- 27.08: Utilities, Railroads, Roads, and Bridges
  - A. Public Utilities
  - B. Public Transportation Facilities
  - C. On-site Sewage Treatment and Water Supply Systems
- 27.09: Manufactured Homes/Travel Trailers and Travel Vehicles
  - A. New Manufactured Home Parks
  - B. Replacement Manufactured Homes- Existing Parks
  - C. Recreational Vehicles
- 27.10 Administration
  - A. Designated City Official
  - B. Permits, Certification Requirements and Record Keeping
  - C. Appeals and Variances/Duties of the Board of Adjustment and Appeals
  - D. Conditional Uses-Standards and Evaluation Procedures
- 27.11 Nonconforming Uses
- 27.12 Penalties for Violation
- 27.13 Amendments

### **27.01: STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.**

- A. Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt

regulations designed to minimize flood losses. Therefore, the City Council of the City of Osakis, Minnesota does ordain as follows:

B. Findings of Fact:

1. The flood hazard areas of the City of Osakis, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
3. National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

- C. Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 27.01 letter B1 by provisions contained herein.

**27.02: GENERAL PROVISIONS.**

- A. Lands to Which Ordinance Applies: This Ordinance shall apply to all lands within the jurisdiction of the City of Osakis, Minnesota shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts.
- B. Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include: 1) Flood Insurance Study, Douglas County, Minnesota and Incorporated Areas and Flood Insurance Rate Map panel therein numbered 27041C0450C, both documents being dated November 18, 2009 and prepared by the Federal Emergency Management Agency; and 2) Flood Insurance Study, Todd County, Minnesota and Incorporated Areas and Flood Insurance Rate Map panels therein numbered 27153C0415D, 27153C0510D and 27153C0530D, all documents being dated February 4, 2011 and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Office of the City Clerk/Treasurer.
- C. Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- D. Interpretation:
1. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
  2. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the designated City Official, the Board of Adjustment and Appeals shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood

Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and Appeals and to submit technical evidence.

- E. **Abrogation and Greater Restrictions:** It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
- F. **Warning and Disclaimer of Liability:** This Ordinance 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 Ordinance shall not create liability on the part of the City of Osakis or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
- G. **Severability:** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- H. **Definitions:** Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.
  - 1. **Accessory Use or Structure:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
  - 2. **Basement:** Means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
  - 3. **Conditional Use:** Means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
    - a. Certain conditions as detailed in the zoning ordinance exist.
    - b. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
  - 4. **Equal Degree of Encroachment:** 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.
  - 5. **Flood:** 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.
  - 6. **Flood Frequency:** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
  - 7. **Flood Fringe:** That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Douglas County, Minnesota and Incorporated Areas or the Flood Insurance Study for Todd County, Minnesota and Incorporated Areas. This is the area shown on the flood plain mapping that is above the lake ordinary high water elevation.
  - 8. **Flood Plain:** The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

9. Flood Proofing: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
10. Floodway: The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge. On a lake this is considered the property that is in the lake.
11. Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.
12. Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."
13. Obstruction: Any dam, wall, 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.
14. Principal Use or Structure: Means all uses or structures that are not accessory uses or structures.
15. Reach: A hydraulic engineering term 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 two consecutive bridge crossings would most typically constitute a reach.
16. 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 duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.
17. Regional Flood: A flood which is representative of large floods known to have occurred generally in Minnesota and 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," 1-percent annual chance or 100-year flood elevation.
18. Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
19. Structure: Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 27.09 letter C1 of this Ordinance and other similar items.
20. Substantial Damage: Means 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 percent of the market value of the structure before the damage occurred.
21. Substantial Improvement: Within any consecutive 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 percent of the market value of the structure before the "start of construction" of the improvement. This term

includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- a. 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.
  - b. Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.
22. Variance: Means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community’s respective planning and zoning enabling legislation.
- I. Annexations: The Flood Insurance Rate Map panels adopted by reference into Section 27.02 letter B above, may include floodplain areas that lie outside of the corporate boundaries of the City of Osakis at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Osakis after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the City of Osakis.

### **27.03: ESTABLISHMENT OF ZONING DISTRICTS.**

#### **A. Districts:**

1. Floodway District. The Floodway District shall include those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in Section 27.02 letter B that are below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
2. Flood Fringe District. The Flood Fringe District shall include those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in Section 27.02 letter B that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14. See Section 27.06 for procedures to determine the one percent (1%) annual chance flood elevation (100-year flood elevation).

#### **B. Compliance:** No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in Sections 27.04 and 27.05 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 27.09.
2. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 27.11.
3. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered



professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 27.10 of this Ordinance.

**27.04: FLOODWAY DISTRICT (FW).**

The permitted and conditional uses listed below are only allowable in the floodway if not prohibited by any other underlying zoning district classifications of the City of Osakis and if not prohibited by any applicable state or federal law.

A. Permitted Uses:

1. Boat launching ramps, swimming areas, parks, wildlife and nature preserves, and fishing areas.
2. Residential lawns, gardens and play areas.

B. Standards for Floodway Permitted Uses:

1. The use shall have a low flood damage potential.
2. The use shall be permissible in the underlying zoning district if one exists.
3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

C. Conditional Uses:

1. Marinas, boat rentals, docks, piers, wharves, and water control structures.

D. Standards for Floodway Conditional Uses:

1. All Uses. No fill (including fill for roads and levees), deposit, obstruction, or other use may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
2. All floodway conditional uses shall be subject to the procedures and standards contained in Section 27.10 letter D of this Ordinance.
3. The conditional use shall be permissible in the underlying zoning district if one exists.

**27.05: FLOOD FRINGE DISTRICT (FF).**

A. Permitted Uses: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District "Permitted Uses" listed in Section 27.05 letter B and the "Standards for all Flood Fringe Uses" listed in Section 27.05 letter E.

B. Standards for Flood Fringe Permitted Uses:

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

As alternative to fill no lower than one (1) foot below the regulatory flood protection elevation extending at least fifteen (15) feet on all side of the structure, lesser dimensions can be

approved only if all the following standards are met:

- a. The design is approved by a qualified professional;
  - b. Fill no lower than one (1) foot below the regulatory flood protection elevation extends at least fifteen (15) feet beyond the outer limits of at least one side of the structure such that access is provided to the structure during times of flooding;
  - c. All remaining sides of the structure have the foundation adequately protected (using fill, vegetation, armoring, retaining walls, etc.) for the conditions associated with flooding at that site such as velocities, waves, ice jams, etc.; and
  - d. The design uses appropriate sloping and grading to drain the water away from the structure without increasing flood damage potential to adjoining properties.
2. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet at its largest projection may be flood proofed in accordance with the following standards:
- a. Accessory structures shall not be designed for human habitation.
  - b. 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 and, for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. Flood proofed accessory structures must meet the following additional standards:
    - i. 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;
    - ii. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
    - iii. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one (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.
3. "This section reserved for future use."
4. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
5. The provisions of Section 27.05 letter E of this Ordinance shall apply.
- C. Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section 27.05 letter B1 and B2 and or any use of land that does not comply with the standards in Section 27.05 letter B4 shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 27.05 letter D and E and Section 27.10 letter D of this Ordinance.
- D. Standards for Flood Fringe Conditional Uses:
1. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may

include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

- a. Design and Certification: The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
  - b. Specific Standards for Above-grade, Enclosed Areas: 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:
    - i. A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. 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
    - ii. 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.
2. Basements, as defined by Section 27.02 letter H2 of this Ordinance, shall be subject to the following:
- a. Residential basement construction shall not be allowed below the regulatory flood protection elevation.
  - b. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 27.05 letter D3 of this Ordinance.
3. All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
4. "This section reserved for future use."
5. 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 a plan approved by the Governing Body.

6. The provisions of Section 27.05 letter E of this Ordinance shall also apply.

E. Standards for All Flood Fringe Uses:

- 1. "This section reserved for future use."
- 2. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
- 3. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 27.05 letter E2 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
- 4. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- 5. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- 6. Standards for recreational vehicles are contained in Section 27.09 letter C.
- 7. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

**27.06: PROCEDURES FOR DETERMINING ONE PERCENT (1%) ANNUAL CHANCE FLOOD ELEVATIONS (100-YEAR FLOOD ELEVATIONS) IN ZONE A.**

- A. "This section reserved for future use."
- B. Procedures for determining one percent (1%) annual chance flood elevations (100-year flood elevations) in Zone A.
  - 1. Upon receipt of an application for a permit or other approval within a Zone A, the designated City Official will use the one percent (1%) annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the one percent (1%) annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the

designated City Official for the determination for the one percent (1%) annual chance flood elevation in accordance with approved FEMA methods.

2. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the one percent (1%) annual chance flood elevation (100-year flood elevation). Procedures consistent with Minnesota Rules, Sections 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.
3. Once the one percent (1%) annual chance flood elevation (100-year flood elevation) has been determined, the designated City Official shall process the permit application consistent with the applicable provisions of Section 27.04 and 27.05 of this Ordinance.

#### **27.07: SUBDIVISIONS.**

- A. Review Criteria. No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- B. Procedures for determining one percent (1%) annual chance flood elevation (100-year flood elevation) in Zone A. In a designated Zone-A area, applicants shall provide the information required in Section 27.06 letter B of this Ordinance to determine the 100-year flood elevation and the regulatory flood protection elevation for the subdivision site.
- C. Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the one percent (1%) annual chance flood elevation (100-year flood elevation). FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

#### **27.08: PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES.**

- A. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- B. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 27.04 and 27.05 of this Ordinance. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided:
  - 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and
  - 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from

the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

**27.09: MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF RECREATIONAL VEHICLES.**

- A. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 27.07 of this Ordinance.
- B. The placement of new or replacement 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 Section 27.05 of this Ordinance.
  - 1. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- C. Recreational vehicles that do not meet the exemption criteria specified in Section 27.09 letter C1 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 27.09 letter C3 and C4 below.
  - 1. Exemption. Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 27.09 letter C2 below and further 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 and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
    - c. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
  - 2. Areas Exempted for Placement of Recreational Vehicles:
    - a. Existing commercial recreational vehicle parks or campgrounds.
    - b. Existing condominium type associations.
  - 3. Recreational vehicles exempted in Section 27.09 letter C1 lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 27.04 and 27.05 of this Ordinance. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
  - 4. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
    - a. Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill

above the regulatory flood protection elevation. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

- b. All new or replacement recreational vehicles not meeting the criteria of a above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Section 27.10 letter D of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 27.09 letter C1a and C1b of this Ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 27.08 letter C of this Ordinance.

#### **27.10: ADMINISTRATION.**

- A. Designated City Official: The City Official designated by the Governing Body shall administer and enforce this Ordinance. If the City Official finds a violation of the provisions of this Ordinance the City Official shall notify the person responsible for such violation in accordance with the procedures stated in Section 27.12 of the Ordinance.
- B. Permit Requirements:
  - 1. Permit Required. A Permit issued by the designated City Official in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
  - 2. Application for Permit. Application for a permit shall be made in duplicate to the designated City Official on forms furnished by the designated City Official and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
  - 3. State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the designated City Official shall determine that the applicant has obtained all necessary state and federal permits.
  - 4. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the designated City Official stating that the use of the building or land conforms to the requirements of this Ordinance.
  - 5. Construction and Use to be as provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 27.12 of this Ordinance.
  - 6. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill

and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

7. Record of First Floor Elevation. The designated City Official shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The designated City Official shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
8. Notifications for Watercourse Alterations. The designated City Official shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
9. Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the designated City Official shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

C. Board of Adjustment and Appeals:

1. Rules. The Board of Adjustment and Appeals shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.
2. Administrative Review. The Board of Adjustment and Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.
3. Variances. The Board of Adjustment and Appeals may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment and Appeals shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
  - a. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - b. Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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 existing local laws or ordinances.
  - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.



4. Hearings. Upon filing with the Board of Adjustment and Appeals of an appeal from a decision of the designated City Official, or an application for a variance, the Board of Adjustment and Appeals shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment and Appeals shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
  5. Decisions. The Board of Adjustment and Appeals shall arrive at a decision on such appeal or variance within sixty (60) days. In passing upon an appeal, the Board of Adjustment and Appeals may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the designated City Official or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment and Appeals may prescribe appropriate conditions and safeguards such as those specified in Section 27.10 letter D6, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Section 27.12 of this ordinance. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
  6. Appeals. Appeals from any decision of the Board of Adjustment and Appeals may be made, and as specified in this community's official controls and also by Minnesota Statutes.
  7. Flood Insurance Notice and Record Keeping. The designated City Official shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.
- D. Conditional Uses. The Planning and Zoning Commission shall hear and recommend and City Council shall decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the designated City Official who shall forward the application to the Planning and Zoning Commission and City Council for consideration.
1. Hearings. Upon filing with the designated City Official an application for a conditional use permit, the designated City Official shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
  2. Decisions. The Planning Commission shall recommend and City Council shall arrive at a decision on a conditional use within sixty (60) days. In granting a conditional use permit the Planning and Zoning Commission shall recommend and City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 27.10 letter D6, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance punishable under Section 27.12. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
  3. Procedures to be followed by the Planning and Zoning Commission and City Council in passing on Conditional Use Permit Applications within all Flood Plain Districts.

- a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning and Zoning Commission for determining the suitability of the particular site for the proposed use:
    - i. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and
    - ii. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - b. Transmit one copy of the information described in subsection (a) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
  - c. Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
4. Factors Upon Which the Decision of the City Council shall be based. In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this Ordinance, and:
- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - e. The importance of the services provided by the proposed facility to the community.
  - f. The requirements of the facility for a waterfront location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - l. Such other factors which are relevant to the purposes of this Ordinance.

5. Time for Acting on Application. The Planning and Zoning Commission shall recommend and the City Council shall act on an application in the manner described above within sixty (60) days from receiving the application, except that where additional information is required pursuant to 27.10 letter D3 of this Ordinance. The Planning and Zoning Commission shall recommend and the City Council shall render a written decision within sixty (60) days from the receipt of such additional information.
6. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
  - a. Modification of waste treatment and water supply facilities.
  - b. Limitations on period of use, occupancy, and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.
  - d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
  - e. Flood proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

**27.11: NONCONFORMING USES.**

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 27.02 letter H21b of this Ordinance, shall be subject to the provisions of Sections 27.11 letter A1-5 of this Ordinance.
  1. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
  2. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Sections 27.11 letter A3 and A6 below.
  3. The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the market value of the structure, then the structure must meet the standards of Section 27.04 and 27.05 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
  4. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The Assessor shall notify the designated City Official in writing of instances of nonconforming uses that have been discontinued for a period of twelve (12) months.

5. If any nonconforming use or structure is substantially damaged, as defined in Section 27.02 letter H20 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 27.04 and 27.05 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.
6. If a substantial improvement occurs, as defined in Section 27.02 letter H21 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 27.04 and 27.05 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

**27.12: PENALTIES FOR VIOLATION.**

- A. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.
- B. Nothing herein contained shall prevent the City of Osakis from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
  1. In responding to a suspected Ordinance violation, the designated City Official and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
  2. When an Ordinance violation is either discovered by or brought to the attention of the designated City Official, the designated City Official shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.
  3. The designated City Official shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the designated City Official may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the designated City Official may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.
  4. If the responsible party does not appropriately respond to the designated City Official within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The designated City Official shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

**27.13: AMENDMENTS.**

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of

the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

## CHAPTER 28 - HOME OCCUPATIONS

### SECTION:

- 28.01: Purpose
- 28.02: Conditions
- 28.03: General Provisions
- 28.04: Procedures and Permits
- 28.05: Requirements, Type I Home Occupation
- 28.06: Requirements, Type II Home Occupation
- 28.07: Non-Conforming Use
- 28.08: Inspection
- 28.09: Violations

### **28.01: PURPOSE.**

Home Occupation regulations are established to ensure that Home Occupations will not adversely affect the character and livability of the surrounding neighborhood and that a Home Occupation remains accessory and subordinate to the principal residential use of the dwelling. The regulations recognize that many types of Home Occupations can be conducted with little or no effect on the surrounding neighborhood. In addition, this Chapter is intended to provide a mechanism enabling the distinction between Type I Home Occupations and Type II or Extended Home Occupations, so that Extended Home Occupations may be reviewed through a permitting process.

### **28.02: CONDITIONS.**

Home Occupations are allowed as accessory uses if they satisfy the following conditions:

- A. Maintain the integrity of the neighborhood and preserve the residential character of neighborhoods by encouraging compatible land uses;
- B. Provide residents of the City with an option to utilize their residences as places to enhance or fulfill personal economic goals as long as the choice of Home Occupations does not infringe on the residential rights of neighbors; and,
- C. Assure that public and private services such as street, sewer, water or electrical systems are not burdened by Home Occupations to the extent that usage exceeds that which is normally associated with the residence.

### **28.03: GENERAL PROVISIONS.**

All Home Occupations whether Type I or Type II shall comply with the following general provisions:

- A. Machine shops, body shops, repair of internal combustion engines (other than small engine repair), welding, manufacturing, or any other objectionable use as determined by the City Council shall not be permitted as a Home Occupation.
- B. No manufacturing business shall be allowed.
- C. The Home Occupation shall be clearly incidental and subordinate to the residential use of the dwelling.
- D. Exterior alterations or modifications that change the residential character or appearance of the dwelling, any accessory buildings, or the property itself shall be prohibited.
- E. The Home Occupation shall meet all applicable Fire and Building Codes.
- F. Exterior display or storage of equipment or materials is prohibited.
- G. Signage is permitted as allowed in Chapter 30 (Signs), for the zoning district in which the Home

Occupation is located.

- H. No Home Occupation shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
- I. No equipment shall be used in the Home Occupation which will create electrical interference to surrounding properties.
- J. Shipment and delivery of products, merchandise, or supplies shall be limited to between 8:00 a.m. and 6:00 p.m. and shall occur only in single rear axle straight-trucks or smaller vehicles normally used to serve residential neighborhoods.
- K. No Home Occupation shall be conducted between the hours of nine o'clock (9:00) PM and seven o'clock (7:00) AM unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities. The City Council shall have the authority to further restrict the hours of operation as necessary to meet the purpose of this section.
- L. On the premises, retail sales shall be prohibited except for the retail sales of products or goods produced or fabricated on the premises as a result of the Home Occupation, except for the occasional sale of items that are primarily sold mail order or sold over the Internet or incidental to the products or goods produced or fabricated on the premises.

**28.04: PROCEDURES AND PERMITS.**

- A. Type I Home Occupation: Any Type I Home Occupation may operation without a specific permit so long as they meet the conditions and minimum requirements of the Ordinance.
- B. Type II Home Occupation: Any Type II Home Occupation, as described in this Ordinance, shall be required to obtain a Home Occupation certificate from the Zoning Administrator, subject to payment of a filing fee as established by the City Council. Issued Home Occupation certificates are not transferable. The certificate shall be renewed biannually. The certificate shall also be renewed if the Home Occupation is transferred to a new owner or operator, if the character or intensity, or if the location of the Home Occupation changes. All Home Occupation owners shall be required to complete a questionnaire describing its operations, to be kept on file with the City.

**28.05: REQUIREMENTS, TYPE I HOME OCCUPATION.**

- A. Description: Type I Home Occupations include and but are not limited to: art studio, dressmaking, secretarial services, day care for up to twelve (12) children, family day care, foster care, professional offices such as legal, accounting, insurance or computer technician and teaching with musical, dancing and other instructions which consist of no more than two (2) pupils at a time, the sale of products whose name brand are not marketed and sold in a wholesale or retail outlet, and similar uses, none of which shall involve regularly scheduled client visits. Home Occupations shall be limited to the performance of services only. In person retail sales from the premises are prohibited.
- B. Provisions:
  - 1. Only persons residing on the premises may be engaged in the conduct of the Home Occupation.
  - 2. All Type I Home Occupations shall be conducted entirely within the principal dwelling and may not be conducted in accessory buildings or attached garage.
  - 3. Type I Home Occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway, where no vehicle is parked closer than fifteen (15) feet from the curb line or edge of paved surface.
  - 4. There shall be no separate business entrance.
  - 5. Infrequent client visits shall be permitted by appointment only.

**28.06: REQUIREMENTS, TYPE II HOME OCCUPATION.**

- A. Description: Examples of Type II Home Occupations may include but are not limited to: barber and beauty services, day care-group nursery, dog-grooming, photography studio, group lessons, saw sharpening, small appliances and small engine repair, stock-in-trade and the like.
- B. Provisions:
  - 1. No person other than a resident shall conduct the Home Occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for non-resident assistance and that this exception would not compromise the intent of this Chapter.
  - 2. On premises retail sales shall be prohibited except for the retail sales of products or goods used, produced or fabricated on the premises as a result of the Home Occupation.
  - 3. A separate accessory building may be devoted solely to the Type II Home Occupation activities.

**28.07: NON-CONFORMING USE.**

Existing Home Occupations lawfully existing on the effective date hereof, may continue as non-conforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing Home Occupation that is discontinued for a period of more than thirty (30) days, or is in violation of the provisions under which it was initially established, shall be brought into conformity with the provisions of this Chapter.

**28.08: INSPECTION.**

The City hereby reserves the right to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this Chapter or any conditions imposed.

**28.09: VIOLATIONS.**

Any Home Occupation found to be in violation of this Chapter shall be served with a notice from the Zoning Administrator. If the violation is not corrected within ten (10) days, the license for the Home Occupation shall be revoked. Revocation of a home license may be appealed to the Board of Adjustments & Appeals.



## CHAPTER 29 - SEXUALLY ORIENTED USES

### SECTION:

- 29.01: Purpose
- 29.02: General Provisions
- 29.03: Definitions
- 29.04: Sexually Oriented Uses, Principal
- 29.05: Sexually Oriented Uses, Accessory

### **29.01: PURPOSE.**

The purpose of this Chapter is to establish provisions for the opportunity as well as controls of sexually oriented uses within the City.

### **29.02: DEFINITIONS.**

The following words and phrases, when used in this Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

- A. **Sexually Oriented Uses:** Sexually oriented uses include adult bookstores, adult motion picture theaters, adult motion picture sales/rentals, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minnesota Statutes 617.241, as may be amended, are not included.

#### **1. Specified Anatomical Areas:**

- a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

#### **2. Specified Sexual Activities:**

- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- b. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- d. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or
- e. Situations involving a person or persons, any of whom are nude, clad in undergarments Chapter 29, or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or

- f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
  - g. Human excretion, urination, menstruation, vaginal or anal irrigation.
3. **Sexually Oriented Uses, Accessory:** The offering of retail goods for sale which are classified as sexually oriented uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of adult magazines, the sale and/or rental of adult motion pictures, the sale of adult novelties, and the like.
4. **Sexually Oriented Uses, Principal:** The offering of goods and/or services which are classified as sexually oriented uses as a primary or sole activity of a business or establishment and include but are not limited to the following:
- a. **Sexually Oriented Use, Body Painting Studio:** An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".
  - b. **Sexually Oriented Use, Bookstore:** A building or portion of a building uses for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public extending any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".
  - c. **Sexually Oriented Use, Cabaret:** A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".
  - d. **Sexually Oriented Use, Companionship Establishment:** A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
  - e. **Sexually Oriented Use, Conversation/Rap Parlor:** A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
  - f. **Sexually Oriented Use, Health/Sport Club:** A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
  - g. **Sexually Oriented Use, Hotel or Motel:** Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexually activities" or "specified anatomical areas".
  - h. **Sexually Oriented Use, Massage Parlor, Health Club:** A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

- i. **Sexually Oriented Use, Mini-Motion Picture Theater:** A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- j. **Sexually Oriented Use, Modeling Studio:** An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- k. **Sexually Oriented Use, Motion Picture Arcade:** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".
- l. **Sexually Oriented Use, Motion Picture Theater:** A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- m. **Sexually Oriented Use, Novelty Business:** A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
- n. **Sexually Oriented Use, Sauna:** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- o. **Sexually Oriented Use, Steam Room/Bathhouse Facility:** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

### 29.03: GENERAL PROVISIONS.

"Sexually oriented uses" as defined in this Chapter shall be subject to the following general provisions:

- A. Activities classified as "obscene" as defined by Minnesota Statutes, Section 617.241 are not permitted and are prohibited.
- B. Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
- C. Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any building which is also used to dispense or consume alcoholic beverages.
- D. A sexually oriented use which does not qualify as an accessory use shall be classified as a sexually oriented use, principal.

**29.04: SEXUALLY ORIENTED USES, PRINCIPAL.**

- A. Sexually oriented uses, principal shall be located at least five hundred (500) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the sexually oriented use, principal is located to the property line of:
  - 1. Residentially zoned property.
  - 2. A licensed day care center.
  - 3. A public or private educational facility classified as a pre-school, elementary, junior high or senior high.
  - 4. A public library.
  - 5. A public park.
  - 6. Another sexually oriented use, principal.
  - 7. An on/off sale liquor establishment.
- B. "Sexually oriented use, principal" activities, as defined by this Chapter, shall be classified as one use. No two (2) sexually oriented uses, principal shall be located in the same building or upon the same property and each use shall be subject to Sub-section A. of this Section.
- C. Sexually oriented uses, principal shall, in addition to other sign requirements established by the City's Sign Ordinance, also adhere to the following signing regulations:
  - 1. Sign messages shall be generic in nature and shall only identify the type of business which is being conducted.
  - 2. Shall not contain material classified as advertising.
  - 3. Shall comply with the requirements of size and number for the district in which they are located.

**29.05: SEXUALLY ORIENTED USES, ACCESSORY.**

- A. Sexually oriented uses, accessory shall:
  - 1. Comprise no more than five (5) percent of the floor area of the establishment in which it is located.
  - 2. Comprise no more than ten (10) percent of the gross receipts of the entire business operation.
  - 3. Not involve or include any activity except the sale or rental of merchandise.
- B. Sexually oriented uses, accessory shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access:
  - 1. Movie Rentals: Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation or shall be in catalogs under the direct control and distribution of the operator.
  - 2. Magazines: Publications classified or qualifying as sexually oriented uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

3. Other Use: Sexually oriented uses, accessory not specifically cited shall comply with the intent of this Chapter subject to the approval of the Zoning Administrator.
- C. Sexually oriented uses, accessory shall be prohibited from both internal and external advertising and signing of sexually oriented materials and products.
- D. Sexually oriented uses, accessory activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are admitted.

## CHAPTER 30 - SIGNS

### SECTION:

- 30.01: Findings
- 30.02: Purpose and Intent
- 30.03: Effect
- 30.04: Applicability
- 30.05: Severability
- 30.06: Substitution Clause
- 30.07: Definitions
- 30.09: Prohibited Signs
- 30.10: Exceptions
- 30.11: General Regulations
- 30.12: Temporary Signs
- 30.13: Subdivision Signs
- 30.14: Development Signs
- 30.15: Electronic Variable Message Signs
- 30.16: Permit Required
- 30.17: Construction Requirements
- 30.18: Violations/Penalty

### **30.01: FINDINGS.**

The Osakis City Council hereby finds as follows:

- A. Exterior signs have a substantial impact on the character and quality of the environment.
- B. Signs provide an important medium through which individuals may convey a variety of messages.
- C. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.
- D. The City's zoning regulations include the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community.
- E. The regulation of the physical characteristics of signs within the City has had a positive impact on traffic safety and the appearance of the community.
- F. The City recognizes the interdependence of land values and aesthetics and can provide through this Ordinance a method by which the City may implement this interdependence to the benefit of its constituents

### **30.02: PURPOSE AND INTENT.**

It is not the purpose or intent of this Ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this Ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this Ordinance is to:

- A. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the City in order to promote the public health, safety and welfare.
- B. Establish standards which permit property owners the opportunity to identify and advertise themselves, goods, or services; to preserve and protect the value of land, buildings and landscapes and promote the attractiveness of the community; to ensure that signs in the City are not a safety hazard to lives and/or property; to eliminate confusion in locating goods, services and facilities, and to preserve order and to encourage business to erect permanent signs and

discourage temporary and/or portable signs.

- C. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
- D. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.

**30.03: EFFECT.**

A sign may be erected, mounted, displayed or maintained in the City if it is in conformance with the provisions of this Ordinance. The effect of this Ordinance, as more specifically set forth herein, is to:

- A. Allow a variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this Ordinance.
- B. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this Ordinance.
- C. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.
- D. Provide for the enforcement of the provisions of this Ordinance.

**30.04: APPLICABILITY.**

- A. Sign Permit Required: To ensure compliance with the regulations of this Ordinance, a sign permit shall be required in order to apply, erect, move, alter, reconstruct, or repair any permanent or temporary sign, except signs that are exempt from permits enumerated in Section 28.10 of this Chapter for sign permit application and processing requirements.
- B. Sign Standards: The sign standards provided in this Section are intended to apply to signs in each zoning district in the City. Only signs authorized by this Ordinance shall be allowed.

**30.05: SEVERABILITY.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

**30.06: SUBSTITUTION CLAUSE.**

The owner of any sign which is otherwise allowed by this Ordinance may substitute non-commercial speech in lieu of any other commercial speech or non-commercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech.

**30.07: DEFINITIONS.**

The following words and phrases, when used in this Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

**Abandoned Sign:** Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. 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 one (1)

year or more. Any sign remaining after demolition of the principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a special use permit or a variance shall also be subject to the definition of abandoned sign.

**Awning:** A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework (compare "marquee").

**Awning Sign:** A building sign or graphic printed on or in some fashion attached directly to the awning material.

**Balloon Sign:** A temporary sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter. A simple helium balloon is not considered as balloon sign.

**Bench Sign:** A sign located on any part of the surface of a bench or seat.

**Billboard Sign:** A sign which advertises an establishment, service, merchandise, use, entertainment, activity, produce or message which is not conducted, sold, produced, manufactured or furnished upon the parcel or lot where the sign is located.

**Building Sign:** Any sign attached to or supported primarily by any Building.

**Canopy:** A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway, unlike an awning which extends generally the length of a wall.



**Canopy Sign:** A building sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee.

**Changeable Copy Sign:** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. This excludes electronic variable message signs and are distinguished by the fact that they must be changed manually.

**City Identification Sign:** A sign placed at a point of entry to the City of Osakis for the purpose of informing a person that they are entering the City.

**Commercial Speech:** Speech on a sign that advertises a product or service for profit or for a business purpose.

**Community Organization:** Means a group of persons organized for the advancement of activities of a civic cultural or recreational nature and which activities are not conducted for monetary profit.

**Community Promotion Sign:** A sign which solicits support for or advertises a civic event, community use, social institutions, or public use. Such signs may include, but shall not be limited to, seasonal holidays, school activities, community programs and activities or location of places or events of community or tourist interest and may include business advertising provided that the same shall constitute not more than 15% of the sign.

**Construction Sign:** A sign temporarily placed on a construction site identifying the project, and/or owner, developer, prime contractor, subcontractor, lender, architect, and may include other information regarding the project.

**Development Sign:** Any sign located at the entrance to a residential development or subdivision, for the purpose of identifying the subdivision.

**Elevation:** The view of the side, front, or rear of a given structure(s).

**Elevation Area:** The area of all walls that face any lot line.



**Erect, Erected:** Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

**Flag:** Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

**Flashing Sign:** A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.

**Freestanding Sign:** A permanent or temporary sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

**Grade:** Grade shall be construed to be the average final ground elevation after construction within 50 feet of the sign. Earth mounding criteria for landscaping and screening shall be excluded when calculating the final grade for sign height computation.

**Height of Sign:** The height of the sign shall be computed as the vertical distance measured from the highest attached component of the sign to either the average grade or the top of the nearest curb of the street on which the sign fronts, whichever is greatest.

**Illuminated Sign:** Any sign which contains an element designed to emanate artificial light internally or externally.

**Informational Sign:** A sign with a purpose secondary to the use on the lot on which it is located that provides directives and/or identifying messages strictly for the convenience of the public, including signs which identify rest rooms, waste receptacles, addresses, doorbells, public interest signs or signs indicating the private nature of a road, driveway or premises, signs prohibiting or otherwise controlling hunting or fishing upon particular premises, and signs indicating ownership of a property mailboxes or building entrances.

**Interior Sign:** A sign which is located within the interior of any building, or within an enclosed lobby or court of any building, and a sign for and located within the inner or outer body, court or entrance of any theater. These signs are not meant to be seen from the exterior of a building.

**Kiosk:** A freestanding structure with two or more sides used to display community and visitor information, business directories and maps.

**Marquee:** Any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

**Marquee Sign:** Any building sign painted, mounted, constructed or attached in any manner, on a marquee.

**Memorial Sign:** A sign, tablet, or plaque memorializing a person, event, structure or event.

**Monument Sign:** Any freestanding sign with its sign face mounted on the ground or mounted on a base at least  $\frac{3}{4}$  as wide as the sign.

**Multiple Tenant Site:** Any commercial site which has more than one (1) tenant, either with separate ground level exterior public entrance or shared entrance.

**Non-Commercial Speech:** Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.



Monument



Multi-Tenant

**Off-Premise Advertising Sign:** A sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located.

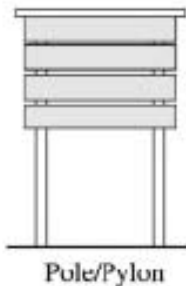
**On-Premise Advertising Sign:** A sign which identifies or advertises an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

**Permanent Sign:** A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises.

**Pole Sign:** See Pylon Sign.

**Portable Sign:** Any sign which is clearly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

**Projecting Sign:** Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface or such building or wall face.



**Pylon Sign:** Any freestanding sign which has one or two supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

**Real Estate Sign:** A sign indicating that a property or any portion thereof is available for inspection, sale, lease, rent, or directing people to a property, but not including temporary residential development project signs.

**Residential District:** Any district zoned for residential uses.

**Roof:** The exterior surface and its supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering sections of the Uniform Building Code.

**Right of Way:** The entire right of way of any public street or platted or dedicated right of way.

**Roof line:** The upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade.

**Roof Sign:** Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

**Roof Sign, Integral:** Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

**Rotating Sign:** A sign or portion of a sign which turns about on an axis.

**Sandwich Board Sign:** A temporary sign that is so designed to be self-supporting by design. Often times this sign is of the folding type and when collapsed is flat in nature, therefore “sandwiches” together.

**Search Light:** Is any apparatus designed to project a beam of light for the purpose of drawing the attention of the public during hours of darkness.

**Shimmering Signs:** A sign which reflects an oscillating sometimes distorted visual image.

**Sign:** any letter, word or symbol, poster, picture, statuary, reading matter or graphic presentation in the nature of advertisement, announcement, message or visual communication, whether painted, posted,

printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

**Sign Face:** The surface of the sign upon, against, or through which the message of the sign is exhibited.

**Sign Structure:** Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

**Site:** A lot or combination of contiguous lots which are intended, designated, and/or approved to function as an integrated unit.

**Stringer:** A line of string, rope, cording, or an equivalent to which is attached a number of pennants.

**Suspended Sign:** Any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

**Temporary Sign:** Any sign that is used only temporarily and is not permanently mounted which is to be in place for a specified period of time.

**Total Site Signage:** The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific site.

**Video Screen Sign:** A sign comprised of a video screen displaying advertising content in animated or motion picture form.

**Vehicle Sign:** A permanent or temporary sign affixed, painted on, or placed in or upon any parked vehicle, parked trailer, or other parked device capable of being towed, which is displayed in public view such that the primary purpose of said display is to attract the attention of the public, rather than to serve the business of the owner thereof in the manner which is customary for said vehicle.

**Visible:** Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

**Wall:** Any structure which defines the exterior boundaries or courts of a building or structure.

**Wall Sign:** Any building sign attached parallel to, or entirely within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, or displayed on a canopy which is supported by such wall or building.

**Window Sign:** Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is painted or placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

### **30.08: PROHIBITED SIGNS.**

The following signs are unauthorized signs and are prohibited by this Ordinance:

- A. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.
- B. Off-premise Advertising Signs; including Billboards.
- C. Signs painted, attached or in any other manner affixed to trees, rocks, or similar natural surfaces, or attached to public utility poles, bridges, towers, or similar public structures.
- D. Roof Signs unless placed on parapet or incorporated into building as an integral roof sign to provide overall finished appearance.

- E. Shimmering Signs.
- F. Rotating Signs (except barber pole signs).
- G. Vehicle signs.
- H. Abandoned Signs.
- I. Search Lights.
- J. Bench Signs except the City approved memorial benches.
- K. Balloon Signs greater than 24" in diameter.
- L. Stringer Signs.
- M. Video Screen Signs.
- N. Signs affixed to sidewalks.
- O. Signs within public Right of Ways or easements, excepting the following:
  1. As Erected by an official unit of government or public utilities for the direction of traffic or necessary public information.
  2. In the C-1 District, signs may extend three (3) feet over the public right-of-way, but in no case beyond the curb line. Such signs shall be at least ten (10) feet above the level of the sidewalk.
  3. Directional signage upon finding that the signs are needed for the direction of traffic or necessary public information.
  4. Community Promotion Signs or Kiosks as authorized by the City. To ensure that the safety of the public is not compromised, the size, location and method of erection of such signs shall be subject to approval by the City Clerk, Public Works Director and the Chief of Police pursuant to good engineering practices.

**30.09: GENERAL REGULATIONS.**

- A. All signs along state highways shall conform to state sign regulations.
- B. Sign Maintenance.
  1. Painting: The owner of any sign shall be required to have such a sign properly painted at least once every two (2) years, if needed, including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust.
  2. Area Around Signs: The owner, or lessee, of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area between the sign and the street and the area within six (6) feet from the ends of the sign, free from refuse.
  3. Obsolete Signs: Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which the sign may be found, within ten (10) days after written notice from the Zoning Administrator.
  4. Unsafe or Dangerous Signs: Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign is located, within ten (10) days after written notification from the

Zoning Administrator.

- C. All signs in the U-R, R-1 and R-2 Districts shall be set back a minimum of five (5) feet from all property lines, and shall not be located within fifteen (15) feet of an intersection. In the C-1, C-2, C-3 and I-1 Districts, free-standing or pole signs shall be setback a minimum of five (5) feet from the front property line and a minimum of either five (5) feet or a distance equal to the height of the sign, whichever is greater, from the side property lines.

### **30.10: EXEMPTIONS.**

The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the Owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this Ordinance or any other law or Ordinance regulating the same.

- A. The changing of the display surface on a painted or printed sign that does not involve any other structural alterations provided it meets all dimensional requirements of this Ordinance and does not provide off-site advertising unless specifically allowed by this Ordinance.
- B. Official Public Notices or signs required by local, state or federal regulations.
- C. Governmental signs, including but not limited to: traffic control and other regulatory purpose signs, street signs, City Identification Signs, informational signs, danger signs and railroad crossings.
- D. On premises Directional Signs not exceeding six (6) square feet in area or three (3) feet in height, if freestanding, displayed strictly for the direction, safety, or convenience of the public, including signs which identify restrooms, parking area entrances or exits, freight entrances, addresses, or similar information. A sign may contain a logo without text provided that the logo may not comprise more than 15% of the total sign area. Directional signage may be permitted within a public right of way only with the approval of the City Council; only to direct the public to a principal entrance that is not easily identified and only after the City Council determines that the public good is enhanced by the placement of the sign.
- E. Residential home security signs and home occupation signs, provided such total signage on a lot shall not exceed two (2) square feet in area, and such signs shall not be placed or maintained in the public right-of-way and shall not be illuminated.
- F. Historical plaques by recognized historical agencies, provided such signs shall not be placed or maintained in the public right-of-way, shall not be illuminated, and shall not exceed six (6) square feet in area.
- G. Interior Signs used within a building, which are positioned so as to not be readable from the outside of a building.
- H. Informational Signs not exceeding two (2) square feet in area displayed strictly for the convenience of the public, and which set forth no advertising, including signs which identify rest rooms, waste receptacles, addresses, doorbells, public interest signs or signs indicating the private nature of a road, driveway or premises, signs prohibiting or otherwise controlling hunting or fishing upon particular premises, and signs indicating ownership of a property mailboxes or building entrances. The City shall determine that the proposed location, sign material, manner of affixing or anchoring, size, and any illumination are safe and proper.
- I. Community Promotion Signs and Kiosks.
- J. Political campaign signs are permitted on private property in any zoning district subject to the express consent of the Owner or occupant of such property and in accordance Minnesota Statute 211B.045 provided that:
  - 1. No such sign is located within a hundred (100) feet of any polling Site;

2. No such sign is placed within the public right-of-way;
  3. No such sign is posted prior to August 1st; and
  4. The political campaign sign is removed within ten (10) days following the election.
- K. Temporary on site and off site real estate signs pertaining to the sale or rental of real property, provided these signs shall be limited to two (2) signs per property totaling no more than six (6) square feet in Sign Face area. These signs shall be removed within seven (7) calendar days form the time of the sale, lease or rent.
- L. Memorial Signs or tablets.
- M. Construction Signs recognizing a party that is actually contributing to the project (architects, engineers, or contractors) placed on a Site where construction is occurring provided they do not exceed eight (8) square feet and are removed after a certificate of occupancy is issued.
- N. Window Signs indicating the store hours or names of credit institutions, provided that the total area of such sign or signs does not exceed two (2) square feet.
- O. Temporary residential signs advertising such things as garage sales, celebratory occasions, etc. provided such signage on a parcel shall not exceed eight (8) square feet in area, and such signs shall not be placed or maintained in the public right-of-way and shall not be illuminated.
- P. Temporary Emergency or Special Situation Signs not specifically defined in this Ordinance if a valid need is known to exist by virtue of an emergency or special situation such as highway construction. The duration, location, size and other conditions regarding the sign shall be established by the City Zoning Administrator at the time of approval.
- Q. Signs located on vending machines bearing the brand name of the product being sold or the price of such product.
- R. Revolving barbershop pole sign, only advertising barber or hair grooming services provided that it does not exceed thirty-six (36) inches in height.
- S. Any Temporary Sign located on a City-authorized Kiosk.
- T. Non-commercial art. Any outdoor artwork, mural, sculpture and the like may be displayed on a lot, provided that it does not contain any commercial message or logo and does not create a sight visibility hazard, and is not of an obscene nature as defined by the United States Supreme Court. Where such outdoor art is part of a Site that is subject to the Planning Commission's jurisdiction, the outdoor art shall be considered part of the development that is subject to the Planning Commission's review and approval.

### **30.11: PERMITTED SIGNS.**

- A. The following signs are permitted in the U-R, R-1 and R-2 Districts, upon issuance of a sign permit:
1. Subdivision Signs as regulated by this Chapter.
  2. Development Signs as regulated by this Chapter.
- B. The following signs are permitted in the C-1, C-2, C-3 and I-1 Districts:
1. On-Premises (Permanent and Temporary) Advertising Signs as regulated within this Chapter.
  2. Development Signs as regulated within this Chapter.
  3. Maximum Square Footage of Signs in the C-1, C-2, C-3 and I-1 Districts:

- a. The aggregate square footage of sign space per lot shall not exceed ten (10) percent of the ground area of the principal structure on the lot.
  - b. Aggregate wall sign area shall not exceed twenty (20) percent of the area of the facade to which it is affixed.
  - c. No individual sign shall exceed one hundred (100) square feet of area per surface.
4. Maximum Height:
- a. ~~C-3 and~~ I-1 Districts: Maximum Height. Freestanding signs shall not exceed twenty (20) feet in height as measured from the elevation of the centerline of the adjoining roadway, except that at those sites at which the elevation of the abutting property is higher than the centerline of the adjoining roadway, the height of any such sign shall not exceed twenty (20) feet as measured from the elevation of said abutting property at the site of such sign. All free standing signs must have at least fourteen (14) feet of underside clearance, unless they are enclosed at the base by landscaping and protected to avoid the underneath passage of persons or autos.  
*(Approved May 6, 2013 under Ordinance # 90)*
  - b. Pylon/pole permanent signs are prohibited in the C-1 District except that multi-tenant uses and uses that have on-site parking facilities of twenty (20) or more spaces may have one pylon/pole sign with a landscaping base around the perimeter. Said sign may be no higher than 20 feet.
  - c. C-3 (Highway Business): Maximum Height. Freestanding signs shall not exceed twenty (20) ~~twenty-five (25)~~ feet in height as measured from the elevation of the centerline of the adjoining roadway, except that at those sites at which the elevation of the abutting property is higher than the centerline of the adjoining roadway, the height of any such sign shall not exceed twenty-five (25) feet as measured from the elevation of said abutting property at the site of such sign. All free standing signs must have at least fourteen (14) feet of underside clearance, unless they are enclosed at the base by landscaping and protected to avoid the underneath passage of persons or autos.  
*(Approved May 6, 2013 under Ordinance # 90)*
5. Signs that are placed on the exterior walls of buildings shall not extend more than four (4) inches from a building's wall surface.
6. Awning, Canopy and Sign Projection: Awnings or canopies shall provide a minimum clearance of ten (10) feet from the sidewalk and project no closer than two (2) feet from the edge of the curb of the street. Projecting signs shall project no more than two (2) feet from the building and have an undersign clearance of at least ten (10) feet.
7. Window signs may be placed inside of the commercial buildings, provided not more than fifty percent (50%) of the window is covered.
8. Temporary Sandwich Signs. Temporary Sandwich Signs may be permitted in the C-1 and C-2 Districts provided the total square footage per sign shall not exceed twelve (12) square feet or six (6) square feet per side. A temporary sandwich sign permit shall conform to the following:
- a. The property owner shall sign a hold harmless agreement indemnifying the City of Osakis in any action arising out of the location of said sign within the public right-of-way.
  - b. Said signs shall be placed during daylight hours only, sunrise to sunset.
  - c. Signs shall only be placed in front of the location the sign serves.
  - d. Temporary sandwich signs shall not occupy more than one-third (1/3) of the width of the

sidewalk on which it is located.

- e. The Osakis Police Department shall remove all signs that are in violation.

**30.12: TEMPORARY SIGNS.**

- A. Temporary signs other than those signs exempted by this Ordinance may be permitted on a lot no more than four (4) times in any calendar year for a time period not exceeding a total of thirty (30) days in any calendar year. Temporary signs are regulated as follows:
  - 1. Temporary signs shall not exceed twenty-four (24) square feet and the advertisement contained on any temporary sign shall pertain to the business conducted on the premises on which the sign is erected.
  - 2. There shall be no more than two (2) temporary signs per business at any one time which may include no more than one (1) wall and (1) freestanding sign. Multi-tenant developments may be allowed two portable signs per site.
  - 3. Temporary signs shall not be located as to obstruct with vehicular traffic or visibility for vehicles at intersections, and the clear space for pedestrian passage shall not be reduced to less than four (4) feet.
  - 4. Temporary signs shall have no more than two (2) faces.
  - 5. Temporary signs shall be secured in a manner as to prevent them from being moved or blown over by the wind.
  - 6. Temporary signs shall be professionally made and constructed of durable, weather-resistant materials such as aluminum, plastic or wood finished surfaces and shall be maintained in good conditions throughout the term of the permit.
  - 7. If any temporary sign is not removed by the expiration date of the permit, the Zoning/City Administrator of his/her designee may remove it and charge the costs of removal to the individual or enterprise responsible or property owner.

**30.13: SUBDIVISION SIGNS.**

A Monument Sign intended to permanently identify a residential development shall be permitted under the following conditions:

- A. There shall be an entity established to the satisfaction of the City such as a homeowners association, which shall be clearly responsible for the perpetual maintenance of said monument sign.
- B. The Monument Sign shall not exceed six (6) feet in height and shall not exceed forty (40) square feet of sign area.
- C. The Monument Sign shall be a minimum of thirty (30) feet from any existing or future residence.
- D. Landscaping shall be provided around the base of the monument sign.
- E. The City, at the discretion of the City Council, may deny a permit for a Monument Sign where it is determined that the Monument Sign may create an undue burden upon the City by virtue of its size, location, building materials or potential need for maintenance.
- F. No commercial advertising is allowed on any Subdivision sign.
- G. A Subdivision sign may be permitted within a right of way with City Council approval.



### **30.14: DEVELOPMENT PROJECT SIGNS.**

- A. Sign permits are required for temporary on and off-premise signs for the purpose of selling/promoting a development project and for providing direction to the project. Regulations pertaining to such signs shall be as follows:
  - 1. On-premise signs shall not exceed thirty-two (32) square feet in area per sign; two (2) signs are permitted if the development is fifteen (15) acres or larger or if the development has more than one (1) street frontage.
  - 2. Off-premise signs shall not exceed thirty-two (32) square feet in area per sign; evidence of permission of the property Owner for Erecting such sign shall be required; there shall be no more than one (1) sign per development at any street intersection; where signs for two (2) or more developments are located in close proximity, they shall be placed so as not to obscure the line of vision to the signs from the roadway motorist.
  - 3. On and off-premise development project signs shall be setback ten (10) feet from all property lines. Such signs shall be removed when seventy-five (75) percent of the units are occupied.

### **30.15: ELECTRONIC VARIABLE MESSAGE SIGNS.**

The preferred sign type relating to the electronic message sign is a monument type. If the EVM is displayed in a Pylon Sign type, said sign shall include a landscaped base wherein planter boxes, shrubs, flowers, etc. are maintained. Electronic message signs may be allowed under applicable provisions of this Ordinance provided that:

- A. The sign shall be at least thirty (30) feet from any Residential District;
- B. The variable message sign shall not exceed twenty-five (25) percent of the maximum allowable aggregate sign area for the use to which it pertains, the area allowed for an electronic variable message sign is included within the total allowable signage area;
- C. Modes which cause the message to flash are prohibited;
- D. The sign may only be used to promote activities, products, or services pertaining to the subject property; time and temperature; or other public service oriented messages;
- E. Landscaping shall be provided around the base of the monument sign.

### **30.16: PERMIT REQUIRED.**

- A. Every person shall obtain from the City a permit before erecting, placing, rebuilding, reconstructing, structurally altering, enlarging or relocating any sign or awning which is not specifically exempted by these regulations from this permit requirement. An application for a permit shall be submitted to the Zoning Administrator in accordance with the permit procedures of the Zoning Ordinance and the requirements of this section. The application shall include the information required by the form provided by the City and shall be accompanied by appropriate documents and plan or plans drawn to scale which legibly reflect the following:
  - 1. The location of proposed and existing signs in relation to property lines and existing and proposed building based upon a site plan approved by the City which accurately reflects current conditions on the property.
  - 2. The design, full dimensions, and specifications including the method of construction, and attachment to a building or placement in the ground.
  - 3. Stress calculations prepared by a certified engineer, where applicable, indicating that the structure's design for dead load and wind pressure in any direction in the amount required by regulations.

4. Such other information as the Zoning Administrator or Building Inspector may require to show full compliance with this Ordinance and other applicable laws or codes of the City. The Zoning Administrator may waive requirements for technical information specified above where such information is not necessary to the determination of compliance.
- B. The Zoning Administrator shall, upon approval, issue a written permit authorizing the proposed sign and related work. The permit shall, where applicable, specify the duration of the permit and any special conditions or requirements related to the construction of the sign. Expiration and renewal of permits shall be in accordance with the provisions of the Minnesota State Building Code for building permits.

**30.17: CONSTRUCTION REQUIREMENTS.**

- A. All signs shall be constructed and maintained in a manner where they will be safe to the general public.
- B. All permanent signs shall be constructed to meet Building Code standard for wind resistance, dead loads, wind loads and other applicable sections of the Building Code. Signs shall be rigidly suspended by means of fastening or support so as not to be free swinging or a menace to persons or property.
- C. All electrical wiring of signs shall comply with the provisions of the Building Code, as may be amended from time to time.

**30.18: VIOLATIONS/PENALTY.**

- A. If, upon inspection, the City determines a sign permitted by the City to be unsafe, un-maintained, or abandoned, the City may issue a written order to the owner of the sign and/or occupant of the premises stating the nature of the violation and requiring them to repair or remove the sign within ten (10) working days after receipt of notice from the City. In cases of emergency, the Enforcement Official may cause the immediate removal of a dangerous or defective sign. Signs removed in this manner must present an imminent hazard to the public safety.
- B. Failure to correct any violation of this Ordinance shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out any/all of the following enforcement remedies:
  1. The City shall have the authority to withhold or deny any/all permit or approval until the violation is appropriately corrected.
  2. The City shall have the authority to issue a stop work order on the property in violation.
  3. The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice. Abatement action by the City shall not proceed until after a hearing before the City Council.
  4. The City shall have the authority to seek an injunction in court to stop any violation of this Ordinance.
  5. The City shall have the authority to assess charges against any property in violation of any of the provisions of this Ordinance.
  6. The City shall have the authority to institute appropriate misdemeanor action or misdemeanor criminal action for a violation of this Ordinance.
  7. Violation of this Ordinance is a misdemeanor. Each day that the violation continues is a separate offense.

## CHAPTER 31 - GENERAL REQUIREMENTS

### SECTION:

- 31.01: Purpose
- 31.02: Dwelling Unit Restriction
- 31.03: Building Restriction
- 31.04: Height
- 31.05: Yards
- 31.06: Accessory Structures
- 31.07: Encroachment of Easements
- 31.08: Lighting and Glare
- 31.09: Liquid Storage, Emission, Noise, Odors, Particulate Matter and Waste
- 31.10: Outdoor Storage
- 31.11: Excavation and Land Reclamation
- 31.12: Elevation
- 31.13: Erosion and Drainage
- 31.14: Connection to Public Water and Sewer
- 31.15: Site Triangle
- 31.16: Landscaping and Screening
- 31.17: Off-street Parking and Loading
- 31.18: Residential Pools and Spas
- 31.19: Telecommunication Facilities
- 31.20: Fences

### **31.01: PURPOSE.**

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

### **31.02: DWELLING UNIT RESTRICTION.**

- A. No garage, tent, accessory building or motor home shall at any time be used as living quarters, temporarily or permanently unless situated in a permitted RV Park.
- B. Tents, play houses or similar structures may be used for play or recreational purposes, but shall not be independent living quarters.
- C. Mobile homes, buildings, tents or other structures temporarily maintained by an individual or company on the premises associated with a work project and used exclusively to house labor or other personnel occupied in such work project shall be exempt from the requirements of this Ordinance, upon approval of the Zoning Administrator. Such mobile homes, buildings, tents or other structures shall be removed within thirty (30) days from the completion of the work project.
- D. Number of occupants. Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

### **31.03: BUILDING RESTRICTION.**

- A. All buildings shall be so placed that they will not obstruct future streets or alleys that may be constructed by the City in conformity with existing streets and according to the system and standards employed by the City. The apparent front of the building shall face the front of the lot, as determined by the Zoning Administrator.
- B. Except in the case of Planned Unit Developments, not more than one (1) principal building shall be located on a lot. The words "principal building" shall be given their common, ordinary meaning; in case of doubt or on any question or interpretation, the decision of the Zoning

Administrator shall be final, subject to the right of appeal to the Planning Commission and City Council.

C. No dwelling shall hereafter be erected or altered unless it abuts a public street.

D. Building Type and Construction.

1. All dwellings shall be placed on a complete, permanent perimeter foundation which complies with the Building Code as adopted by the City Council.
2. Rooflines of all dwellings must have at least a three-twelfths (3:12) pitch.
3. The minimum widths of all dwellings shall be at least twenty-four (24) feet, measured from the face of the exterior wall across the narrowest portion. This shall not include the projection of a porch, sunroom or similar room, which is constructed as a permanent part of the principal structure.
4. All dwellings shall be constructed of conventional exterior dwelling type material. No steel or metallic roofing is allowed on dwelling units, except in conformance with the Building Code.
5. All dwellings shall be built according to the Building Code as adopted by the City Council, and all manufactured dwellings shall be built and installed in accordance with Minnesota Statutes Chapters 327.31 to 327.35, as may be amended from time to time.
6. Standards of Section 31.03, A, 1-5, above, shall have no application to manufactured dwellings placed in a licensed manufactured home park which was approved prior to the adoption of this Ordinance.
7. No galvanized or unfinished steel, galvalum or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as corten steel, shall be permitted in any residential zoning district except in association with farming operations. ~~The use of galvanized or unfinished steel for an exterior wall or roof finish may be considered only when approved by the Zoning Administrator.~~ (Approved August 11, 2009)
8. Exterior building finishes shall consist of durable finish-type materials of a high grade and quality. Commercial structures shall use commercial grade materials, unless specifically approved by the Building Official.
9. Storm Shelter: In cases where residential dwelling units are constructed slab on-grade, provisions shall be made to provide for storm protection either internally to the unit or in a separate storm shelter structure. External storm shelters shall be considered accessory structures and shall be subject to the other provisions of this Ordinance.

10. Factory painted roll form steel with exposed matching fasteners will be allowed on roofs only, in all residential districts and is to be installed per manufacturer's specifications and code. No galvanized steel is allowed in any district. (Approved August 11, 2009)

#### **31.04: HEIGHT.**

Except for communication towers otherwise allowed by conditional use permit, the maximum height of all principal structures located in the zoning districts shall be as specified within each District. The following items may project ten (10) feet higher than the structure to which they are attached or fifty (50) feet, whichever is higher: belfries, chimneys or flues, church spires, cooling towers, cupolas and domes not containing useable space, elevator penthouses, flag poles, monuments, parapet walls, mechanical and electrical appurtenances.

- A. Applicants proposing structures constructed exclusively for or hosting telecommunications equipment shall provide written verification of approval from the Federal Communications Commission and the Federal Aviation Administration to the extent required by those agencies.

- B. The City shall require an applicant who proposes the construction of any structure with a height equal to or greater than two hundred (200) feet above ground level; or the alteration of any structure to a height which is equal to or greater than two hundred (200) feet above ground level to notify the Minnesota Department of Transportation Commissioner and the Federal Aviation Administration Commissioner of said proposal at least thirty (30) days prior to the City Council's consideration of said request, if notice is required by those agencies. Should notice be required by those agencies the applicant shall submit evidence to the City verifying the Minnesota Department of Transportation and the Federal Aviation Administration have been duly notified of said proposed structure prior to City Council approval.

**31.05: YARDS.**

- A. No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Ordinance, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.

**31.06: ACCESSORY STRUCTURES.**

- A. No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is an accessory.
- B. In cases where an accessory building is attached to the principal structure, it shall be made structurally a part of the principal structure and shall comply in all respects with the requirements of this Ordinance applicable to the principal structure. An accessory building, unless attached to and made a part of the principal structure shall not be closer than five (5) feet to the principal structure.
- C. Accessory garages located in rear yards shall be setback a minimum of five (5) feet from the rear lot line, except that rear-loading garages shall be setback ten (10) feet from the rear lot line. Accessory Structures shall be setback ten (10) feet from the side lot line.  
*(Approved May 6, 2013 under Ordinance # 90)*
- D. No accessory building shall be constructed in the required front yard.
- E. Within the Residential Zoning Districts no detached accessory building shall exceed 1,200 square feet. Lots of greater than 43,560 sq. ft. (one acre) shall be exempt from this standard.
- F. No lot shall have more than two (2) detached accessory buildings. Lots of greater than 43,560 sq. ft. (one acre) shall be exempt from this standard.
- G. The same or similar exterior building color shall be used on the accessory building and the principal building. Agricultural buildings shall not be allowed in the R-1, R-2, RM, C-1, C-2, C-3 or I-1 Districts.
- H. Accessory buildings other than garages shall be limited to fourteen (14) feet in height to the top of the structure in the R-1 and R-2 districts.
- I. Detached garage side walls shall not exceed ten (10) feet and the height of the roof shall not be greater than that of the principal structure on the lot and they shall feature a roof pitch which is similar to that of the principal structure.

**31.07: ENCROACHMENT OF EASEMENTS.**

- A. The purpose of this section is to increase public safety by requiring that proposed structures, plantings, fences and similar items be set back from pipeline, drainage and utility easements.
- B. Applicability: This section applies to all developments or projects.
- C. Setback: Buildings and places of public assembly subject to this section shall not be constructed closer to the pipeline than the boundary of the pipeline easement. Structures shall not be placed

or constructed in utility or drainage easements.

**31.08: LIGHTING AND GLARE.**

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

**31.09: LIQUID STORAGE, EMISSIONS, NOISE, ODORS, PARTICULATE MATTER AND WASTE.**

- A. Bulk Liquid Storage: All uses associated with the bulk storage and transport of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with requirements of the Minnesota State Fire Marshal's and Minnesota Department of Agriculture offices and have documents from those offices stating the use is in compliance.
- B. Emissions:
  - 1. Radiation Emission: All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.
  - 2. Electrical Emission: All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission and Minnesota Public Utilities Commission.
- C. Noise: Noises emanated from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation NPC, as amended.
- D. Odors: The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC, as amended.
- E. Smoke, Dust and Other Particulate Matter: The emission of smoke, dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1015, as amended.
- F. Waste:
  - 1. All waste generated shall be disposed in a manner consistent with all Minnesota Pollution Control Agency rules.
  - 2. Any accumulation of waste generated on any premises not stored in containers which comply with the City Code and Minnesota Pollution Control Agency rules, or any accumulation of mixed municipal solid waste generated on any premises which has remained thereof for more than one week, or any accumulation of infectious, nuclear, pathological, or hazardous waste which is not stored and disposed in a manner consistent with Minnesota Pollution Control Agency rules is a nuisance and may be abated and the cost of abatement may be assessed against the property where the nuisance is found.
  - 3. The accumulation, storage, processing, and disposal of waste on any premises, which is not generated on that premises is prohibited, except as specifically provided in this Ordinance.

**31.10: OUTDOOR STORAGE.**

- A. Waste and Recycling Receptacles: In all districts, all waste and recycling materials shall be stored within an approved receptacle. All enclosures and receptacles shall be kept in a good state

of repair and waste receptacles shall include secure tops or covers to properly contain the waste.

- B. Refuse: Any accumulation of refuse on any premises not stored in containers which comply with City Code, or any accumulation of refuse on any premises which has remained thereon for more than one (1) week is declared to be a nuisance and may be abated pursuant to the City's Nuisance Ordinance, as may be amended.
- C. Junked, Dismantled Vehicles: All unlicensed, unregistered or inoperable motor vehicles, household furnishings or appliances, or parts thereof, may not be stored on any property, public or private, unless housed within a lawfully erected building.  
*(Approved May 6, 2013 under Ordinance # 90)*
- D. Outdoor Storage or Parking of Semi-Tractor Trailers:
  - 1. Accessory Use: Outdoor storage and parking of land/sea containers and semi-tractor trailers shall be allowed only in districts where such use is listed as an accessory use. Any other outdoor storage of land/sea containers and semi-tractor trailers is prohibited.
  - 2. Exemption: The prohibition against outdoor storage of semi-tractor trailers provided in this Section does not apply to:
    - a. Parking of semi-tractor trailers for a period of up to one hundred twenty (120) consecutive days per calendar year for the normal freight in transit; or
    - b. Temporary parking of construction trailers on a construction site during the period that the site is being developed.
  - 1. Certification: All semi-tractor trailers with a Minnesota license plate shall be certified by the State and shall display a current inspection certification decal issued in accordance with Minnesota Statutes Section 169.781. All semi-tractor trailers with out-of-state license plates shall produce upon request proof that the vehicle complies with Federal motor vehicle inspection requirements for vehicles in interstate commerce as provided under 49 C.F.R. Section 396.17.
  - 2. Surface: All land/sea containers and semi-tractor trailers used for outdoor storage shall be parked on a surface covered with one of the following: concrete, bituminous, one hundred (100) percent class five crushed rock or crushed concrete.
  - 3. Location: Land/sea containers shall not be stored and semi-tractor trailers shall not be parked in the required front yard setback area or in a required side yard setback area abutting a residential district. Outdoor storage of land/sea containers and parking of semi-tractor trailers shall not be allowed on required parking spaces.
  - 4. All uses associated with the bulk storage and transport of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall not be stored or parked within 350 feet of a school, church, daycare, park or other similar public institution.
- E. Exceptions:
  - 1. Outdoor storage shall not be allowed except as provided in this Ordinance. The following shall not constitute outdoor storage:
    - a. Clothes line pole and wires.
    - b. Not more than ~~two (2)~~ four (4) recreational vehicles or equipment related to recreational vehicles in residential districts.  
*(Approved May 6, 2013 under Ordinance # 90)*
    - c. Construction and landscaping material currently being used on the premises.

- d. Off-street parking of licensed passenger vehicles and trucks not exceeding a gross weight of twelve thousand (12,000) pounds in residential districts.
  - e. Within the Industrial District, semi-tractor trailers used for normal freight and cartage in transit for up to one hundred twenty (120) consecutive days per calendar year.
2. Air conditioning cooling structure or condensers shall be located in rear or side yards in all zoning districts.

**31.11: EXCAVATION AND LAND RECLAMATION.**

No person shall within the City fill, excavate, dig or grade the surface of the earth nor open any pits or excavated areas in the earth nor do any other acts where it will raise or lower the average grade of any land by more than three (3) feet, except as provided for storm water ponds in conformance with the applicable Osakis City Code, as may be amended. All applications for land reclamation or mining shall require a conditional use permit.

**31.12: ELEVATION.**

- A. Ground Water Elevation: Unless approved by the Building Official or City Engineer, the lowest floor, including basement floor, of all structures shall be at a level at least three (3) feet above the highest known ground water table elevation. If requested by the Building Inspector, the ground water table elevation shall be determined by a licensed soils engineer using soil borings, peizometers, or the observation of mottled soils.

**31.13: EROSION AND DRAINAGE.**

- A. No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of sediment on adjacent properties. Such runoff shall be property channeled into a storm drain, watercourse, ponding area, or other public facilities subject to the review and approval of the City Engineer.
- B. In the case of all new multiple family lots, commercial, industrial and institutional developments, the drainage plans shall be submitted to the City Engineer and the final drainage plan shall be subject to his written approval. No modification in grade and drainage flow through fill, cuts, erection of retaining walls, or other such actions shall be permitted until such plans have been reviewed and received written approval from the City Engineer.
- C. Unless approved by the Building Official or City Engineer, the top of the foundation and garage floor of all structures shall be at least eighteen (18) inches above the grade of the crown of the street.
- D. Property and streets adjacent to the site of a land disturbance shall be protected from sediment deposition. This shall be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, filters, dikes, or sediment basins, by stockpiling sod in appropriate locations, or by a combination of such measures.
- E. All storm sewer inlets which are functioning during construction shall be protected so that sediment laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
- F. All residential, commercial, industrial, and institutional developments satisfy the provisions of the Subdivision Ordinance in regard to storm water management.
- G. All on-site storm water conveyance channels shall be designed and constructed to withstand the design volume of storm water with appropriate stabilization to prevent scour and erosion. Erosion controls must be provided at the outlets of all storm sewer pipes.
- H. A permanent vegetative cover shall be established on denuded areas not otherwise permanently



stabilized forthwith after land disturbing activity is complete.

- I. Whenever construction vehicles access public roads, provision shall be made to minimize the transport of sediment by runoff or vehicle tracking onto the paved surface. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or sweeping.
- J. All temporary and permanent erosion and sediment control practices shall be maintained and repaired to assure the continued performance of their intended function.
- K. All temporary erosion and sediment control measures shall be removed within thirty (30) days after final site stabilization is achieved or after the temporary measures are no longer needed.
- L. The City's Building Official may issue stop work orders for any violation of this Section.

**31.14: CONNECTION TO PUBLIC WATER AND SEWER.**

- A. At such time as a public sewer becomes available to a property serviced by a private waste water disposal system, a direct connection shall be made to the public sewer within one (1) year, subject to compliance with other City ordinances.
- B. All newly constructed principal structures must be connected to the City's public sewer and water services when:
  - 1. Said sewer/water facilities are within three hundred (300) feet from the proposed development; and/or,
  - 2. The proposed development is located within a area guided toward future urban development within the Comprehensive Plan; and/or,
- C. Where municipal sewers are not available all sewage facilities must be connected to approved septic tanks and disposal fields.

**31.15: SITE TRIANGLE.**

On corner lots in all districts, no structure or planting in excess of twenty-four (24) inches above the street centerline grade shall be permitted within a triangular area as defined in this Ordinance.



- A. Site Triangle: The triangular area of a corner lot formed by the street lines and a line connecting them at points 15 feet from the intersection of the street lines or in the case of a rounded corner from the intersection of the street property lines extended. On streets having an angle of intersection of 90 degrees or more, said line connecting the intersecting streets is moved one foot further from the intersection along each street for each 10 degrees by which the angle of the intersecting streets exceeds 90 degrees.

**31.16: LANDSCAPING AND SCREEING.**

- A. In all zoning districts, all usable open space as defined by this Ordinance shall be planted and maintained in grass, sodding, shrubs or other suitable vegetation or treatment as specified unless devoted to drives, sidewalks or patios, within six (6) months of the issuance of the certificate of occupancy or completion of the project.

- B. All screening required by the provisions of this Ordinance shall consist of either:
  - 1. A green belt planting strip consisting of vegetative cover of sufficient width and density to provide an effective screen; or
  - 2. A fence constructed of masonry, brick, wood or steel, which is compatible with surrounding structures and buildings.

**31.17: OFFSTREET PARKING AND LOADING.**

- A. Scope Of Regulations: The off-street parking requirements of this section shall apply within all zoning districts excepting commercial uses within the C-1 Downtown Commercial District, unless noted as a requirement of a conditional use permit.
- B. Computation: When in the process of determining the number of off-street parking spaces there occurs a fraction of a space, such fraction shall be deemed as a requirement for an additional whole space. The parking requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Zoning Administrator.
- C. General Provisions:
  - 1. Added Floor Area. Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this Ordinance, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.
  - 2. Floor Area Defined. For the purpose of this section, "Floor Area," in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients or patients as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise, less ten (10) percent.
  - 3. Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings, including additions thereto, requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this Section.
  - 4. Dwellings – same lot. Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve.
  - 5. Enlargement into Parking Area. Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area.
  - 6. Use of Garage Space. No person shall alter a garage to be used as living space in any district, unless other legal provisions are made to provide the required parking for the use on the lot. Garages intended to be used to meet off-street parking requirements shall not be used instead for the storage of goods and materials unless additional off-street parking spaces are provided on site in accordance with this Section.
  - 7. Access Distance. No curb cut access or driveway shall be located less than fifteen (15) feet from the intersection of two (2) or more street right-of-ways for residential uses, and thirty (30) feet for commercial and industrial areas. This distance shall be measured from the intersection of lot lines.
  - 8. Curbcut Setback. Curb cut or driveways shall be a minimum of five (5) feet from the side property lines.
  - 9. Number of Curbcuts. All properties shall be entitled to at least one (1) curb cut or driveway access. Single-family uses shall be limited to one (1) curb cut or driveway access per

property. A second curb cut or driveway access may be permitted by the Zoning Administrator in a R-1 district if:

- a. The second access is at least thirty (30) feet from the edge of the primary access;
  - b. The setbacks for the driveway or curb cut access points are met;
  - c. Impervious surface lot coverage requirements are met;
  - d. The installation of the second curb cut or driveway access will not result in two access points from the lot onto a collector street, minor arterial or arterial street; and
  - e. It is determined the second curb cut or driveway access will not result in conflicts with traffic flow or endanger public safety.
  - f. On corner lots, both accesses or driveways shall be onto the same street right-of-way.
10. Surfacing. All driveways and all of the areas intended to be utilized for parking space for five (5) or more vehicles shall be surfaced with a bituminous paving on a suitable base, or reinforced concrete, decorative interlocking pavers or equivalent material approved by the City Engineer. Alternative surfaces may be permitted in parking lot areas in industrial districts, provided the parking lot area is not adjacent to the street right-of-way, is not located in the front yard, and is not intended for use by employee and customer parking. These "truck parking" areas are subject to Planning Commission and City Council approval.
11. Compliance. Parking lots existing on or before the date of adoption of this Ordinance do not have to be brought into compliance with these standards until such time as any of the following events occur:
- a. A new structure is constructed on the property served by the parking lot.
  - b. An addition is constructed to any existing structure located on the property served by the parking lot; or
  - c. A change in the use of the property served by the parking lot occurs which results in a remodeling of the structure requiring the issuance of a building permit.
12. Site plan. There shall be provided by the developer/owner off-street parking spaces as described on a parking plan, submitted in accordance with the parking requirements and approved by the City for all uses as hereinafter specified. All plans submitted for a building permit on residential developments exceeding R-2 density and all other developments requiring parking spaces shall include a site plan to be approved by the City Engineer. Such site plan shall be a part of the building permit and no certificate of occupancy shall be issued until all items shown on the site plan for parking facilities have been completed. The site plan should include at least the following:
- a. Zoning, setbacks, and statement of use.
  - b. North point and scale.
  - c. All adjacent streets and alleys.
  - d. Sidewalks, curbs, gutters, and boulevard trees.
  - e. Entire ownership of lot or parcel being developed.
  - f. Completely dimensioned parking spaces and driving lane(s), if applicable.
  - g. Owner's name and current address.



1. Single-family residential: two (2) spaces per dwelling.
  2. Two-family minimum: two (2) spaces per dwelling unit.
  3. Senior housing: one (1) space per dwelling unit.
  4. Multiple-family residential: two (2) spaces per dwelling unit.
  5. Commercial uses: five (5) spaces per one thousand (1,000) square feet of retail sales floor area.
  6. Automobile repair stations: three (3) spaces for each stall plus one (1) for each attendant on the major shift.
  7. Auditorium, stadium, gymnasium, community center: one (1) space for each four (4) permanent seats in the largest assembly area, plus one (1) seat for each two-hundred (250) square feet of office area.
  8. Office building, professional offices, banks: one (1) space for each two-hundred fifty (250) square feet of business area.
  9. Drive-in restaurants: five (5) spaces for each one hundred (100) square feet of business area.
  10. Hotel and Motel: one (1) space per dwelling unit.
  11. Restaurants and other food dispensing establishment, except drive-in restaurant: one (1) space for each four (4) seats, plus one (1) space for each two (2) employees on the shift.
  12. Furniture, automobile and boat sales, and appliance sales: one (1) space for each four hundred (400) square feet of gross floor area in the first twenty-five thousand (25,000) square feet, and one (1) space for each six hundred (600) square feet of gross floor area thereafter.
  13. Hospitals, rest homes, nursing homes, and the like: one (1) space for each four (4) beds, plus one (1) space for each employee on the major shift.
  14. Bowling alleys: five (5) spaces for each lane or alley.
  15. Car wash: five (5) spaces, plus five (5) spaces for each wash lane.
  16. Animal hospitals and kennels: six (6) spaces, plus one (1) space for each two hundred (200) square feet of gross floor area over ten thousand (10,000) square feet of gross floor area.
  17. Manufacturing and research, experimental stations: one (1) space for each employee on the major shift or one (1) space for each three hundred (300) square feet, whichever is greater.
  18. Warehousing and wholesale business establishments: one (1) space for each employee on the major shift, plus one (1) space for each company vehicle.
  19. Skating rink or dance hall: one (1) space for each two hundred fifty (250) square feet of gross floor area.
  20. Miniature golf course, archery range, golf, driving range: ten (10) spaces respectively.
  21. Uses Not Specified or Precisely Identified: Calculated by the Zoning Administrator based upon, but not limited to, characteristics for similar uses and professional studies.
- L. Parking Lot Standards. In all districts where off-street parking lots are permitted or required such off-street parking shall be constructed and maintained subject to the following regulations:

1. Adequate ingress and egress shall be provided.
2. Such parking lots shall be constructed and maintained in a useable condition, with a hard surface consisting of concrete, bituminous, pavement or paver stone designed to drain and dispose of surface water. Recycled bituminous or concrete shall be prohibited except as permitted in an industrial area by variance.
3. Whenever such parking lot boundary adjoins property zoned for residential use, a setback of ten (10) feet from said lot line shall be required, and maintained.
4. Necessary curbs or other protection against damages to adjoining properties, streets and sidewalks shall be provided and maintained.
5. Plans for the construction of any such parking lot must be approved by the Zoning Administrator and/or City Engineer before construction is started. No such land shall be used for parking until approved by the Zoning Administrator.
6. No sign shall be so located as to restrict the sight, orderly operation and traffic movement within any parking area. Only signs necessary for the orderly operation of traffic movement or parking regulation shall be permitted in any parking area. Such signs shall not be considered part of the permitted advertising space and shall be subject to signage regulations.
7. Except in the case of single-family, two-family, and townhouse developments, parking areas shall be designed so that circulation between parking aisles or driveways occurs within the designated parking lot and does not depend upon a public street or alley and such design does not require backing onto the public street.
8. Except in the cases of single-family, two-family and townhouses, parking lot areas shall comply with the following standards:

ANGLE OF PARKING (ALONG CURB)	STANDARD STALL WIDTH	HANDICAP STALL WIDTH	STANDARD STALL DEPTH	MINIMUM DRIVEWAY WIDTH
Zero degrees	9'	11'	21'	12'
30 degrees	9'	16'	18'	12'
45 degrees	9'	16'	20'	13'
60 degrees	9'	16'	21'	18'
90 degrees	9'	16'	18'	24'

- M. Drainage and Surfacing. Driveways shall not exceed a grade of six (6) percent and all parking lots except those for less than five (5) vehicles shall be graded according to a drainage plan which has been approved by the City Engineer. Catch basins, sumps and underground storm sewers may be required.
- N. Striping. All lots for five (5) or more vehicles shall have the organization of spaces painted on the surface according to the plan approved by the Zoning Administrator.
- O. Maintenance. It shall be the responsibility of the lessee and/or owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking area, striping, landscaping and screening.
- P. Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance, and shall be in compliance with Chapter 22.
- Q. The standards outlined in Subd. U,V, W, X & Y shall not be applicable to parking provided for low density residential, public parks or other similar publicly owned property. Parking lot standards for industrial uses may be subject to variance or modification by the conditional use permit for the specific industrial use. In considering a request for variance or modification, the City shall

consider the location of the property, size of the parking area, use of the parking area, adjacent property uses and the impact on the general well being of the community. Alternative surfaces which may be permitted in an industrial area are limited to Class 2 crushed gravel which conforms to the requirements of MN/DOT specification 3138 with visual evidence of further consolidation.

- R. Joint parking. Joint parking areas for several uses in the same block or in the same vicinity may be permissible, if the number of stalls provided is equal to the sum total of the individual requirements and provided that it is found by the Planning Commission, upon application thereto, that the parking demand generated by the different uses including in any joint arrangement to provide parking stalls required herein occurs at distinctly different times, as in the case of a store generating different demand for parking during its daytime business hours and thereafter generating peak demand for parking after such daytime hours, and in similar cases. The Planning Commission may recommend to the City Council the reduction of the total number of parking stalls to be jointly provided. The joint use of parking facilities shall be protected by covenants that run with the lots housing all the joint users and the lot or lots on which the parking facility which satisfies the parking requirements of this Chapter is provided. Those covenants shall grant a perpetual easement for parking to the joint principal use lots. The form, manner of execution, and content of such covenants must be approved by the City Attorney and the document containing the covenants must be recorded at the County Recorder's Office.

### **31.18: RESIDENTIAL POOLS AND SPAS.**

#### **A. Definitions.**

1. Residential swimming pools shall be defined as any constructed pool, permanent or portable, which is intended for non-commercial use as a swimming pool by the owner's family and their guests and which is over twenty-four (24) inches in depth and has a surface area exceeding two hundred (200) square feet.
2. Spa shall be defined as a unit primarily designed for therapeutic use which is not drained, cleaned or refilled for each individual. It may be included but not limited to hydrojet circulation, hot water, cold water mineral baths, air induction bubbles or any combination thereof. Industry terminology for a spa includes, but is not limited to, therapeutic pool, hydrotherapy pool, whirlpool, hot spa, etc.

#### **B. Requirements.**

1. Utility Lines. Pools and spas shall not be located beneath utility lines or over underground utility lines of any type.
2. Fencing. All permanent outdoor pools hereafter constructed shall be completely enclosed by a fence or wall of the non-climbing type so as to be impenetrable by toddlers and shall be equipped with self-closing and self-latching devices.
3. Covers/Ladders. All outdoor spas and semi-permanent pools shall have either a fence as described in B(2), be drained of water and/or have a cover. The cover shall be attached so as to be impenetrable by toddlers. When not in use temporary ladders shall be removed from pools.

### **31.19: TELECOMMUNICATION FACILITIES.**

#### **A. Co-location Requirements.**

1. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless it can be documented by the applicant, by a qualified and licensed engineer, that the telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, commercial building or public structure within one (1) mile radius of the proposed tower site. The applicant must demonstrate a good faith effort to co-locate equipment on existing towers or structures within the one (1) mile

radius.

2. Any proposed commercial wireless telecommunication service tower shall be designed to accommodate both the applicant's antennae and comparable antennae for at least two (2) additional users. Towers must be designed to allow for future rearrangement of antennae upon the tower and to accept antennae mounted at varying heights.

B. Tower Design Requirements. Proposed or modified towers and antennae shall meet the following design requirements:

1. Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.
2. Commercial wireless telecommunication service towers shall be of a monopole design unless the City Council determines that an alternative design would better blend in to the surrounding environment. Towers must be self-supporting without the use of wires, cables, beams, or other means.

C. Construction Requirements.

1. All antennae, towers, and accessory structures shall comply with all applicable provisions of this ordinance.
2. A qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and Electronics Industry Association shall certify towers.
3. No part of any antenna or tower nor any lines, cable, equipment, wires, or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
4. Towers and associated antennae shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
5. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8') feet above the ground at all points, unless buried underground.
6. A security fence to discourage climbing of the tower shall protect every tower affixed to the ground, unless waived by the City.
7. Tower locations should provide the maximum amount of screening possible for off-site views of the facility. Existing on-site vegetation shall be preserved to the maximum extent practicable. The area around the base of the tower and any accessory structures shall be landscaped and/or screened.

D. Lights and Other Attachments. No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency (FAA) or the Federal Communications Commission (FCC), nor shall any tower have constructed on, or attached to, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

E. Accessory Utility Buildings. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district in which the tower site is located. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of



non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

- F. Antennae Mounted on Roofs, Walls, and Existing Towers. The placement of wireless telecommunication antennae on roofs, walls, and existing towers may be approved by the City Council, provided the antennae meet the requirements of this ordinance.

**31.20: FENCES & RETAINING WALLS.**

- A. Permit Required: No person, except on a farm and related to farming, shall hereafter construct or cause to be constructed or erected within the City, any fence or retaining wall without first making an application for and securing a permit.

- B. Locations: Boundary Line Fences:

1. Such a fence of wood, etc. which requires periodic maintenance shall be located no closer than three (3) feet from any side or rear yard lot line on the property of the person constructing or causing the construction of said fence.
2. An exception to the above restriction involving an encroachment up to the side or rear property line shall be allowed by administrative permit provided that a fence agreement addressing construction, maintenance, and repair responsibilities, as well as trespass rights, is established between the adjoining property owners and said agreement is filed with the County Recorder against the titles of the respective properties.
3. The Zoning Administrator or the Building Official may require the owner of the property upon which a fence now exists, or may require any applicant for a fence permit to establish the boundary lines of the property by a survey thereof to be made by any registered land surveyor.

- C. Construction and Maintenance: Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Zoning Administrator shall commence proper proceedings for the abatement thereof. Like fences, wherever permitted shall be constructed in such a manner, that no barbed ends shall be at the top. Electric fences shall only be permitted in the Urban Reserve District when related to farming, and on farms in other districts when related to farming, but not as boundary fences. Barbed wire fences shall only be permitted on farms or in Industrial Districts except as hereinafter provided.



- D. Clear Vision Triangle: On corner lots in all districts, no fence, excepting chain link, in excess of twenty-four (24) inches above the street centerline grade shall be permitted within a triangular area as defined in this Ordinance.

- E. Site Distance: The triangular area of a corner lot formed by the street lines and a line connecting them at points 15 feet from the intersection of the street lines or in the case of a rounded corner from the intersection of the street property lines extended. On streets having an angle of

intersection of 90 degrees or more, said line connecting the intersecting streets is moved one foot further from the intersection along each street for each 10 degrees by which the angle of the intersecting streets exceeds 90 degrees.

F. Residential Fencing and Screening:

1. Except as provided herein, fences shall be at least five (5) percent open for passage of air, light, and drainage.
2. Except as provided herein, fences outside the buildable area of a lot may not exceed six (6) feet in height.
3. Except as provided herein, fences within the buildable area of a lot or in the case of a rear lot lie at least ten (10) feet from the rear lot line, may not exceed eight (8) feet in height.
4. Fences extending across front yards shall not exceed forty-two (42) inches in height and shall be at least seventy-five (75) percent open space for passage of air and light.

G. Business and Industrial Fencing:

1. Business and industrial fences may be erected up to eight (8) feet in height. Fences in excess of eight (8) feet shall require a conditional use permit.
2. Business and industrial fences with barbed wire security arms shall be erected a minimum of six (6) feet in height (measured without the security arm). The security arm shall be angled in such a manner that it extends only over the property of the fence permit holder and does not endanger the public. Such security fencing shall be prohibited when located along a property line abutting a residential use.

H. Special Purpose Fences: Fences for special purposes and fences differing in construction, height or length may be permitted in any district in the City by issuance of a conditional use permit approved by the City Council. Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which the fence is intended.

I. Retaining Walls: Retaining walls which have a toe within fifteen (15) feet of a street and run essentially parallel to the street may have a maximum exposed height of five (5) feet at any point along the wall. An additional two (2) feet in height is permitted when the wall is faced with a decorative masonry or stone, subject to approval of the Zoning Administrator. A maximum of two (2) successive walls are permitted, provided that they are at least five (5) feet apart and have a slope between walls not to exceed 2:1 horizontal to vertical steepness.

J. Materials: All exposed retaining walls and cribwalls which may be visible to surrounding properties or streets shall be constructed with stone, textured poured concrete, or textured decorative colored masonry block with colored grout where grout is used to blend with the color of the natural hillside.

**31.21: WIND ENERGY CONVERSION SYSTEMS (WECS).**

A. Purpose: The purpose of this Section is to establish standards and procedures by which the installation and operation of the WECS shall be governed within the City.

B. Application: Wind Energy Conversion Systems may be allowed as an accessory use, conditional use within any zoning district of the City, subject to the regulations and requirements of this Section, provided the property upon which the system is to be located is agricultural or industrial and meets all the required setbacks.

C. Declaration of Conditions: The City Council may impose such conditions on the grants of WECS conditional use permit as may be necessary to carry out the purpose and provisions of this Section and to maintain compatibility.

D. Site Plan Drawing: All applications for WECS conditional use permit shall be accompanied by a detailed site plan draw to scale and dimensioned, displaying the following information.

1. Lot lines and dimensions

2. Location and height of all buildings, structures, above ground utilities, and trees on the lot, including both existing and proposed structures and guy wires anchors.

3. Locations and height of all adjacent buildings, structures, above ground utilities and trees located within three hundred fifty (350) feet of the exterior boundaries of the property in question.

4. Existing and proposed setbacks of all structures located on the property in question.

5. Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to the structures on adjacent lots.

E. Compliance With State Building Code: Standard drawings of the structural components of the Wind Energy Conversion System and support structures, including base and footings shall be provided along with the engineering data and calculations to demonstrate compliance with the structural design provisions of the State Building Code especially with regards to wind and icing loads. Drawings and engineering calculations shall be certified by a registered engineer.

F. Compliance With National Electrical Code: WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City.

G. 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 City Clerk a policy of liability insurance indemnifying applicant from liability for personal injury or property damage in the sum of at least \$500,000.00. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least thirty (30) days written notice to the City before cancellation thereof, the building permit to be automatically revoked upon the lapse or termination of said policy.

H. Manufacturer Warranty: The applicant shall provide documentation or other evidence from the dealer or manufacturer that the WECS has been successfully operated in atmospheric conditions similar to the conditions within the City. The WECS shall be warranted against any system failures reasonable expected in severe weather operation conditions.

I. Design Standards:

1. Height: The permitted maximum height of a WECS shall be determined in one of two ways. In determining the height of the WECS, the total height of the system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor.

a. A ration of one (1) foot to one (1) foot between the distance of the distance of the closest property line to the base of WECS to the height of the system.

b. A maximum system height of one hundred fifty (150) feet.

The shortest height of the two above mentioned methods shall be used in determining the maximum allowable height of a WECS system. The height of a WECS must also comply with FAA Regulation Part 77 "Objects Affecting Navigable Air Space" and/or MnDot Rule 14, MCAR 1.3015 "Criteria for Determining Obstruction to Air Navigation"

2. Setbacks: No part of a WECS (including guy wire anchors) shall be located within or above any required front, side or rear yard setback and no part of the system shall be within ten (10) feet of any property line, whichever is greater. WECS towers shall be setback from the closest property line one foot for every one foot of system height. WECS shall not be located

- within fifty (50) feet of an above ground utility.
3. Rotor Size: All WECS rotors shall not have rotor dimensions greater than twenty-six (26) feet.
  4. Rotor Clearance: Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure or tree within a two hundred (200) foot radius.
  5. Rotor Design: The blade design and materials are to be designed and constructed to ensure safe operation in a urban/rural area.
  6. Rotor Safety: Each WECS shall be equipped with both a manual and automatic braking device capable of stopping WECS operation in high wind (40 MPH or greater) or in conditions of imbalance.
  7. Lightning Protection: Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.
  8. Component Compatibility: The Wind turbine and wind turbine tower are to be designed and constructed to be compatible.
  9. Tower Access: To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:
    - a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
    - b. A locked anti-climb device shall be installed on the tower.
    - c. Tower capable of being climbed shall be enclosed by a locked, protective fence at least eight (8) feet high.
  10. Signs: WECS shall have one sign, not to exceed two (2) square feet at the base of the tower and said sign shall contain the following information:
    - a. Warning high voltage.
    - b. Manufacturer's name.
    - c. Emergency phone number.
    - d. Emergency shutdown procedures.
  11. Lighting: WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by FAA Regulations Part 77 "Objectives Affecting Navigable Air Space and Lighting."
  12. Electromagnetic Interference: WECS shall be designed and constructed so as not to cause radio and television interference.
  13. Noise Emissions: Noises emanating from the operation of WECS shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NPC 1 and 2, as amended.
  14. Utility Company Interconnection: No WECS shall be interconnected with the local electrical utility company until the utility company and the City Engineer have commented upon such proposal. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the City.
  15. Lighting: WECS

J. Ornamental Wind Devices: Ornamental wind devices that are not a WECS shall be exempt from the provisions of this Section and shall conform to other applicable provisions of this Chapter and the City Code.

K. Building Permit Required: A building permit shall be required for the installation of a WECS in the City.

L. Inspection: The City hereby reserves the right upon issuing any WECS conditional use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall upon written notice from the City, take expeditious action to correct the situation.

M. Abandonment: Any WECS or tower which is not used for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

(Approved July 22, 2008)

### **31.22: OUTDOOR WOOD BOILERS.**

A. Purpose: The purpose of this ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Osakis by regulating the air pollution and fire hazards of outdoor fire boilers.

B. Application: Outdoor Fire Boilers may be allowed as an accessory use, conditional use with the UR (Urban Reserve), R-1 (Low Density Residential), R-2 Medium Density Residential), C-2 (General Commerce), C-3 (Highway Commercial), and I-1 (General Industrial) districts of the City, subject to the regulations and requirements of this Section.

C. Declaration of Conditions: The City Council may impose such conditions on the granting of Outdoor Fire Boilers conditional use permit as may be necessary to carry out the purpose and provisions of this Section and to maintain compatibility.

D. Applicability: This ordinance applies to all outdoor fire boilers within the City of Osakis.

1. This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

2. This ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.

3. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

4. This ordinance does not apply to campfires; a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.

E. Definitions:

1. **Construction and Demolition Debris:** Building waste material, including but not limited to waste shingles, insulation, tar paper, wall board, treated wood, painted wood, wiring, plastics, packaging, and rubber or other similar smoke producing materials that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.

2. **Outdoor Fired Boiler:** A fired boiler, stove, or furnace that is not located within a building intended for habitation by humans or domestic animals.

3. Refuse: Any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

F. Outdoor Fired Boilers: An outdoor fired boiler may be installed and used in the City of Osakis only in accordance with all of the following provisions:

1. The outdoor fired boiler shall be allowed in the following districts: UR (Urban Reserve), R-1 (Low Density Residential), R-2 Medium Density Residential), C-2 (General Commerce), C-3 (Highway Commercial), and I-1 (General Industrial).

2. The outdoor fired boiler shall not be used to burn refuse.

3. The outdoor fired boiler shall burn corn or clean wood; natural wood which has not been painted, varnished, or coated with a similar material, has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products.

4. The outdoor fired boiler shall be located at least one hundred (100) feet from any structure which is not on the same property as the outdoor fired boiler and located in the rear yard.

5. The outdoor fired boiler shall have a chimney that extends at least fifteen (15) feet above the ground surface. Installation of the outdoor fire boiler shall be according to the manufacturer's safe operation recommendations.

6. No homemade boilers will be allowed.

7. All burnable material must be stacked neat and orderly or housed within a structure.

G. Materials That May Not Be Burned:

1. Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

2. Asphalt and products containing asphalt.

3. Treated or painted wood including but not limited to plywood, composite wood products, or other wood products that are painted, varnished or treated with preservatives.

4. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane, foam, synthetic fabrics, plastic films and plastic containers.

5. Rubber, including tires and synthetic rubber-like products.

H. Severability: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

I. Liability: A person utilizing or maintaining an outdoor fire boiler shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

J. Penalty: Any person convicted or violating a provision of the ordinance is guilty of a misdemeanor and shall be punished by a fine of at least \$150.00 per occurrence plus the costs of prosecution in any case.

(Approved July 22, 2008)