

**CITY OF WAHKON
MINNESOTA**

**CITY OF WAHKON
ZONING ORDINANCE**

Ordinance No. 2017-1

Amended by Ordinance No. 2018-1

Adopted on _____, 2017

(Replaces Ordinance No. 2006-1)

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**CITY OF WAHKON
ZONING ORDINANCE**

The City Council of the City of Wahkon ordains:

**ARTICLE I
TITLE, AUTHORITY, AND PURPOSE**

Section 1.1. Title. This ordinance shall be known as the “City of Wahkon Zoning Ordinance” and referred to herein as this “Ordinance.”

Section 1.2. Authority. This Ordinance is adopted pursuant to the City Council’s authority under Minnesota Statutes, sections 462.351 to 462.364 and such other authority as may apply.

Section 1.3. Purpose. This Ordinance is adopted with the following purposes:

- (a) Protect and promote the public health, safety, morals, comfort, convenience, and general welfare by guiding the development and redevelopment of land;
- (b) Provide for the orderly development of the City consistent with the regulations and standards set out in this Ordinance;
- (c) Provide for the compatibility of different land uses and the most appropriate use of land throughout the City;
- (d) Conserve the natural and scenic beauty and attractiveness of the City;
- (e) To place all of the land within the City within a zoning district;
- (f) To allow and regulate certain uses of land and structures within the City while prohibiting other uses and structures;
- (g) To regulate structures within the City including, but not limited to, the size, location, and requiring a permit;
- (h) Conserve natural resources and natural and scenic areas of the City;
- (i) To make clear the provisions of this Ordinance are intended to be the minimum requirements applicable within the City and that structures and land uses remain subject to such other laws, rules, regulations and ordinances as may apply; and
- (j) To prescribe penalties for violating this Ordinance.

ARTICLE II
GENERAL PROVISIONS

Section 2.1. Jurisdiction. This Ordinance shall apply to all land within the jurisdictional boundaries of the City of Wahkon, except as may otherwise be provided by law.

Section 2.2. Interpretation. following rules of construction:

- (a) The singular includes the plural, and the plural the singular;
- (b) The present tense includes the past and future tenses, and the future the present;
- (c) The word “shall” is mandatory, and the word “may” is permissive;
- (d) Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition. If no set definition is given in this Ordinance, the word or term shall have the meaning given it in the Minnesota Statutes, Minnesota Rules, or the most applicable Mille Lacs County ordinance to the extent the term is given a specific definition therein. Any question as to the meaning of a word or term used in this Ordinance shall be determined by the Board of Appeals and Adjustments;
- (e) All measured distances expressed in feet shall be to the nearest 1/10 of a foot;
- (f) If a use is not listed as permitted in a zoning district, it is not allowed in the district unless the City Council determines it is a substantially similar use as provided in this Ordinance;
- (g) General words are construed to be restricted in their meaning by preceding particular words;
- (h) The references made herein to statutes, rules, regulations, or ordinances shall automatically include any amendments made thereto and any successor provisions without further action by the City Council. Furthermore, such references shall serve to incorporate those statutes, rules, regulations, or ordinances by reference to the extent necessary to achieve the intent and purposes of this Ordinance. However, such incorporations are intended only to give effect to this Ordinance and are not intended to make the City responsible for the administration or enforcement of the statutes, rules, regulations, or ordinances being referenced; and
- (i) The listing of examples to further explain a term, concept, requirement, or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited. The exception to this general rule of interpretation is the listing of uses allowed in a district, which is intended to be

limited to only those uses and the uses the City Council finds to be substantially similar as provided in this Ordinance.

Section 2.3. 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.

Section 2.4. Prior Zoning Ordinances. This Ordinance supersedes and replaces all previous land use and zoning ordinances adopted by the City Council and all such previous land use and zoning ordinances are hereby repealed. The repeal of the City's previous land use and zoning ordinances does not apply to the City of Wahkon Shoreland Management Ordinance or the City of Wahkon Floodplain Management Ordinance, and it shall not itself affect the status of any use, structure, or lot that was not in conformance with the earlier ordinances.

Section 2.5. Compliance. No structure shall be erected, placed, converted, enlarged, reconstructed, intensified, or altered, and no structure or land shall be used, for any purpose or in any manner, which is not in conformity with this Ordinance. Construction of all structures and uses must be in accordance with the application, plans, permit, and any applicable variances. Land use permits, conditional use permits, and interim use permits issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with permit or variance issued for such use or construction shall be deemed a violation of this Ordinance and no such use or construction shall occur unless a new or amended permit or variance is first obtained from the City.

Section 2.6. County Regulations. The County administers and enforces the regulations applicable to subsurface sewage treatment systems.

Section 2.7. Shoreland Regulations. The City has adopted the "City of Wahkon Shoreland Management Ordinance" ("Shoreland Ordinance") to regulate the properties, and portions of properties, located within the shoreland areas of the City. The shoreland ordinance is incorporated herein by reference. Properties located within the identified shoreland areas are subject to the regulations of both this Ordinance and the Shoreland Ordinance and, to the extent both ordinances apply to the same matter, the strictest provisions must be complied with.

Section 2.8. Floodplain Regulations. The City has adopted the "City of Wahkon Floodplain Management Ordinance" ("Floodplain Ordinance") to regulate the properties, and portions of properties, located within the floodplain zones identified on the most current flood insurance maps and incorporated into the City's official zoning map. The floodplain management ordinance and related maps are incorporated herein by reference. Properties located within the identified floodplain areas are subject to the regulations of both this Ordinance and the Floodplain Ordinance and, to the extent both ordinances apply to the same matter, the strictest provisions must be complied with.

Section 2.9. Applications. All applications must be on forms approved by the City Council. Any requests not submitted on an approved City form shall not be considered an application for

the purposes of this Ordinance or Minnesota Statutes, section 15.99 and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee. If an escrow is required, the applicant shall submit the required amount for escrow with the City within five (5) days of the submission of the application or the application shall be deemed incomplete and will not be processed.

Section 2.10. Unpaid Taxes or Charges. Any application for a zoning request related to property in which there are delinquent property taxes, special assessments, penalties, interest, or past due public utility fees shall not be considered complete and shall not be processed until the owner certifies to the City, with adequate supporting documentation, that all such delinquent or past due amounts, interest, and penalties have been paid in full. Furthermore, any person that submits an application for a zoning request that owes the City for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs owed to the City, the application shall be deemed incomplete and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full to the City. The City will not issue a permit or variance on any of the above described properties until all past due amounts, penalties, and interest has been paid in full. The City may collect any zoning related fees, charges, or costs owed to it by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 (which is available to the City pursuant to Minnesota Statutes, section 415.01, subdivision 1) for collection together with the property taxes levied against any real property the person or entity owing the amount owns in the State. The City will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

Section 2.11. Provisions Severable. 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. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

Section 2.12. Definitions. For the purpose of this Ordinance, the following terms shall have the meaning hereinafter indicated in this Article, unless specifically stated otherwise.

Subd. 1. Accessory Use or Structure - A use or structure, or portion of a structure, subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto. Accessory structure includes, but is not limited to, detached garages, decks, pergolas, and gazebos. Accessory structures shall not include garages, carports, and breezeways that are connected to the principal structure.

Subd. 2. Adult Bookstore or Video store - An establishment or business used for the barter, sale or rental of items consisting of printed matter, pictures, slides, records, audio tapes, video tapes, DVDs, movies, or motion picture film if 20 percent or more of its inventory, stock in trade or publicly-displayed merchandise consists of, or if 20 percent or more of its floor area (not including storerooms, stock areas, bathrooms, basements or

any portion of the business not open to the public) is devoted to, or if 20 percent or more of its gross revenues is derived from items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing or relating to sexual activities or anatomical areas consisting of the human genitals, pubic areas, buttocks or female breast.

Subd. 3. Adult Establishment – Any of the following activities or businesses where the service provided by the activity or business is distinguished or characterized by an emphasis on sexual activities or anatomical areas consisting of the human genitals, pubic areas, buttocks or female breast. These activities and businesses are as follows: adult bookstore or video store, adult entertainment center, adult companionship establishment, adult conversation/rap parlor, adult health/sport club, adult hotel or motel, adult massage parlor, adult motion picture theater, adult modeling studio, adult motion picture arcade, adult novelty business, adult sauna and adult steam room/bathhouse facilities.

Subd. 4. Adult Novelty Business – A business which has as a principal activity the sale of devices which stimulate human genitals or products designed for sexual stimulation.

Subd. 5. Building Sign - Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.

Subd. 6. Commercial Sign - Any sign on a building or property used principally for a Commercial Use.

Subd. 7. Commercial Use - The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

Subd. 8. Duplex, Triplex & Quad - A dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Subd. 9. Fence – Any artificially constructed barrier of wood, masonry, stone, wire, metal or any other material or combination of materials erected to enclose, partition, beautify, mark or screen areas of land.

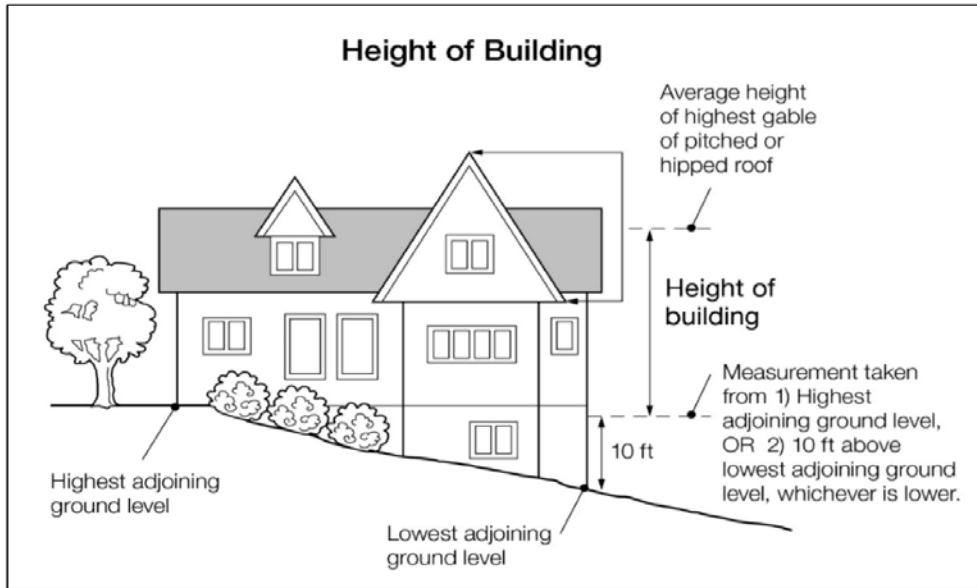
Subd. 10. Fish House - A structure intended to be placed, or that is actually used, for ice fishing.

Subd. 11. Floodplain Ordinance – The City of Wahkon Floodplain Management Ordinance (as it may be amended).

Subd. 12. Freestanding Sign - Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

Subd. 13. Guest Cottage - A structure used as an occasional or seasonal dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary structure on a property. Guest cottage does not include a recreational vehicle.

Subd. 14. Height -The height of a building or structure shall be measured by the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.



Subd. 15. Home Occupation, (Class A) - A business or occupation carried out on residential property which only employs persons residing within the home and do not require additional employees, separate employee or customer parking, does not utilize an accessory building, and does not generate a noticeable increase in traffic. Home occupations such as, but not limited to, architects, artists, clergymen, clothing alterations, domestic crafts making, and similar uses shall be classified as Class A home occupations.

Subd. 16. Home Occupation, (Class B) - A business or occupation carried out on residential property which has the potential for generating a noticeable increase in traffic, requires additional parking, involves employees not residing in the home, or utilizes an accessory building. Home occupations such as barber shops, beauty salons, clothing shops, bed-and-breakfast inns, museums, animal hospitals, schools, and similar uses conducted within a dwelling or accessory structure shall be classified as Class B home occupations

Subd. 17. Industrial Use - The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

Subd. 18. Impervious Surface - Coverage - Any surface impervious or resistant to the free flow of water or surface moisture. Impervious surface coverage shall include but not be limited to all structures, driveways and parking areas whether paved or not, tennis courts, sidewalks, patios and swimming pools. Open decks with 1/4" minimum opening between boards shall not be counted in impervious surface coverage calculations. The City may accept, upon request, materials specifically manufactured to allow the percolation or infiltration of stormwater through it into the soil below it as being exempt from being defined as an impervious surface. The City may give credit for up to 50% of the area covered by a permeable surfacing system as pervious surface. Such materials must be maintained by the property owner per the manufacturer's recommendations.

Subd. 19. Land Alteration - The depositing thereon of any material so as to elevate, grade, fill-in or to change the drainage or flow of a watercourse upon existing surfaces.

Subd. 20. Land Excavation - Digging, tunneling, trenching, ditching, moving or grading of the earth, opening of pits, or any other acts where it will raise or lower the grade of any land.

Subd. 21. Manufactured Home - Shall have the same definition as in Minnesota Statutes, section 327.31, subdivision 6, namely a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without 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 HUD secretary and complies with the standards under the Minnesota Manufactured Home Building Code, Minnesota Statutes, sections 327.31 to 327.36.

Subd. 22. Park Model - Recreational vehicles whose width requires a special state permit and/or licensed hauler for transport are deemed as permanent structures and would be required to meet applicable restrictions on size unless placement is within a licensed park and/or resort.

Subd. 23. Pertinent Ordinances of Record - All applicable ordinances regulating zoning.

Subd. 24. Pervious Pavement - A paving system approved by the city that allows water to infiltrate through the pavement including, but not limited to, porous pavers, open jointed paving blocks and open cell paving blocks. Gravel surfaces such as Class 5 aggregate surfaces shall not be considered pervious pavement but as hardcover.

Subd. 25. Primary Structure - A residential or commercial structure that constitutes the principal use of the property. The term includes a manufactured home, but does not include a recreational vehicle or any other structure containing less than 600 square feet of living area or commercial space.

Subd. 26. 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. The term “recreational vehicle” shall be synonymous with the term “travel trailer” or “travel vehicle.” A fish house shall not be considered a recreational vehicle, unless it is licensed as such.

Subd. 27. Residential Home - Any structure occupied as a residence for more than 14 consecutive days.

Subd. 28. Shoreland - Land located within 1,000 feet from the ordinary high water level (OHW) of Mille Lacs Lake.

Subd. 29. Shoreland Ordinance – The City of Wahkon Shoreland Management Ordinance (as it may be amended).

Subd. 30. Structure - Any addition, boathouse, building, guest cottage, commercial building, cottage, deck, fence, fish house, garage, gazebo, greenhouse, industrial building, manufactured home, pole-barn, porch, pump house, residential building, sign, or storage shed.

Subd. 31. Temporary Sign – Any sign not permanently affixed or attached to the ground or a structure, which can be removed without special handling. Examples include, but are not limited to, A-frame signs, trailer signs, banners, pennants, streamers, or similar non-permanent signs made of paper, cloth, canvas, lightweight fabric, or other non-rigid material, with or without frames.

Subd. 32. Vacation Rental - A single-family dwelling and/or related structure that is rented out on a transient basis for a charge. A transient basis shall be any period of time less than thirty (30) consecutive days.

Subd. 33. Wall Sign - Any building sign attached parallel to, but 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, which is supported by such wall or building, and which displays only one (1) sign surface.

Subd. 34. Yard, Front - A yard extending across any street frontage of a lot between the side lot lines and being the minimum horizontal distance between any street line and main building or any projections thereof other than the projections of the usual steps, entranceway, unenclosed balconies or open porch.

Subd. 35. Yard, Rear - A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, enclosed balconies or

unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Subd. 36. Yard, Side - A yard between the main building and the side line of the lot and extending from the front yard line to the rear yard line.

ARTICLE III
ZONING DISTRICTS

Section 3.1. Zoning Districts. The following zoning districts are hereby established and exist within the City.

Subd. 1. Mixed Municipal (MM) District. The Mixed Municipal (MM) District is hereby established as the single primary zoning district for the entire City. The primary purposes of the MM District are to provide for a mix of both residential and commercial development within the City that also establishes limits and restrictions on the allowed commercial uses in order to avoid or reduce negative impacts they may have on residential uses of property.

Subd. 2. Shoreland Overlay (SO) District. The Shoreland Overlay District is hereby established in the City and shall include all land located within designated shoreland areas. The purpose of the Shoreland Overlay District is to control the density and location of development in the shorelands of the public waters of the City in order to preserve and enhance the quality of surface waters, preserve the economic and natural environmental characteristics of shorelands, and provide for the wise use of public waters and related land resources in the City. The City borders upon Lake Mille Lacs (Index Number 48-2), which is classified as a General Development Lake. Property within the SO District is subject to this Ordinance and the Shoreland Management Ordinance.

Subd. 3. Floodplain Overlay (FO) District. The Floodplain Overlay District is hereby established in the City and shall include all lands designated as being within the Floodway District or the Flood Fringe District as established in the Floodplain Management Ordinance. Property within the Floodplain Overlay District is subject to this Ordinance and the Floodplain Management Ordinance.

Section 3.2. Zoning Map. The City of Wahkon Zoning Map, which shows the location of the zoning districts within the City, is hereby adopted and incorporated herein by reference. The zoning map shall be kept on file in the office of the City Clerk. The Zoning Administrator is authorized to interpret the location of the boundaries of a zoning district and the Zoning Administrator's decision is subject to appeal to the Board of Appeals and Adjustments in accordance with the procedures established in this Ordinance.

Section 3.3. Allowed Uses. Only those uses specifically listed in this Ordinance as being allowed as a permitted, conditional, interim, or accessory use may occur within the City. All other uses not expressly allowed by this Ordinance are prohibited, except that the City Council may allow a use not specifically listed upon submission of an application and a finding by the City Council that the proposed use is substantially similar to an allowed use as provided in this Ordinance. The uses allowed on lots located within the Shoreland Overlay District or the Floodplain Overlay District are further restricted by the regulations contained with the Shoreland Management Ordinance or the Floodplain Management Ordinance. No use allowed within the City shall be established or expanded without first obtaining all required permits and complying with all applicable standards and regulations set out in this Ordinance and all other City ordinances.

Section 3.4. Uses Allowed by Statute. The legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition of uses not expressly allowed by this Ordinance, this Ordinance shall be interpreted as also allowing those uses the legislature expressly requires the City to allow. Such uses shall be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute and only to the extent and scope as prescribed in the statute. For example, Minnesota Statute, section 462.357, subdivision 7 requires a licensed day care facility serving 12 or fewer persons to be considered a permitted single family residential use of property. As such, this Ordinance shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of 12 persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly allowed by this Ordinance. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the City. All mandated uses shall obtain a land use permit and all other permits and permissions as required by this Ordinance and all other applicable laws.

Section 3.5. Substantially Similar Uses. An owner proposing to undertake a use he or she believes is substantially similar to a use expressly allowed by this Ordinance in the same zoning district may submit an application to the City to request a finding that the use is allowed. Such application shall be on the form supplied by the City and it must fully explain the proposed use and how it is similar to an allowed use. The City Council shall act on complete applications to determine whether the proposed use is substantially similar to an allowed use in the same zoning district. If the City Council does find the proposed use is substantially similar, it shall also determine whether the use shall be deemed a permitted, interim, conditional, or accessory use for the purpose of this Ordinance. The owner must then apply for and obtain all required permits based on the City Council's classification of the use and any other applicable regulations. The City Council shall maintain a record of all uses it expressly finds to be substantially similar and will make a good faith effort to include those uses in this Ordinance the next time it is amended. If the City Council finds the proposed use is not substantially similar to an allowed use, the owner may submit a separate application to seek an amendment to the text of this Ordinance to expressly allow the use within a zoning district.

ARTICLE IV

ALLOWED USES

Section 4.1. Permitted Uses. The following uses are allowed in the Mixed Municipal (MM) District as permitted uses and do not require an interim use permit or conditional use permit from the City, except that a land use permit may be required:

- (a) Single-family residential dwellings;
- (b) Class A home occupations;
- (c) Recreational vehicle;
- (d) Essential services; and
- (e) Parks and recreational trails.
- (f) Duplex, Triplex or Quad

Section 4.2. Interim Uses. The following uses are allowed in the MM District as interim uses and require an interim use permit from the City:

- (a) Seasonal storage;
- (b) Temporary personal storage;
- (c) Accessory building without primary structure;
- (d) Vacation rentals; and
- (e) Class B home occupations.

Section 4.3. Conditional Uses. The following uses are allowed in the MM District as conditional uses and require a conditional use permit from the City:

- (a) Guest cottage;
- (b) Commercial uses;
- (c) Commercial signs;
- (d) Freestanding signs;
- (e) Building signs, other than wall signs, totaling more than 16 sq. ft in area; and
- (f) Planned unit developments.

Section 4.4. Accessory Structures and Uses. The following structures and uses are allowed in the MM District as accessory uses and do not require a permit from the City, except that a land use permit may be required:

- (a) One detached garage, which may be in addition to an attached garage;
- (b) Accessory buildings and uses customarily incident to a single family residential dwelling; and
- (c) A single commercial building sign 16 sq. ft. in size or less.

Section 4.5. Prohibited Uses. Without limiting the general rule that all uses not specifically listed as being allowed within a district, or that are specifically found by the Council to be substantially similar to an allowed use as provided herein, are prohibited within the district, the

following uses are expressly prohibited within the City and shall not be considered substantially similar to any allowed uses within the City:

- (a) Industrial uses;
- (b) Commercial mining;
- (c) All forms of sanitary landfills, dumps, junk yards, and recycling centers; and
- (d) Sewage sludge disposal sites.
- (e) Commercial storage of fish houses.

Section 4.6. Shoreland Overlay District. Within the Shoreland Overlay District only those uses allowed in the underlying zoning district established by this Ordinance and in the shoreland district established in the Shoreland Management Ordinance shall be allowed, and then only upon obtaining all required permits. Properties within the Shoreland Overlay District are subject to, and must comply with, the Shoreland Ordinance as well as the requirements of this Ordinance.

Section 4.7. Floodplain Overlay District. Within the Floodplain Overlay District only those uses allowed in the underlying zoning district established by this Ordinance and in the floodplain district established in the Floodplain Management Ordinance shall be allowed, and then only upon obtaining all required permits. Properties within the Floodplain Overlay District are subject to, and must comply with, the Floodplain Ordinance as well as the requirements of this Ordinance.

ARTICLE V
GENERAL REGULATIONS/PERFORMANCE STANDARDS

Section 5.1. Building Regulations and Standards.

Subd. 1. Residential Dwellings. Except to the extent expressly allowed by this Ordinance, each property shall contain no more than one residential dwelling.

Subd. 2. Foundations. All buildings shall be placed on a permanent foundation (slab on grade) or frost footings placed at eight foot intervals, except structures 100 square feet or smaller. Frost footings must be at least five feet deep and placed around the entire circumference of the building. The foundation or frost footings must be constructed in accordance with accepted building practices for such structures. Manufactures homes shall comply with all applicable provisions of the Minnesota Manufactured Home Code as well as any stricter requirements contained in this Ordinance.

Subd. 3. Skirting. The vertical enclosure of the space directly beneath the perimeter of a building is required where there is a separation or opening between the bottom of the building and the ground or foundation. Skirting material must be durable, weather resistant, and constructed of vinyl, metal, or other non-combustible material. Treated wood with a minimum width of 3/8” may also be used as skirting material. The skirting material used must be uniform, of good quality, and kept in good repair.

Subd. 4. Ground Cover and Excavations. Upon the completion of a construction project all exposed soils shall be covered with a permanent pervious or impervious surface to stabilize the soil and prevent erosion. The placement of silt screens or other materials shall be utilized during construction as needed to prevent erosion and dust from drifting from the lot. Excavated sites shall be protected with fencing or other type barrier as needed to avoid the creation of a public safety hazard.

Section 5.2. Area and Density Requirements.

Subd. 1. Dimensional Standards. The following standards and requirements shall be complied with within the City:

- (a) Non-Shoreland. Properties located outside of a shoreland area shall contain at least the following minimum lot sizes and widths in order to be buildable.

Residential Units	Minimum Lot Size	Minimum Width at Building Line & OHWM
Single	10,000 sq ft	75 ft
Duplex	17,500 sq ft	135 ft
Triplex	25,000 sq ft	190 ft
Quad	32,500 sq ft	245 ft

- (b) Shoreland. Properties located within a shoreland area shall contain at least the following minimum lot sizes and widths in order to be buildable.

Residential Units	Minimum Lot Size	Minimum Width at Building Line & OHWM
Single	15,000 sq ft	75 ft
Duplex	26,000 sq ft	135 ft
Triplex	38,000 sq ft	195 ft
Quad	49,000 sq ft	255 ft

- (c) Combined Parcels. If two or more separate parcels are to be used to determine compliance with the minimum lot size, they must be combined into a single parcel with a single deed recorded at the County Recorder's office prior to the permit review process.
- (d) Setbacks. No building or structure, whether permanent or temporary and regardless of whether a land use permit is required, shall be erected, placed, moved, or altered such that it is located within any of the following setback distances:
- (1) Front yard: 10 feet.
 - (2) Side yard: 7.5 feet.
 - (3) Rear yard: 7.5 feet.
 - (4) Alley line: 5 feet.
 - (5) State Highway Right-of-Way: 10 feet.
 - (6) City Street Right-of-Way: 10 feet
 - (7) County Road/Highway Right-of-Way: 10 feet
 - (8) OHWL Sewer Area: 50 feet.
 - (9) OHWL Unsewered Area: 75 feet.
 - (10) Mille Lacs County Soo Line Trail: 10 feet.
- (e) Limit on height of structures: 25 feet.
- (f) Primary Structure must be greater than 600 square feet with a pitched roof.

Subd. 2. Impervious Surface. The maximum impervious surface allowed on a lot shall not exceed the following:

- (a) Shorelands.
- (1) Residential: 25% of total property area.
 - (2) Commercial: 25% of total property area.
- (b) Non-Shorelands.
- (1) Residential: 50% of total property area.
 - (2) Commercial: 75% of total property area.

- (c) Combined Parcels. If two or more separate parcels are to be used to determine compliance with impervious surface requirements, the parcels must be combined into a single parcel with a single deed recorded at the County Recorder's office prior to the permit review process.

Section 5.3. New Impervious Surfaces. No person shall install a sidewalk, patio, driveway, or other impervious surface without first obtaining a certificate of compliance from the City. The installation of new impervious surfaces as part of a project for which the City has already issued a land use permit shall not require a certificate of compliance, provided the new impervious surface was authorized as part of the land use permit. The installation of new impervious surfaces shall not be allowed to cause the lot to exceed the impervious surface coverage limits established in this Ordinance. Permeable pavement may be installed, and given a 50% credit, by a licensed contractor as part of reducing coverage on a lot with plans and specifications to be submitted to the Zoning Administrator for approval. Once installed, as-built drawings shall be submitted to the Zoning Administrator documenting the installation. All maintenance activities shall be documented and kept by the landowner for 5 years to be provided to the Zoning Administrator, if requested.

Section 5.4. Fences. The following shall apply to fences in all districts.

Subd. 1. Location. All fences along property boundary lines shall be located entirely upon the property of the person constructing or causing the construction of the fence. The property owner shall maintain both sides of the fence. Fences shall be installed with the finished side(s) facing the neighboring property or properties. No fence shall be installed so that it obstructs the view of vehicular or pedestrian traffic on adjacent streets or public ways. All fences shall be installed in a manner that allows necessary maintenance to be performed without trespass on a neighboring property. All fences shall be placed, a minimum of 10 feet from the ordinary high water mark of a lake, two (2) feet from an alley lot line, and 12 feet from any city, county or state road surface or out of the road right-of-way, whichever is more restrictive..

Subd. 2. Height. No fence shall exceed eight (8) feet in height on any property.

Subd. 3. Use of Barbed Wire. No barbed wire fences shall be allowed on residential properties, unless the fence is for security purposes and the City Council has approved a site plan showing the location of the fence on the property. A barbed wire fence is prohibited on commercial properties, with the exception that the top one foot of any fence constructed along the property's side or rear lot lines or along a public street may be constructed of barbed wire. The fence must be placed on the property within the parking setback area. Barbed wire must not be used on any portion of a fence that is on commercial property that is adjacent to residential property. Agricultural fences shall be exempted from this requirement.

Section 5.5. Fish Houses. The storage of fish houses on lots within the City shall comply with this Section.

Subd. 1. Purpose. The City is a lake community and ice fishing is a common activity in the area. The storage of fish houses is an accepted practice in the City, but the imposition of reasonable regulations on such storage is needed in order to protect public safety, avoid blight, and reduce the depreciating effect the unregulated storage of fish houses can have on neighboring properties and the community generally.

Subd. 2. General Standards. Fish houses stored or otherwise kept within the City shall comply with the following standards:

- (a) Fish houses must be properly maintained and be kept in a transportable condition including, but not limited to, maintaining the skids in good condition, securing all windows and doors, and ensuring it is structurally sound so it remains capable of being moved at any time;
- (b) Fish houses shall not be used for general storage of items not related to ice fishing; and
- (c) Fish house must have a clearly visible license for the current year or the previous year. Any fish house with a license that is expired by more than one year must be removed from the property.

Subd. 3. Personal Storage. Subject to the restriction contained in subdivision 5 of this Section, the storage of up to two fish houses on a residential lot shall be considered personal storage and shall not require a permit from the City. The fish houses being stored must belong to the property owner. Fish houses must be stored so that they comply with all setback requirements applicable to an accessory structure on the property.

Subd. 4. Commercial Storage. The storage of three or more fish houses on a single lot shall be considered commercial storage.

Subd. 5. Combined Storage. In order to avoid creating a public nuisance, the number of fish houses that may be stored on a property shall be considered together with the number of recreational vehicles stored on the same property. For example, if one recreational vehicle is stored on a property the owner may also store one fish house on the property.

Subd. 6. Exemption. Properties on which three or more fish houses were regularly stored prior to the enactment of this ordinance may continue to store fish houses consistent with the non-conforming use provisions of this ordinance.

Section 5.6. Vacation Rentals. Vacation rentals shall comply with this Section and other applicable provisions of this Ordinance.

Subd. 1. Permit. No person shall rent, or offer for rent, a single family dwelling as a vacation home or for any other purpose for a period of 30 days or less without first obtaining an interim use permit from the City.

Subd. 2. Occupant Limitation. The rental shall be limited to no more than two persons per bedroom plus two additional persons per building, not to exceed a maximum of twelve (12) persons.

Subd. 3. Parking. All parking associated with the rental must be accommodated on the property, no on street parking is allowed.

Subd. 4. Signs. On premise signs are prohibited.

Subd. 5. Legal Requirements. The owner shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances related to the rental. A violation of such legal requirements, or of any condition imposed on the interim use permit, shall constitute sufficient grounds on which to revoke the permit.

Section 5.7. Stormwater. Owners are required to manage stormwater on their own property. To the extent a stormwater plan is required by this Ordinance, or by condition imposed on a permit issued pursuant to this Ordinance, such stormwater plan shall comply with this Section.

Subd. 1. City Review. The owner shall submit the proposed stormwater plan to the Zoning Administrator for review. The Zoning Administrator may require the plan to be reviewed by the City's engineer. The owner shall be responsible for reimbursing the City for all costs incurred related to the review and shall make such changes to the plan as directed by the City's engineer. It shall be the responsibility of the property owner to rectify any and all problems derived from the permitted work for a period not to exceed ten years in order to ascertain that above average rainfalls can be handled in a manner as not to adversely affect adjacent properties.

Section 5.8. Accessory Structures. The construction, placement, or expansion of an accessory structure including, but not limited to, detached garages, decks, pergola, and gazebos shall comply with this Section.

Subd. 1. Permit. No person shall construct, place, or expand an accessory structure without first obtaining a land use permit from the City. A permit shall only be issued if the accessory structure is to be located on a lot that already contains a primary structure or if the primary structure is being constructed at the same time as the accessory structure or through interim use permitting subject to the provisions of this Ordinance.

Subd. 2. Standards. Accessory structures shall comply with the following standards:

- (a) Height. An accessory structure shall not exceed 25 feet in height;
- (b) Total Area. The total square footage of all accessory structures on a lot shall not exceed the allowable impervious surface coverage as allowed in the Ordinance; and

- (c) Recreational Vehicle as Primary Structure. Only one (1) accessory structure up to 160 square feet, not containing living quarters, is permitted on a property where the primary structure is a permitted recreational vehicle that is connected to city sewer, water, and electric services.

Section 5.9. Commercial Signs. The erection or placement of a new commercial sign, or the expansion of an existing commercial sign, shall comply with this Section and other applicable provisions of this Ordinance.

Subd. 1. Permit. A Certificate of Compliance is required to erect or place a new commercial sign, other than a single wall sign, 16 sq.ft. or less. The expansion of an existing commercial sign shall require either a new or amended conditional use permit.

Subd. 2. Off-Premises Signs. Off-premises signs are not allowed.

Subd. 3. Exceptions. A Certificate of Compliance is not required for the following commercial signs:

- (a) Those permitted as part of the conditional use permit;
- (b) Those attached directly to, and flat against, a building used principally for a Commercial Use;
- (c) Window displays;
- (d) The replacement of an existing sign with the same dimensions and utilizing existing supports;
- (e) Temporary signs, such as banners, streamers, and portable signs, up to 30 sq. ft. in size not placed longer than 14 consecutive days in one month; and
- (f) Signs erected within a public road right-of-way that are approved by the governmental agency with authority over the right-of-way.

Subd. 4. Location. All building signs other than wall signs that overhang a road or sidewalk shall be at least 10' from grade and shall not expand over 5 feet horizontally from the building.

Section 5.10. Manufactured Homes. Manufactured homes shall comply with the standards contained within this Section.

Subd. 1. Seal or Label Requirement. A manufactured home installed in the City must have a seal or label on it issued by the Minnesota Commissioner of Administration or by the United States Department of Housing and Administration signifying that the home is in compliance with the regulations applicable to such homes.

Subd. 2. Anchoring. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists floatation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state anchoring requirements for resisting wind forces.

Subd. 3. Installation. A manufactured home shall be installed by an installer licensed by the State of Minnesota. The installation shall be in accordance with Minnesota Rules Chapter 1350 and the manufacturer's instructions.

Subd. 4. Non-Compliant Homes. Manufactured homes not meeting the definition in Minnesota Statutes, section 327.31, subdivision 6 or that do not comply with the standards of the Minnesota Manufactured Home Building Code are prohibited and shall not be placed within the City. No alterations to the structural components of a manufactured home are allowed unless made in full compliance with Minnesota Manufactured Home Building Code and all other applicable laws, rules, and regulations.

Section 5.11. Recreational Vehicles. The storage and use of recreational vehicles within the City shall comply with this Section.

Subd. 1. Storage. No person shall store more than two recreational vehicles on a property within the City. If fish houses are also stored on the same property, the total number of fish houses and recreational vehicles stored on the property may not exceed two units.

Subd. 2. Overnight Sleeping. A recreational vehicle stored on a property may be used for overnight sleeping for a total of 14 nights in any calendar year. Use of a recreational vehicle for overnight sleeping for more than 14 nights, or as a seasonal cabin, shall require connection of the recreational vehicle to a private well, City's wastewater system, or if not available, ISTS as well as electrical service.

Subd. 3. Exemptions. The following are exempt from the requirement of this section:

- (a) Camper Park. Recreational vehicles placed within a camper park, provided such placement complies with the permit issued for the park and all other applicable requirements.

Subd. 4. Location. Recreational vehicles on properties outside of a camper park must be located such as to comply with all applicable structure setbacks.

Subd. 5. Prohibitions. The following uses of recreational vehicles are prohibited:

- (a) Street Parking. The parking of a recreational vehicle on a street for more than 24 consecutive hours is prohibited; and
- (b) Year-Round Use. The use of a recreational vehicle as a permanent dwelling or as a year-round residence is prohibited.

Subd. 6. Sewer Charge. If the recreational vehicle is connected to the City's sanitary sewer system, the City will require payment of an additional monthly sewer fee for the use of the system by the recreational vehicle. If the primary structure is not connected to the City's

sanitary sewer, the recreational vehicle must be connected to an ISTS consistent with County regulations.

Section 5.12. Park Models. Park Models are deemed as permanent structures and are required to meet applicable restrictions on size unless placement is within a licensed park and/or resort.

Section 5.13. Guest Cottages. The construction, placement, or establishment of a guest cottage shall comply with this Section and other applicable provisions of this Ordinance.

Subd. 1. Permit. No person shall construct, place, or establish a guest cottage without first obtaining a Land Use Permit and Conditional Use Permit from the City.

Subd. 2. Minimum Lot Size. A guest cottage may only be constructed, placed, or established on a lot that meets or exceeds the minimum lot size and minimum width requirements for a duplex under Section 5.2, subd. 1 of this Ordinance.

Subd. 3. Total Area. A guest cottage shall not cover more than seven hundred (700) square feet of land surface and shall not exceed fifteen (15) feet in height unless such structure is located above a garage. If located above a garage, then the maximum height of the entire structure shall be twenty-five (25) feet.

Subd. 4. Standards. A guest cottage shall be located and designed to reduce its visibility from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

Subd. 5. Sewer Charge. If the guest cottage is connected to the City's sanitary sewer system, the City will require payment of an additional monthly sewer fee for the use of the system by the guest cottage. All guest cottages on property with a primary structure connected to the City's sanitary sewer system must also be connected to the City's sanitary sewer system. If the primary structure is not connected to the City's sanitary sewer, the guest cottage must be connected to a ISTS consistent with County regulations.

Section 5.14. Temporary Family Health Care Dwellings. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Wahkon opts-out of the requirements of Minnesota Statutes sections 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

Section 5.15. Outdoor Furnaces and Boilers. No person shall place an outdoor furnace or boiler on a lot within the City.

Section 5.16. Demolition. No person shall demolish a dwelling or other structure larger than 200 square feet without first obtaining a certificate of compliance from the City. The City may waive the applicable fee if the demolition is occurring as part of a project for which a land use permit has been issued. The City shall not issue a certificate of compliance until it has confirmed all City utilities have been shut off, disconnected, and properly capped. A condition of every certificate of compliance issued for demolition is a requirement the owner contact all companies

providing power, gas, and other utility services to the structure and comply with all shut off and disconnect requirements.

Section 5.17. Public Nuisances. The following are declared to be public nuisances that threaten the public health, safety, and welfare and are prohibited by this Ordinance.

Subd. 1. Storage Containers. The use of semitrailers, shipping containers, and other similar structures or containers for storage on a lot for more than 180 days in any one year period is prohibited. This prohibition shall not apply to construction storage trailers used on site during a construction project provided all required permits are obtained for the project, the project remains in compliance, and the trailer is removed from the lot upon completion of the project.

Section 5.18. Adult Uses.

Subd. 1. Findings. The City Council deems it necessary to regulate certain adult uses, such as live entertainment of a sexual nature, in order to protect the health, safety, and welfare of those living in and visiting this small community. The City has a population of slightly over 200 and a total land area of approximately 0.96 square miles. Unlike larger communities with separate commercially-oriented districts in which such adult uses can be allowed while maintaining the separation of such uses from residential areas, the City's compact size and single zoning district does not allow for such separation. In Peterson v. City of Florence, Minnesota, 884 F.Supp.2d 887 (D. Minn. 2012), the United States District Court recognized a city council of a small community acting to protect its residences by adopting an ordinance prohibiting commercial uses, including adult uses, did not violate the Constitution. Unlike the situation in Lyon County which regulates adult uses and where they can be located, Mille Lacs County currently has no such regulations and as a result there are numerous areas within the County in which adult use businesses may be located. Therefore, the City Council determines the prohibition of certain types of adult use establishments within the City is the only reasonable method for protecting the public health, safety, and welfare within the City.

Subd. 2. Prohibition. With the exception of adult bookstores, video stores and novelty businesses, adult establishments are prohibited within the City. Adult bookstores, video stores and novelty businesses are considered to be commercial uses and require a conditional use permit.

ARTICLE VI
NONCONFORMING USES, STRUCTURES, AND LOTS

Section 6.1. Nonconforming Uses and Structures.

Subd. 1. Allowed to Continue. Any use or structure lawfully existing prior to the effective date of this Ordinance, or subsequent amendment which made the use or structure nonconforming, may be continued, including through repair, replacement, restoration, maintenance, or improvement, at the size and in the manner of operation existing upon such date, subject to the following conditions:

- (a) A nonconforming use or structure shall in no way be expanded, enlarged or extended either on the same property or onto an adjoining lot of record except as expressly allowed in this section. Prohibited expansion, enlargement, or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use that increases the height, volume and/or area dimensions of the nonconforming use. The City Council may allow an expansion or extension of a nonconforming structure without a variance if the expansion or extension does not increase the nonconforming aspect of the structure. To the extent the expansion or enlargement of a nonconforming principal or accessory structure is allowed by this section, no such expansion or enlargement may occur except upon issuance of the appropriate permits and provided that the use of the property conforms to the zoning district regulations, that the expansion or enlargement meets current zoning district regulations, and no other nonconformities are created; and
- (b) Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this section prevents the placing of a structure into a safe condition after it has been declared unsafe by the City.

Subd. 2. Alterations. Alterations may be made to a building containing nonconforming dwelling units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be approved by the City.

Subd. 3. Damaged. Whenever a nonconforming structure or use is damaged by fire, collapse, flood, explosion, earthquake, war, riot, act of God or public enemy or to the extent of 50 percent (50%) or less of its estimated market value as indicated in the County Assessor's records at the time of damage, it may be reconstructed upon receipt of all required permits. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent (50%) of the estimated market value as indicated in the County Assessor's records at the time of damage and no zoning permit has been applied for within 180 days of when the property was damaged. If a permit is applied for within 180

days, the City may impose reasonable conditions upon any such zoning permit it may issue in order to mitigate any newly created impact on adjacent property.

Subd. 4. Replaced Use or Structure. When any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Ordinance and it shall not thereafter be changed to any nonconforming use or structure.

Subd. 5. Discontinued. If the nonconforming use of land is discontinued for a period of twelve (12) months, the subsequent use of the land or the structure shall be in conformity with the provisions of this Ordinance.

Subd. 6. Public Nuisances. Nonconforming uses or structures which are declared by the City to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures.

Subd. 7. Nonconformities in Floodplains. No repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.

Subd. 8. Nonconformities in Shorelands. Nonconformities located within the Shoreland Overlay District are subject to the provisions of Minnesota Statutes, section 462.357, subdivision 1e, paragraphs (d) to (j).

Section 6.2. Nonconforming Lots

Subd. 1. Lots of Record. All lots of record, existing as of the date of this Ordinance and all prior zoning ordinances in the City, that do not meet the minimum lot area and lot width requirements, may be allowed as building sites without a variance from lot size or width requirements provided that it satisfies all of the following:

- (a) The use is permitted in the zoning district and is not precluded by any applicable overlay district;
- (b) The lot was created compliant with official controls in effect at the time;
- (c) The setback requirements of this Ordinance are met; and
- (d) The applicable wastewater regulations are met.

Subd. 2. Lots of Record in Shorelands. Lots of record in the office of the County Recorder as of the date shoreland regulations were adopted for the City that are located within a shoreland and do not satisfy the requirements of this Ordinance for lot size or lot width are subject to the following:

- (a) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
 - (1) all structure and septic system setback distance requirements can be met;
 - (2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and
 - (3) the impervious surface coverage does not exceed twenty-five (25%) percent of the lot.

- (b) In a group of two or more contiguous lots of record under a common ownership, an individual lot shall be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - (1) the lot must be at least sixty six (66%) percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
 - (2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;
 - (3) impervious surface coverage must not exceed twenty-five (25%) percent of each lot; and
 - (4) development of the lot must be consistent with the City's comprehensive plan.

- (c) A lot not meeting the requirements to be considered a separate parcel of land for the purpose of sale or development as set out above must be combined with one or more contiguous lots so they equal one or more conforming lots as possible.

- (d) Notwithstanding the requirements to be considered separate parcel of land for the purpose of sale or development as set out above, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

- (e) In evaluating all variances, zoning and land use permit applications, or conditional use requests, the City shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

- (f) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment

requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

ARTICLE VII
SUBDIVISION REGULATIONS

Section 7.1. Purpose. The purpose of this Article is to establish procedures and requirements for the subdivision of land in the City consistent with the City's authority provided in Minnesota Statutes, section 462.358 and such other law as may apply. The City Council determines enacting subdivision regulations are needed in order to ensure the division of property conforms to the requirements of this Ordinance, adequate safeguards are in place to ensure public improvements proposed for new developments are properly constructed by the developer, and to avoid divisions of property that interfere with the public's health, safety, and welfare.

Section 7.2. Compliance Required. Any subdivision of land, whether by plat or certificate of survey, must comply with this Article, the other applicable provisions of this Ordinance, and the laws of the State of Minnesota. No subdivision of a parcel may occur unless all of the resulting parcels satisfy the requirements of this Ordinance including, but not limited to, the minimum required lot or parcel size as set forth in each district, and the applicant must be able to demonstrate that the subdivided parcels can reasonably be used for the intended purpose, including public road access and connection to appropriate sewer and water systems.

Section 7.3. Subdivision Methods: There are three methods of subdividing land under this Ordinance: (1) Boundary Line Adjustment; (2) Minor Subdivision; and (3) Major Subdivision. Any person proposing to subdivide property shall comply with this Article and all other applicable provisions of this Ordinance and state law. Planned unit developments are a form of subdivision allowed within the City with the issuance of a conditional use permit and are subject to the requirements applicable to a major subdivision and the specific provisions of this Article regarding planned unit developments.

Section 7.4. Boundary Line Adjustment: A boundary line adjustment is the division of land made for the purpose of adjusting the boundary lines of parcels of land to an abutting lot or to otherwise exchange property between adjacent lots which does not create any new lots, tracts, parcels, or sites. A boundary line adjustment must also not create or result in any lot, tract, parcel, or site which contains insufficient area and dimensions to meet minimum requirements for width, lot size, and area for building as required by this Ordinance. The newly acquired land must be combined on the same deed for recording purposes as the remainder of the owner's property.

Subd. 1. **Application.** An owner proposing to undertake a boundary line adjustment must submit a complete application to the City together with the applicable fees. The owner must submit the following additional information with its application in order for the application to be considered complete:

- (a) A certificate of survey showing the current boundary lines and the proposed boundary lines after adjustment;
- (b) The current legal descriptions of the lots; and
- (c) The resulting legal descriptions of the altered lots.

Subd. 2. Procedure. Complete applications must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application and make a determination. If a boundary line adjustment is approved, the City will send a letter to the County Recorder/Registrar of Titles indicating its approval. The Applicant shall be required to prepare and record such documents with the County Recorder/Registrar of Titles as may be needed to complete the boundary line adjustment. All boundary line adjustment approvals shall be recorded at the County Recorder's office within 1 year of approval. Any application not recorded within that timeframe shall be deemed void and require a new application.

Section 7.5. Minor Subdivision. A minor subdivision is the division of a single parcel into two or three parcels. A minor subdivision may be accomplished by means of a certificate of survey or a plat. However, any subdivision of a parcel proposing to establish or dedicate a new public street, or that involves the further division of a parcel that was previously subdivided into two or three parcels, must be platted in the same manner as a major subdivision.

Subd. 1. Application. An owner proposing to undertake a minor subdivision must submit a complete application to the City together with the applicable fees. If the subdivision will occur by plat, the owner must submit the additional information required for an application for a major subdivision in order for the application to be considered complete. If the subdivision will occur by a certificate of survey, the owner must submit the following additional information with its application in order for the application to be considered complete:

- (a) A certificate of survey prepared by a surveyor licensed in the State of Minnesota; and
- (b) The legal description of the property to be subdivided along with the legal descriptions of the proposed subdivided property.

Subd. 2. Procedure. Complete applications must be submitted to the Zoning Administrator. The Zoning Administrator shall forward complete applications to the City Council for review and a decision. The City Council may, but is not required to, call and hold a public hearing regarding the proposed minor subdivision. The decision of the City Council on the application is final and no review or recommendation by the Planning Commission is required. The City Council shall act by resolution on the proposed minor subdivision and may add conditions to its approval. All minor subdivisions approved by the City shall be recorded at the County Recorder's office within 1 year of approval. Any minor subdivision approval not recorded within that timeframe shall be deemed void and require a new application.

Section 7.6. Major Subdivision: A major subdivision is the division of a single parcel into four or more parcels. A major subdivision may only be accomplished by means of a plat that complies with the requirements of Minnesota Statutes, Chapter 505 and all other applicable federal, state, and local laws, rules, regulations, and ordinances.

Subd. 1. Pre-Application Meeting. An owner proposing a major subdivision shall meet with the Zoning Administrator and other appropriate City officials in order to be made fully aware of all applicable ordinances, regulations, and plans in the area to be subdivided. At the initial meeting or at a subsequent pre-application meeting, the owner shall submit a general sketch plan of the proposed subdivision and preliminary proposals for the provision of water and sewer service. The sketch plan can be presented in simple form, but must show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivisions and developments, and to the natural resources and topography of the site.

Subd. 2. Preliminary Plat Procedures.

- (a) Application: After participating in at least one pre-application meeting with the City, an owner may submit an application seeking preliminary approval for a major subdivision together with the applicable fees. If the application is not complete, the Zoning Administrator will inform the applicant what additional information is needed before the application will be processed. The Zoning Administrator shall forward the complete application to the Planning Commission to review. The owner must submit the following additional information with its application in order for the application to be considered complete:
- (1) Seven copies of the proposed preliminary plat;
 - (2) Seven copies of all proposed restrictive covenants or other restrictions which will be imposed upon the purchasers of lots and upon their heirs and successors;
 - (3) Disclose in writing any conditions on the proposed lots that could make them unsuitable or interfere with their use as a building site or for human occupation. Such conditions include, but are not limited to, potential for flooding, inadequate drainage, soil and rock formations, unfavorable topography, soil erosion, inadequate water supply, inadequate sewage disposal characteristics, or any other reasons that would make a lot marginally suitable for building construction or human occupancy; and
 - (4) Accurate legal description of the property being subdivided and the legal description, including acreage, of the remaining portion of the property not being included in the plat (if any).
- (b) Public Hearing. Once the Planning Commission receives a complete application for preliminary plat approval it shall schedule and hold a public hearing regarding the application. The hearing shall be preceded by at least 10 days' published notice. At the conclusion of the hearing the Planning Commission shall develop and forward to the City Council its recommendation regarding the proposed preliminary plat together with any findings it may develop to support its

recommendation. The Planning Commission may include proposed conditions in its recommendation to the City Council.

- (c) Final Decision. The City Council shall review the application, the Planning Commission's recommendation, and determine whether to approve the preliminary plat. The City Council may place conditions on its approval of the preliminary plat including, but not limited to, requiring the owner to enter into a development agreement with the City. An applicant shall not be allowed to submit an application to the City for final plat approval until all conditions imposed on the preliminary plat approval required to seek final approval have been satisfied including, but not limited to, entering into a development agreement with the City if one is required.

Subd. 2. Final Plat Process.

- (a) Application: Once the owner satisfies all of the conditions identified in the approval of the preliminary plat as needing to be satisfied before final approval may be sought, the owner may apply for final plat approval. Failure to apply for final approval within one year from the date of preliminary approval shall render the preliminary approval null and void unless the City Council grants an extension, which shall not exceed six months. The application must be submitted to the Zoning Administrator together with the applicable fees. If the application is not complete, the Zoning Administrator will inform the applicant what additional information is needed. The final plat must include all changes required by the preliminary approval and comply with all applicable legal requirements. The Zoning Administrator shall forward the complete application to the City Council for review. The City Council may, but is not required to, direct the application to the Planning Commission for review and a recommendation. The owner must submit seven copies of the proposed final plat with its application in order for the application to be considered complete.
- (b) Final Decision. The City Council shall review the application and determine whether to approve the preliminary plat. The City Council may place conditions on its approval of the preliminary plat including, but not limited to, requiring the owner to enter into a development agreement with the City. An applicant shall not be allowed to submit an application to the City for final plat approval until all conditions imposed on the preliminary plat recording.
- (c) Authorization to Sign Plat. Unless expressly stated otherwise, the City Council's approval of the final plat authorizes the Mayor to sign the final plat once the Zoning Administrator confirms that all of the conditions imposed by the City have been satisfied. If the City requires a development agreement be executed for the plat, the Mayor may not sign the final plat until the agreement has been fully executed by all parties and is in the City's possession.

- (d) Form of Approval. The language used on the final plat to indicate the City Council's approval must be in a form acceptable to the City.

Section 7.7. General Requirements. The following apply to the subdivision of land in the City and must be complied with when applicable.

Subd. 1. Minimum Lot Size. All lots located outside of the Shoreland Overlay District must contain a minimum of 10,000 square feet of contiguous land that is not a Type 1-8 wetland. All lots located within the Shoreland Overlay District must contain a minimum of 15,000 square feet of contiguous land that is not a Type 1-8 wetland.

Subd. 2. Licensed Surveyor. All certificates of survey and plats must be prepared by a surveyor licensed by the State of Minnesota.

Subd. 3. Dedication of Streets and Other Lands by Plat. All lands to be dedicated to the public within the plat must be clearly identified and contain dedication language that is satisfactory to the City Council. The City Council's approval of a plat containing streets or other ways or easements dedicated to the public does not constitute a decision by the City to open and maintain those streets, ways, or easements. The approval is limited to the plat itself and separate approval by the City Council is required before the City will open and maintain any platted streets as part of its system of publicly maintained City streets. It is the responsibility of the person subdividing the property to construct and pay for all streets, storm water ponds and other drainage structures, and other improvements within those lands dedicated to the public in accordance with the City's specifications and requirements as a condition of plat approval. The City may require a development agreement to provide further details regarding the required improvements and identify the procedures and conditions under which the City will be willing to open and maintain a platted street as part of its system of publicly maintained City streets. It is the responsibility of the developer or those who own property within the plat to maintain a platted street until the City Council determines by resolution that it is sufficiently built and satisfies such other conditions of acceptance the City Council may require to be opened and maintained as part of the City's system of publicly maintained City streets. The development agreement may identify the specific procedures and requirements for when the City will assume the maintenance of the streets within the plat.

Subd. 4. Development Agreement. The City Council may require the owner and developer to enter into a development agreement with City as a condition of any approval under this Article. If such an agreement is required, the City shall draft it, the executed agreement shall be recorded in the office of the County Recorder/Registrar of Titles, and its provisions shall constitute a covenant on the property that must be complied with by the developer and owners of the property.

Subd. 5. Parkland Dedication.

- (a) In every major subdivision of land, a reasonable portion of the buildable land, not to exceed 10 percent (10%), shall be dedicated by the owners to the City for

parks, recreational facilities, playgrounds, trails or public open space. For purposes of this subdivision, buildable land means the gross acreage of the subdivision excluding designated wetlands and land set aside as open space in a manner approved by the City. The land must be suitable for public use for one or more of the described purposes. The City shall not be required to accept land which is not suitable for one or more of the described purposes or which would require extensive public expenditures to be made useable. In establishing the amount of land to be dedicated or the amount of cash in lieu contribution, the City will give due consideration to the open space, recreational or common space and facilities open to the public that the subdivider proposes to reserve in the subdivision.

- (b) The City may, at its option, require a cash contribution in lieu of dedication or require a portion of the required dedication to be in land and a cash contribution in lieu for the balance thereof. In the case of residential subdivisions, the contribution of cash in lieu shall be equal to eight percent of the value of the land. Notwithstanding the above, the minimum cash contribution shall be \$300 per dwelling unit and the maximum shall be \$800 per dwelling unit. In the case of commercial subdivisions, the contribution of cash in lieu shall be equal to eight percent (8%) of the value of the land. In the case of subdivisions allowing both residential and commercial uses, the cash in lieu contribution shall be the total of the required residential and commercial contributions. Cash in lieu contributions shall be calculated on the average value of the unsubdivided land for which park dedication fees have not already been paid based on fair market value no later than the time of final approval. If the land is being redeveloped, the cash in lieu contribution shall be based on fair market value of the land no later than the time of final approval.
- (c) Any cash contribution so paid to the City shall be placed in a special fund. The money shall be used only for: a) the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands or open space based on the approved park systems plan; b) redevelopment or rehabilitation of existing facilities or sites; or c) debt service in connection with land previously acquired or improvements thereto previously constructed. No funds shall be used for ongoing operation or maintenance of existing parks or recreational facilities or sites.
- (d) Previously subdivided property from which a park dedication or cash in lieu contribution has been received, upon resubdivision with the same number of lots, is exempt from park dedication requirements. If, as a result of the resubdivision of the property, the number of lots is increased, the park dedication or cash in lieu contribution shall be applied only to the net increase in the number of lots.

Subd. 6. Title and Recording. The owner who subdivides his or her property is solely responsible for developing such legal descriptions and deeds as may be required, recording the resulting parcels in the office of the County Recorder/Registrar of Titles, obtaining new

tax parcel numbers, and for otherwise complying with all requirements of the state and county to properly complete and record the subdivision of the property.

Subd. 7. City Costs. In addition to paying the required application fee, a person who subdivides property is also responsible for fully reimbursing the City for its actual costs associated with its review and action on the proposed subdivision. The City's actual costs include the City's administrative and inspections costs, recording costs, and all professional fees and other costs it may incur related to the proposed subdivision, regardless of whether the subdivision is approved or denied. The City shall not sign the final plat until all costs are paid in full and the owner and/or developer has escrowed funds with the City to pay such additional costs as the City may incur. The owner and developer shall remain responsible for fully reimbursing all costs the City incurs related to the plat, including those costs incurred after the City signs the final plat.

Section 7.8. Planned Unit Developments. A planned unit development (PUD) is a subdivision of land that involves the development of land for residential purposes, commercial purposes, or a mixture of residential and commercial purposes. The coordinated development of land as a PUD provides certain public benefits and allows the City to grant flexibility in the regulations and standards that would otherwise apply. A PUD proposed to be located in the Shoreland Overlay District shall also be subject to the provisions of the Shoreland Management Ordinance.

Subd. 1. Pre-Application Meeting. An owner proposing a PUD shall meet with the Zoning Administrator and other appropriate City officials prior to submitting an application for a PUD. The owner shall provide the information required for a pre-application meeting for a major subdivision, shall identify whether a residential, commercial, or mixed use PUD is proposed, and shall preliminarily identify any flexibility being requested to accommodate the PUD.

Subd. 2. Procedure. The application, review, and cost reimbursement procedures applicable to a major subdivision as expressed in Section 7.7 of this code, shall be followed to consider and act on a PUD. The final approval for a PUD shall include issuance of a conditional use permit that identifies the type of PUD being approved and details any flexibility being granted.

Subd. 3. Amendments. Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by a PUD or the associated development agreement shall require that the PUD be amended. An application to amend an existing PUD shall be administered in the same manner that is required for a new PUD. All application and review procedures shall apply.

ARTICLE VIII
ADMINISTRATION

Section 8.1. Zoning Administrator. The City Council may appoint a person to serve as the Zoning Administrator for the City. If the City Council does not specifically designate a person serve as the Zoning Administrator, or if the position becomes vacant, the City Council shall serve as the Zoning Administrator and may delegate one or more of the duties of the position to one or more persons as the City Council determines is appropriate. Such appointed person or persons shall be fully authorized to carry out the delegated duties on behalf of the City until such time as a Zoning Administrator is appointed. In addition, the City Council may appoint others to assist the Zoning Administrator in the administration of this Ordinance.

Subd. 1. Duties. The Zoning Administrator shall have the following duties, which shall be conducted in a manner which is consistent with this Ordinance, applicable laws, and the directions and instructions of the City Council:

- (a) Administer the provisions of this Ordinance;
- (b) Determine whether a permit application is complete and complies with the terms of this Ordinance;
- (c) Receive, and forward to the Planning Commission, Board of Appeals and Adjustments, or City Council applications and other zoning materials as is appropriate;
- (d) Issue permits once they have been approved as provided in this Ordinance;
- (e) Issue timely notices of denial to applicants;
- (f) Maintain permanent and current records of permits and approvals issued pursuant to this Ordinance, including, but not limited to, land use map changes, amendments to this Ordinance, issuance of conditional use permits, interim use permits, variance approvals, and appeals;
- (g) Conduct inspections to determine compliance with the provisions of this Ordinance;
- (h) Serve as an ex-officio member of the Planning Commission;
- (i) Collect all fees required by this Ordinance and pay the same to the City;
- (j) Track the application of the 60-day rule to land use requests, provide notices to applicants as may be needed, and to keep the City informed of the applicable deadlines for actions with respect to individual land use requests;

- (k) File for record with the County Recorder or Registrar of Titles all documents required to be filed by law;
- (l) To enforce this Ordinance, including through the issuance in the City's name of violation notices, stop work orders, cease and desist orders, or corrective orders as determined appropriate, and to work with the City Attorney as needed to administer and enforce this Ordinance; and
- (m) To perform such other duties and responsibilities as provided in this Ordinance or as assigned by the City Council.

Section 8.2. Planning Commission. The City Council previously established the City of Wahkon Planning Commission, which is hereby reaffirmed as the Planning Commission authorized in this Ordinance. The Planning Commission serves in an advisory capacity to the City Council.

Subd. 1. Composition. The Planning Commission consists of five voting members, which may include one or more City officers. A majority of members constitutes a quorum to conduct the Planning Commission's business. Each Planning Commission member, including the Chair and Vice-Chair, shall have one vote on all matters acted upon by the Planning Commission. A member must be present at a meeting to vote.

Subd. 2. Appointment, Vacancies and Removal. The City Council appoints the Planning Commission members. Vacancies occurring on the Planning Commission are filled by City Council appointment for the remainder of the term of the position. The City Council may appoint itself to serve as the Planning Commission, in which case the terms of the members shall correspond with the terms of the Council officials. The City Council may, at any time, appoint others to serve on the Planning Commission in lieu of one or more Council officials.

Subd. 3. Term. Planning Commission members are appointed for a term of three years and until a successor is appointed and qualifies. Terms expire on April 1st. Commission members serve at the pleasure of the City Council and may be removed by the City Council at any time without cause. The City Council shall stagger the terms of Planning Commission members as it determines is appropriate to minimize the number of Planning Commission positions expiring in the same year.

Subd. 4. Officers and Duties. The Planning Commission shall appoint from among its members a Chair, Vice-Chair, and a Secretary. The Chair shall be the presiding officer for Commission meetings and shall sign documents on behalf of the Commission as needed. The Vice-Chair shall conduct the duties of the Chair in the Chair's absence. The Secretary shall provide notices, keep records of the Commission's proceedings, and countersign the Chair's signature on Commission documents.

Subd. 5. Compensation. The City Council shall determine if members will be compensated for their service on the Planning Commission, determine the amount of

compensation if provided, and the policy for reimbursing expenses incurred in carrying out the Planning Commission's duties.

Subd. 6. Rules and Procedures. The Planning Commission may adopt rules and procedures related to how it conducts its meetings and hearings, provided such rules and procedures are consistent with the provisions of this Ordinance and applicable laws.

Subd. 7. Meetings. The Planning Commission shall hold regular meetings as needed. The Chair or Vice-Chair, along with the consent of at least one other Planning Commission member, may call special meetings as needed to conduct the Planning Commission's business.

Subd. 8. Planning Commission Powers and Duties. The Planning Commission shall have the powers and duties provided it by Minnesota Statutes, chapter 462, those indicated in this Ordinance, and such other powers and duties as the City Council may delegate to it. Unless directed otherwise by the City Council, the Planning Commission shall be responsible for conducting such hearings as may be required by law or by ordinance to implement and administer the City's official controls. The Planning Commission does not have the authority to hire professionals or to otherwise bind the City to a contract.

Section 8.3. Board of Appeals and Adjustments. The City Council shall serve as the City of Wahkon Board of Appeals and Adjustments.

Subd. 1. Rules and Procedures. The Board of Appeals and Adjustments may adopt rules and procedures related to how it conducts its meetings and hearings, provided such rules and procedures are consistent with the provisions of this Ordinance and applicable laws.

Subd. 2. Meetings and Hearings. The Board of Appeals and Adjustments will hold meetings and hearings as needed to conduct its duties. Meetings of the Board of Appeals and Adjustments may be held as part of the regular or special meetings of the City Council.

Subd. 3. Powers and Duties. The Board of Appeals and Adjustments shall have the following powers and duties:

- (a) To grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criteria prescribed in this Ordinance;
- (b) To hear and decide appeals. Appeals shall only be heard and considered in conformance with the procedures prescribed in this Ordinance; and
- (c) To interpret the provisions of this Ordinance and of any district boundary on the land use map.

ARTICLE IX
ZONING REQUESTS

Section 9.1. Pre-application Consultation. In order to avoid the City's taxpayers from subsidizing private zoning requests, the City must limit the amount of pre-application consultation it will offer an owner without charge. The City will answer direct questions about this Ordinance, but if an owner requests the City to evaluate potential uses, review proposed or alternate plans, or to seek professional advice regarding a proposed zoning request, the owner shall be responsible for paying the costs the City incurs related to such requests. The City will inform the owner when any proposed or additional work will be subject to a charge. The City may require the owner to deposit an escrow with the City in an amount necessary to pay the anticipated costs. The City shall deduct its costs from the escrow or, if an escrow is not required, will bill the owner for such costs. If any portion of the escrow remains unused at the time of application, the City will either return the remainder or use it to offset a portion of the amount of escrow the owner is required to submit with the application. An application related to the property shall not be considered complete until all of the City's pre-application consultation costs are paid in full.

Section 9.2. Land Use Permits. No person shall erect a foundation, or change the exterior perimeter of a building vertically or horizontally, construct, build, move, place, or alter any building, structure, or part thereof, or erect a sign over public property without first obtaining a land use permit from the City.

Subd. 1. Application. An application for a land use permit must be on the City's approved form, contain all the information required by the form, and be accompanied by the required application fee. Land use permit applications shall be submitted to the Zoning Administrator.

Subd. 2. Issuance. The Zoning Administrator is authorized to issue land use permits upon the submission of a complete application and payment of the application fee, provided the Zoning Administrator determines the proposed work and resulting building or structure complies with this Ordinance.

Subd. 3. Display Required. The land use permit must be displayed on the property in a location visible from the outside during the excavation, moving, changing, or altering any part of a structure.

Subd. 4. Verifiable Survey Marker. The applicant for a land use permit is required to locate and stake the boundary lines of the lot, and shall stake the proposed location of the structure, in order to ensure compliance with applicable setbacks. If the Zoning Administrator determines the location of the boundary lines is uncertain, the Zoning Administrator may make a recommendation to the City Council to require the applicant to have a survey completed. The City Council shall consider the Zoning Administrator's recommendation and may require the applicant to have a licensed surveyor complete, at the applicant's own cost, a survey before the City will issue the land use permit or as a condition on the permit before any work may commence.

Subd. 5. Duration. All land use permits are valid for one (1) year from the date the permit is issued. If substantial construction has not taken place within one (1) year from the date on which the permit was granted, the permit shall become void and no further work may occur until a new land use permit is applied for and obtained from the City. Prior to expiration of the original permit a one-time one-year extension may be obtained for a fee, provided that an on-site inspection proves compliance with the original permit. Any changes from the original permit require application for a new permit and payment of the applicable fees. The new permit shall be valid for one year.

Subd. 6. Exceptions. A land use permit shall not be required for any of the following, however, compliance with all applicable setback requirements is required:

- (a) Construction that does not extend the structure beyond the current roofline of the building or structure;
- (b) Canvas awnings;
- (c) Entry landings not exceeding 6 feet by 6 feet;
- (d) Handicap accessibility ramps;
- (e) Fish houses as allowed;
- (f) Green houses and storage units constructed with plastic sheeting or canvas that are less than 50 square feet in size;
- (g) Placement or replacement of roofing or siding; and
- (h) Storage sheds with a total square footage of less than 50 feet.

Section 9.3. Certificate of Compliance. On or after the effective date of this Ordinance no person shall construct, build, place, store or expand any of the following without first obtaining a certificate of compliance from the City:

- (a) Sidewalk, patio, driveway, or other impervious surface, except for impervious surfaces being constructed pursuant to a land use permit issued by the City. No such additional impervious surface shall be allowed if it will cause the lot to exceed the impervious surface coverage limits established in this Ordinance;
- (b) Fences;
- (c) The storage of recreational vehicles, fish houses, or a combination of recreational vehicles on a property that exceeds the total allowed as a permitted use;
- (d) Signs requiring a certificate of compliance under this Ordinance;
- (e) Any other use or structure requiring a certificate of compliance under this Ordinance.

Section 9.4. Demolition Permit. No person shall demolish a dwelling or other structure greater than 200 square feet without first obtaining a demolition permit from the City. The owner of the property shall be required to submit an application and applicable fee to the City. The City may

waive the fee if the demolition is occurring as part of a project for which a land use permit has been issued. As part of issuing the demolition permit, the owner shall ensure that City wastewater service lateral is disconnected from the structure and capped below ground. The owner shall also ensure that any power, gas, and other non-City utilities are properly shut off by the utility company prior to starting the demolition.

Section 9.5. Interim Use Permits. As of the effective date of this Ordinance, no use requiring an interim use permit shall be initiated or expanded except upon issuance of an interim use permit from the City Council pursuant to this Section.

Subd. 1. Application. Application for an interim use permit shall be made by the property owner, or its authorized agent, on the City's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

- (a) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within ~~one-quarter mile~~ 350 feet of the property to which the application relates;
- (b) The name of the applicant and of all owners of the property to which the application relates; and
- (c) A description of the proposed use including, to the extent applicable, hours of operation, parking, anticipated traffic and routes, lighting plans, identification and explanation of any potential sources of significant noise, dust, vibration, or other impacts reasonably anticipated to be generated by the proposed use which could affect surrounding properties.

Subd. 2. Procedure. Requests for an interim use permit shall comply, and shall be processed in accordance, with the following:

- (a) Zoning Administrator: An application for an interim use permit must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the City's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
- (b) Notice: At least ten days before the date of the hearing, notice shall be published in the City's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within 350 feet of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive

notice of the hearing shall not in any way affect the validity of the hearing or its results.

- (c) Planning Commission: The Planning Commission shall conduct a public hearing on the proposed interim use permit and develop a recommendation to the City Council regarding the proposed permit. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use. It is the owner's burden to demonstrate it is eligible to receive the requested permit. If the Planning Commission recommends approval of the permit, its recommendation shall include the conditions it recommends be placed on the permit. The recommendation shall include any conditions the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The recommended conditions may include any of the conditions that may be made applicable to a conditional use permit and shall, at a minimum, include the date and/or event on which the permit will expire. The Planning Commission shall forward its recommendation, together with its supporting findings, to the City Council.
- (d) City Council: The City Council shall consider the Planning Commission's recommendation and make a final decision regarding the proposed interim use permit. The City Council shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use including, but not limited to, the criteria evaluated by the Planning Commission in making its recommendation. The City may impose such reasonable conditions as it determines are necessary on interim use permits it issues, including a requirement to provide and maintain with the City a performance bond or other financial security. An interim use permit must indicate, in the conditions placed on the permit, the date and/or event on which it terminates.

Subd. 3. Criteria. An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. In granting an interim use permit, the City Council shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the City Council shall make the following findings where applicable:

- (a) The proposed use meets the applicable standards set forth for conditional use permits;
- (b) The proposed use will terminate upon a date or event that can be identified with certainty; and

- (c) The proposed use will not impose additional costs on the public if it is necessary for the public to take the property in the future.

Subd. 4. Amended Permit. Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by an interim use permit shall require that the interim use permit be amended. An application to amend an existing interim use permit shall be administered in the same manner that is required for a new interim use permit. All application and review procedures shall apply.

Subd. 5. Expiration and Revocation. An interim use permit shall expire and become void if the use it allows is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. An interim use permit shall expire as of the date or event identified in the permit, but the owner may apply for a new interim use permit. The City Council may revoke an interim use permit if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the permit have been violated.

Section 9.6. Conditional Use Permits. As of the effective date of this Ordinance, no use requiring a conditional use permit shall be initiated or expanded except upon issuance of a conditional use permit from the City Council pursuant to this Section.

Subd. 1. Application. Application for a conditional use permit shall be made by the property owner, or its authorized agent, on the City's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

- (a) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within ~~one-quarter mile~~ 350 feet of the property to which the application relates;
- (b) The name of the applicant and of all owners of the property to which the application relates; and
- (c) A description of the proposed use including, to the extent applicable, hours of operation, parking, anticipated traffic and routes, lighting plans, identification and explanation of any potential sources of significant noise, dust, vibration, or other impacts reasonably anticipated to be generated by the proposed use which could affect surrounding properties.
- (d) A survey of the property performed by a licensed land surveyor.

Subd. 2. Procedure. Requests for a conditional use permit shall comply, and shall be processed in accordance, with the following:

- (a) Zoning Administrator: An application for a conditional use permit must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the City's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
- (b) Notice: At least ten days before the date of the hearing, notice shall be published in the City's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within 350 feet of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.
- (c) Planning Commission: The Planning Commission shall conduct a public hearing on the proposed conditional use permit and develop a recommendation to the City Council regarding the proposed permit. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the standards and criteria set out in this Section in addition to any other standards or criteria applicable to the specific proposed use that may be set out in this Ordinance. It is the owner's burden to prove that the standards and criteria can be met in a manner that does not adversely affect the health, safety or general welfare of the residents in the City. If the Planning Commission recommends approval of the permit, its recommendation shall include the conditions it recommends be placed on the permit. The recommended conditions may include any of those identified in this Section as well as any others the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supporting findings, to the City Council.
- (d) City Council: The City Council shall consider the Planning Commission's recommendation and make a final decision regarding the proposed conditional use permit. The City Council may impose such conditions on the permits it issues as it determines are reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare.

Subd. 3. Standards and Criteria. In addition to any specific criteria or standards this Ordinance may contain with respect to a particular use, the following standards and criteria will be used to evaluate if a conditional use permit should be issued based on whether the proposed use, under the circumstances, would:

- (a) Be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the City;
- (b) Be designed, constructed, operated and maintained to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area;
- (c) Be hazardous or disturbing to existing or future neighboring uses;
- (d) 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, scenic blight, glare or odors;
- (e) Involve lighting, including lighted signs, that would impair the enjoyment of property and/or property owners in the vicinity or the safety of the traveling public;
- (f) Be in conformance with the provisions of this Ordinance, and would not unreasonably interfere with the health, safety, and welfare of the surrounding owners and the public, if conducted in compliance with the conditions imposed on the permit; and
- (g) Adequately provide for parking, current and anticipated traffic congestion, and traffic safety so the use does not become or create a nuisance.

Subd. 4. Conditions. The City Council may attach such conditions to a conditional use permit it issues as it deems necessary to achieve the purpose of this Ordinance and to protect the public health, safety, and welfare. These conditions may include, but are not be limited to, the following:

- (a) Increased setbacks;
- (b) Landscaping, berming, fencing, screening or other facilities to protect nearby property;
- (c) Periods and/or hours of operation;
- (d) Intensity and duration of lighting;
- (e) Deed restrictions;
- (f) Location of parking and signs;
- (g) Toxic material storage and handling;
- (h) Vehicle access points;
- (i) Fire control and access plan;
- (j) Compliance with prior conditional use permits and periodic reviews; and
- (k) Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance including, but not limited to, the protection of public health, safety, and welfare as determined by the City Council.

Subd. 5. Recording. The City Council will record, at the owners' expense, the conditional use permits it issues.

Subd. 6. Amended Permit. Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by a conditional use

permit shall require that the conditional use permit be amended. An application to amend an existing conditional use permit shall be administered in the same manner that is required for a new conditional use permit. All application and review procedures shall apply.

Subd. 7. Expiration and Revocation. A conditional use permit shall expire and become void if the use it allows is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The City Council may revoke a conditional use permit if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the permit have been violated.

Section 9.7. Variances. No variances shall be granted by the City except in conformance with this Section.

Subd. 1. Authority. The Board of Appeals and Adjustments may grant a variance from the provisions of this Ordinance in order to promote the effective and reasonable application and enforcement of this Ordinance. A variance is a modification or variation of the provisions of this Ordinance as applied to a specific property. The Board of Appeals and Adjustments may not grant a variance for any use that is not allowed by this Ordinance for property in the zoning district in which the property is located. The Board of Appeals and Adjustments may grant a variance for the temporary use of a one-family dwelling as a two-family dwelling and may grant a variance for an earth sheltered construction as defined in Minnesota Statutes, section 216C.06, subdivision 14 when such construction would be in harmony with this Ordinance.

Subd. 2. Application. Application for a variance shall be made by the property owner, or its authorized agent, on the City's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

- (a) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within 350 feet of the property to which the application relates;
- (b) The name of the applicant and of all owners of the property to which the application relates;
- (c) A description of the proposed use or structure to which the variance relates;
- (d) An explanation of the specific conditions and circumstances that give rise to the practical difficulties in strictly complying with the provisions of this Ordinance and the specific provisions of this Ordinance from which a variance is being sought; and
- (e) A survey of the property by a licensed land surveyor is required.

Subd. 3. Procedure. Requests for a variance shall comply, and shall be processed in accordance, with the following:

- (a) Zoning Administrator: An application for a variance must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
- (b) Notice: At least ten days before the date of the hearing, notice shall be published in the City's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within 350 feet of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.
- (c) Planning Commission: The Planning Commission shall conduct a public hearing on the proposed variance and develop a recommendation to the Board of Appeals and Adjustments regarding the proposed variance. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use. It is the owner's burden to demonstrate it is eligible to receive the requested variance. If the Planning Commission recommends approval of the variance, its recommendation shall include the conditions it recommends be placed on the variance. The recommendation shall include any conditions the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supported findings, to the Board of Appeals and Adjustments.
- (d) Board of Appeals and Adjustments: The Board of Appeals and Adjustments shall make the final decision regarding the requested variance after conducting a public hearing. The Board of Appeals and Adjustments shall not issue a variance unless it determines that the particular request satisfies the criteria set out in this Section. The Board of Appeals and Adjustments may impose such conditions on the variances it issues as it determines are reasonable. All such conditions must be directly related to and bear at least a rough proportionality to the impact the Board of Appeals and Adjustments determines will be created by the variance.

Subd. 4. Criteria. The owner has the burden of demonstrating that sufficient practical difficulties exist, based on the following criteria, with respect to its property to justify the issuance of a variance. The Board of Appeals and Adjustments shall consider the following criteria in determining whether to issue a variance:

- (a) The variance is in harmony with the general purposes and intent of this Ordinance;
- (b) The owner proposes to use the property in a reasonable manner not permitted by this Ordinance;
- (c) The plight of the owner is due to circumstances unique to the property that were not created by the owner;
- (d) If granted, the variance will not alter the essential character of the locality; and
- (e) Economic considerations are not the sole basis for the requested variance.

Subd. 5. Recording. The City will record, at the owners' expense, the variances it issues.

Subd. 6. Expiration and Revocation. A variance shall expire and become void if the use or structure to which it relates is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Board of Appeals and Adjustments may revoke a variance if it determines, after notice to the owner and conducting a public hearing, that any of the conditions imposed on the variance have been violated.

Section 9.8. Amendments. An amendment to the text of this Ordinance or of the land use map, including requests to rezone property, may only occur as provided in this Section.

Subd. 1. Who May Initiate. An amendment to this Ordinance or the land use map may be initiated by the City Council, the Planning Commission, or by application of an affected property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the City Council until it has received the Planning Commission's recommendations, or until at least 60 days after the proposed amendment was submitted to the Planning Commission.

Subd. 2. Application. An owner seeking an amendment, including a request to rezone property, shall complete the City's application form, together with the required application fee and escrow (if required), and the application must, at a minimum, contain all of the following information:

- (a) If the application involves a request to change district boundaries affecting an area of five acres or less, the name and mailing address of all property owners of record, according to the county auditor's property tax records, 350 feet of the property to which the application relates;
- (b) The name of the applicant and of all owners of the property to which the application relates; and
- (c) A description of the specific provisions of the Ordinance, or the proposed change in zoning, and proposed change.

Subd. 3. Procedure: Applications for an amendment, including rezoning, shall comply, and shall be processed in accordance, with the following:

- (a) Zoning Administrator: An application for an amendment must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fee. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the City's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
- (b) City Initiated Amendments. An amendment proposed by the Planning Commission shall be forwarded in writing to the City Council for review. If the City Council authorizes the Planning Commission to proceed with the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with the City Council's authorization and this Section. If the City Council initiated the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with this Section.
- (c) Notice: At least ten days before the date of the hearing, notice shall be published in the City's official newspaper. If the application involves a request to change district boundaries affecting an area of five acres or less, the notice shall also be mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within 350 feet of the property to which the application relates at least ten days before the hearing. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.
- (d) Planning Commission: The Planning Commission shall conduct a public hearing on the proposed amendment and develop a recommendation to the City Council regarding the proposed amendment. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. The Planning Commission shall forward its recommendations regarding a proposed amendment to the City Council for final action.
- (e) City Council: The City Council shall take action on the proposed amendment at a City Council meeting. Approval of an amendment shall be by ordinance amending this Ordinance. If the amendment was initiated by application of an owner, the City shall inform the property owner of the City Council's decision.

Section 9.9. Appeals. As of the effective date of this Ordinance, no appeal shall be heard except in accordance with the following.

Subd. 1. Appealable Decisions: Only alleged errors in an order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance are appealable to the Board of Appeals and Adjustments. The decisions of the City Council and the Board of Appeals and Adjustments are final and are not appealable to the Board of Appeals and Adjustments. Recommendations of the Planning Commission are not final decisions and are not appealable to the Board of Appeals and Adjustments.

Subd. 2. Notice of Appeal: In order to bring an appeal, a person shall file a written notice of appeal with the City Clerk within 15 days of the date of the order or decision being appealed together with the required fee. The notice of appeal must, at a minimum, contain all of the following information:

- (a) The name, mailing address, and phone number of the person making the appeal;
- (b) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the appeal relates;
- (c) Describe the specific order or decision being appealed, the date of the order or decision, and identify the person who issued the order or made the decision;
- (d) A detailed explanation of the grounds for the appeal; and
- (e) Identify the specific relief being sought by the appeal.

Subd. 3. Procedure: Notices of appeals shall comply, and shall be processed in accordance, with the following:

- (a) City Clerk: The City Clerk shall review the notice of appeal to determine if it contains all the required information and is otherwise complete. If a notice of appeal is not complete, the order or decision to which it relates is not appealable, or if it was not filed in a timely manner, the City Clerk shall reject the notice of appeal. The City Clerk shall provide a written notice of the rejection to the person that filed the appeal. The City Clerk may consult the Board of Appeals and Adjustments and the City Attorney as needed to make a determination as to whether a notice of appeal is complete, proper, and filed in a timely manner. The City Clerk shall forward complete, proper, and timely notices of appeals to the Board of Appeals and Adjustments to conduct a hearing. The City Clerk shall also provide a copy of the notice of appeal to the Planning Commission.
- (b) Notice: At least ten days before the date of the hearing, notice shall be published in the City's official newspaper and mailed by first-class mail to the person bringing the appeal and to all property owners of record, according to the county auditor's property tax records, within 350 feet of the property to which the appeal relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results. In scheduling the hearing, the Board of Appeals and Adjustments shall allow a reasonable time, not to exceed 60 days, for the Planning Commission to review and report on the notice of appeal.

- (c) Planning Commission: The Planning Commission may review and provide a report to the Board of Appeals and Adjustments on a notice of appeal. The Planning Commission is not authorized to conduct a hearing on the notice of appeal. If the Planning Commission develops a report it shall provide it to the Board of Appeals and Adjustments prior to the scheduled hearing.
- (d) Board of Appeals and Adjustments: The Board of Appeals and Adjustments shall conduct a public hearing on the notice of appeal. The appellant, or its authorized agent, is expected to attend the hearing to explain the appeal and to answer the Board of Appeals and Adjustments' questions. The Board of Appeals and Adjustments shall make the final decision regarding the matter being appealed. The Board of Appeals and Adjustments may reverse or affirm, wholly or partly, or modify the order or decision being appealed, and issue such orders, requirements, decisions, permits, or determinations, or provide such other relief as it deems appropriate. The Board of Appeals and Adjustments shall issue its decision in a written order which contains its findings. It shall provide a copy of its order to the appellant within 10 days of its issuance.
- (e) Judicial Review. Appeals from the final decisions of the City Council or of the Board of Appeals and Adjustments may be brought as provided in Minnesota Statutes, section 462.361, provided such appeal is served on the City within 30 days from the date of the decision being appealed.

Section 9.10. Site Investigations. The City may conduct one or more site investigations of the property subject to an application for a permit or other zoning request. If a quorum or more of the Planning Commission or the Board of Appeals and Adjustments conducts a site investigation, notice shall be posted at the City's posting places at least three days before the date of the inspection unless the inspection is being conducted as part of the hearing. The City may also conduct one or more site investigations after a permit has been issued to review an alleged or potential violation of the conditions of the permit or of this Ordinance. Submission of an application, and acceptance of a permit or other permission, constitutes consent on the part of the owners of the property to the conditions imposed on the permit or permission and to allow the City to conduct inspections of the property at reasonable times to determine eligibility to receive a permit or permission and then related to the administration and enforcement of the permit or permission.

Section 9.11. Limit on Similar Applications. If the City acts to deny an application, the City shall not consider the same or a similar application for the same, or substantially the same, property within a one-year period following a denial of such request. However, a new application may be submitted within the one-year period if the Zoning Administrator determines, in writing, there is new evidence or a sufficient change of circumstances to warrant the City's reconsideration of the request. A determination to allow reconsideration of a request has no effect on whether the City will approve the request.

Section 9.12. Fees. This section sets out the general requirements for fees related to the administration of, and for zoning requests made pursuant to, this Ordinance. The amount of the fees shall be established by a fee schedule in a resolution or ordinance adopted by the City Council.

Subd. 1. Application Fee. Applicants shall be required to pay an application fee when submitting an application under this Ordinance. Application fees shall be in the amount determined by the City Council and are intended to defray the administrative costs of processing requests. Application fees submitted as part of a complete application are not refundable, regardless of whether the application is approved, denied, or withdrawn. Any person who commences a land use activity which requires a permit under this Ordinance without first having obtained such a permit from the City shall be required to obtain an after-the-fact permit and pay an application fee that is a multiple of the application fee required if the permit had been obtained prior to commencing the activity. The amount of the after-the-fact application fee shall be as indicated in the City's current fee schedule.

Subd. 2. Escrow. In order to defray the professional costs the City may incur to process a request made under this Ordinance, applicants may also be required to reimburse the City for all such planning, legal, engineering, and other professional costs it may incur related to the particular request. An applicant may be required to escrow cash with the City in the amount determined by the City Council or Zoning Administrator from which the City will reimburse itself for the actual professional costs it incurs. The applicant remains responsible for all such costs and shall promptly escrow additional funds if the City Council or Zoning Administrator determines the existing escrowed amount will not be sufficient to fully reimburse the City for its costs. Failure to promptly provide additional funds or to otherwise fully reimburse the City for its consulting cost shall be a sufficient basis on which to delay the processing of a request or to deny a request.

Subd. 3. Reimbursement in Full Required. Upon the termination of the application, by an approval, denial, withdrawal, or any other means, all costs incurred by the City shall be immediately payable by the applicant. If no escrow was required, or if the City's costs exceed the escrowed amount, the City will provide the applicant a written statement of the amount to be reimbursed. The stated amount shall be paid in full to the City within 30 days from the date of the written statement. If the escrowed amount exceeds the City's costs, the excess shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of the property pursuant to the zoning request shall be made until all fees and costs are paid in full. In the event that payment of costs is not made within a reasonable time after demand, the City Council or Zoning Administrator may take such steps as are available to the City under law to collect the unreimbursed amounts, including collection costs. The steps the City may take to recover its costs include, but are not limited to, placing the amount on any property the person owns in Minnesota as a service charge pursuant to Minnesota Statutes, section 366.012, filing a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, or taking such other action as may be deemed appropriate to obtain full reimbursement for the City for all costs it incurs related to the application.

ARTICLE X
PENALTIES AND ENFORCEMENT

Section 10.1. Enforcement and Penalties.

Subd. 1. General Offense. Any person, firm or corporation who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. A violation of this Ordinance shall include, but is not limited to, any of the following: failing, neglecting, or refusing to comply with the provisions of this Ordinance; violating any condition placed on a permit or variance issued by the City; exceeding the scope of a permit; or knowingly making any false statements in any document required to be submitted under the provisions of this Ordinance. It shall be the primary responsibility of the property owner or occupant to take all steps necessary to assure compliance with this Ordinance. Each day that a violation continues shall constitute a separate offense. In the event of a violation or a threatened violation of this Ordinance, the City Council, in addition to other remedies, may institute appropriate criminal and/or civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations.

Subd. 2. Enforcement. The City Council, Zoning Administrator, and City Attorney have the authority to enforce this Ordinance by issuing notices of violation, abatement orders, cease and desist orders, citations, and taking or instituting such other lawful actions as may be needed to enforce this Ordinance and to bring a property into compliance. A violation of this Ordinance can occur regardless of whether a permit is required for a regulated activity. If a cease and desist order, abatement order, or a stop work order is issued to stop an activity, the activity may not be resumed until the reason for the work stoppage has been completely satisfied and the order lifted in writing. Orders issued pursuant to this Article shall contain, at a minimum, the following information:

- (a) The date the complaint was received (if applicable);
- (b) The date of inspection;
- (c) The nature of the violation and the provisions of this Ordinance violated; and
- (d) What needs to be done in order to bring the property into compliance and a date by which the property shall be brought into compliance.

Subd. 3. Prosecution. The City Council or its legally authorized agent may enforce the Ordinance whether through criminal prosecution, a civil action, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy. The City may seek injunctive relief for on any violation, including to require the restoration of a premises to its condition existing prior to the violation or to a condition that complies with this Ordinance.

Subd. 4. Costs of Enforcement. The cost of prosecution may be added to any fines or other penalties imposed. The City may also collect such other reasonable costs it incurs to enforce this Ordinance by certifying the amount to the County Auditor as a service charge pursuant

to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity subject to the enforcement action owns in the City. The City will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

This Ordinance shall be in effect after publication as provided in law.

Adopted on the _____ day of _____, 2017.

BY THE CITY COUNCIL

Mayor

Attest: _____
City Clerk