

# **Red Wing City Zoning Ordinance Excerpts**

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## **DIVISION 05: GENERAL PROVISIONS**

05-010 **Short Title:** This ordinance shall be known and cited as the Red Wing Zoning Ordinance and may be referred to herein as the *zoning ordinance*, or *ordinance*.

05-020 **Authority:** This Ordinance is enacted pursuant to the authority granted by Minnesota Statutes, Sections 462.351 to 462.364, as amended.

### **5-30 General Purposes.**

- A) The general purposes of this Chapter are to provide for the orderly growth and renewal of the community; to protect and conserve its natural resources, its ecological systems, and its economic stability by fostering appropriate land use so as to preserve and promote the health, safety, and general welfare of the public.
- B) It is hereby determined by the Council that in order to accomplish the general purposes of this chapter as set forth above, it is necessary and proper to establish and enforce the regulations contained in this chapter for the following specific purposes:
  - 1) To promote and protect the health, safety, comfort, and general welfare of the public.
  - 2) To stage development and redevelopment to coincide with orderly growth and the availability of necessary public services.
  - 3) To divide the community into districts, restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residential, business, retail commercial, industrial, and other specified uses.
  - 4) To protect the architectural and site planning character and maintain the stability of residential, commercial, business, and industrial areas within the community, and prohibit uses, buildings, or structures which are incompatible with the character of development in such areas.
  - 5) To provide adequate light, air, privacy, and convenience of access to property.
  - 6) To limit congestion in public streets and to foster public safety and convenience in travel and transportation.
  - 7) To protect against fire, explosions, obnoxious fumes, loud obnoxious noise and other hazards in the interest of public health, safety, and comfort.

- 8) To prevent environmental pollution.
- 9) To prevent the destruction or imprudent exploitation of community natural resources.
- 10) To preserve the value of land and buildings throughout the community.
- 11) To provide for the gradual elimination of those uses of land, building, or structures which do not conform to the standards for the district in which they are located and which may adversely affect the development and the value of property in such area.
- 12) To provide for and protect agricultural lands, sensitive natural resource areas and common open space.
- 13) To provide for the enforcement of this chapter and to define and limit the powers and duties of the administrative officers and bodies responsible therefor.

05-040 **Conflicting Regulations.** Whenever any provision of this Chapter imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or City Code provision, then the provisions of this Chapter shall govern. Whenever the provisions of any other law or City Code provision imposes more stringent requirements than are imposed or required by this Chapter, then the provision of such law or City Code shall govern.

05-050 **Applicability to Private Property.** This ordinance applies within the municipal limits of the City of Red Wing as now and hereafter established, along with those areas outside the established municipal limits where, through joint legislative agreement with the appropriate governing body, the ordinance shall be put into effect.

05-060 **Compliance With Zoning Code.** Except as herein provided, no building or structure shall be erected, moved, altered, or extended, and no land, building, or structure or part therefor, shall be occupied or used unless in conformity with regulations specified in this Chapter for the district in which it is located.

05-070 **Minimum Requirements.** The provisions of this chapter shall be regarded as the minimum requirements for the protection of the public health, safety, and general welfare.

#### 5-80 **Interpretation of Zoning Map**

- A) **Zoning of Vacated Areas.** Whenever any street, alley, or other public way shall be vacated, such street, alley, or other public way or portion thereof, shall

automatically be classified in the same zoning district as the property to which it attaches.

**B) Lots Adjoining Alleys.** In calculating the area of a lot that adjoins any alley for the purpose of applying lot area requirements of this Chapter, one-half the width of such alley abutting the lot shall be considered as part of such lot.

**C) Zoning District Boundaries.** Zoning district boundary lines of this ordinance follow lot lines, center lines of roads and streets, railroad right-of-way lines, the center of water courses, the mean high waterline of lakes, and corporate limit lines, all as they exist on the effective date of this chapter.

05-090 **Essential Services Exempted.** Essential Services shall be exempt from the regulations of this Chapter. Provided, however, that the installation shall conform to Federal Communications and Federal Aviation Agency rules and regulations, and shall be subject to obtaining a Certificate of Compliance from the Zoning Administrator.

05-100 **Severability.** This ordinance and the various articles and paragraphs thereof are hereby declared to be severable. If any article, section, subsection, paragraph, sentence, or phrase of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of the ordinance shall not be affected hereby.

05-110 **Zoning of Annexed Areas.** On land hereafter annexed to, or consolidated with, the City, no building or structure shall be erected, enlarged, or moved, and no change in the use of land or existing buildings or structures shall be made until an ordinance designating the zoning district classification of such annexed land is duly adopted by the Council. Within 30 days of the annexation, the Advisory Planning Commission shall file an application for an amendment to establish the zoning district classification of such land. Action shall be taken by the Council regarding the classification of annexed land within 60 days of its receipt of the amendment application from the Advisory Planning Commission.

## **DIVISION 10: DEFINITIONS**

### **10-10 Rules of Interpretation for General Zoning Terms**

- A) The particular shall control the general.
- B) In the case of any difference of meaning or implication between the text of this Chapter and any caption or illustration, the text shall control.
- C) The word "shall" is mandatory, and not discretionary; the word "may" is permissive.
- D) The word "building" shall include the word "structure".
- E) The phrase "used for" includes the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
- F) The word "land", "property", "parcel", "premise", and "tract" are all interchangeable unless the context clearly indicates to the contrary.
- G) Words not specifically defined in this Chapter or other City Code provisions shall utilize the common definition found in Webster's Collegiate Edition Dictionary.

**10-020 Definitions of General Zoning Terms.** For the purposes of this ordinance, the following listed specific words and terms are defined as follows:

- (1) **Accessory Structure** - A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental to that of the principal structure.
- (2) **Accessory Use** - A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same buildable lot as the principal use to which it is related.
- (3) **Accessory Equipment Structure** – A building or cabinet-like structure located adjacent to, or in the immediate vicinity of, a wireless telecommunication tower or antenna to house equipment customarily incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.
- (4) **Adult Book and Media Store** - An establishment having as a substantial portion of its stock in trade or stock on display (25%) books, magazines, films, videotape or other media for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or

characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein.

- (5) **Adult Cabaret** - A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (6) **Adult Hotel or Motel** - An establishment from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein.
- (7) **Adult Theater** - An enclosed building used for presenting live entertainment, motion pictures, or videotape having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein, for observation by patrons therein or offered for sale or rent.
- (8) **Adult Massage Parlor** - A massage parlor that restricts minors by reason of age and/or provides the services of massage, if such service is distinguished or characterized by an emphasis on specific sexual activities or specified anatomical areas as defined herein.
- (9) **Adult Rap Parlor** - An establishment or place primarily in the business of providing nonprofessional conversation or similar services, which is distinguished or characterized by an emphasis on specific sexual activities or specified anatomical areas as defined herein, for adults.
- (10) **Adult Sauna** - An establishment or place primarily in the business of providing a) a steam bath, and b) massage services.
- (11) **Alley** - A public or private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on a street and not intended for general traffic circulation.
- (12) **Alteration** - Any change, addition, or modification in construction or occupancy of an existing structure.
- (13) **Alteration, Structural** - Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as the addition, removal, or changing of bearing walls, columns, beams, girders, or foundations.

- (14) **Animals, Domestic Pets** - (See Household Pet).
- (15) **Animals, Domestic Farm** - Cattle, hogs, horses, queen bees, sheep, goats, chickens, and other animals commonly kept for commercial food producing purposes.
- (16) **Antenna** – Equipment used for transmitting or receiving radio frequency signals which is attached to a tower, building, or structure, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.
- (17) **Antenna, Concealed** – Wireless telecommunication antenna designed to blend into the surrounding environment or integrated into the physical structure to which it is attached.
- (18) **Apartment** - A suite of rooms or a room with permanent cooking facilities in a multiple-family building arranged and intended for a place of residence of a single family or group of individuals living together as a single housekeeping unit.
- (19) **Area, Net Developable** - Those lands within a development parcel remaining after the deletion of flood plains, wetlands, open water and slopes greater than 25 percent.
- (20) **Basement** - That portion of a building, which is partially or wholly below grade but so located that the vertical distance from the average grade to the floor, is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.
- (21) **Base Transceiver Station** – Equipment that provides the link between wireless communications and land-based public telephone switching networks, including radio frequency transceivers, back-up power sources, power amplifiers, and signal processing hardware, typically contained in a small building or cabinet.
- (22) **Block** - The enclosed area within the perimeter of roads, property lines or boundaries of the subdivision or a combination of the above and a lake, stream, or river.
- (23) **Boarding House** - (see Rooming House) An establishment with lodging for three or more persons where meals are regularly prepared and served for compensation and where food is placed on the table family style, without service or ordering individual portions from a menu.
- (24) **Building** - Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind.
- (25) **Building Height** - The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge

for gable, hip, gambrel, and all other types of roofs, measured from the average grade level adjoining the building. For parapet walls with decorative arches, peaks, or other features that vary in height, height shall be determined by calculating the average height between the roof line/lowest point of the parapet wall and the highest point of the parapet wall, measured from the average grade level adjoining the building.

- (26) **Building Setback** - The minimum horizontal distance between the building and the lot line.
- (27) **Building Setback Line** - A line within a lot which describes the required nonbuildable portion of the lot because of closeness to a public right-of-way line, a side or rear lot line, a bluffline, or a high-water mark. Beyond this line toward the interior of the lot, buildings or structures may be placed when in accordance with this chapter.
- (28) **Business** - Any occupation, employment, or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
- (29) **Cellar** - (See Basement).
- (30) **Certificate of Compliance** - An administrative review of an activity or use of the land as designated by this Chapter which because of unique characteristics may require interpretation or review and restrictions or conditions because of the complexity of the proposal or the Chapter.
- (31) **Certificate of Occupancy** - A statement signed by the compliance officer or their designee, setting forth that either a structure or zoning lot, or both, may lawfully be employed for specific uses. Such structure(s) and use shall conform to the provisions of this chapter.
- (32) **Channel** - A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, including, but not limited to streams, rivers, creeks, ditches, drainageways, canals, conduits, culverts, waterways, gulleys, ravines, or washes; and including any area adjacent there to which is subject to inundation from the watercourse by reason of overflow or floodwater.
- (33) **Clear Cutting** - (see Intensive Vegetation Clearing).
- (34) **Clinic** - An establishment where human patients who are not lodged over night are admitted for examination and treatment by a group of physicians, dentists, or similar professionals.
- (35) **Cluster Development** - A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

- (36) **Co-location** – The location of wireless telecommunications equipment from more than one provider on one common tower, building, or structure.
- (37) **Commercial Use** - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods and services.
- (38) **Community Center** - A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.
- (39) **Compliance Officer** - The administration and code enforcement personnel designated by this Chapter or the Council, and shall be known as the Zoning Administrator. <sup>1</sup>
- (40) **Comprehensive Plan** - The established policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities, including recommendations for planned executions, documented in texts, ordinance and maps, which are recognized and/or adopted as the guide for future development of the community or any portion thereof.
- (41) **Conditional Use** - A use that is not appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, is not detrimental to public health, safety, or general welfare.
- (42) **Condominium** - Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate ownership portions. Real estate is not a condominium unless the individual interests in the common elements are vested in the unit owner.
- (43) **Development** - Any man-made change to improved or unimproved real estate, including a change in use or the creation of a subdivision.
- (44) **Disposal Area, On-site Sewage Treatment** - The ground within the confines of a lot that does not contain buildings and has an elevation of at least eighty (80) inches above the highest known or calculated water table or bedrock formation; does not slope in excess of thirteen percent (13%); and meets the requirements of permeability as determined by the rate of water percolation in the soil.
- (45) **Dormitory** - A building other than a motel, hotel, house or apartment where an organization or institution houses students, employees, or patients. Such buildings are used in connection with an organized activity of the institution, are occupied on a prearranged basis for definite periods, and may provide meals and/or lodging.



- (46) **Dredging** - The process by which soils or other surficial materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.
- (47) **Drive-in Use** - An establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicle. This term includes having "drive-thru" windows.
- (48) **Dwelling, Multiple Family** - A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.
- (49) **Dwelling, One Family** - A building designed exclusively for and occupied exclusively by one (1) family.
- (50) **Dwelling, Seasonal** - A residential building not capable of year-round occupancy due to non-winterized construction or an inadequate non-conforming year-round on-site sewage treatment system.
- (51) **Dwelling, Single Family Attached (Townhouse)** - A residential building containing two or more dwelling units with at least one common wall, each unit so oriented as to have all exits directly to the out-of-doors.
- (52) **Dwelling, Two Family** - (Duplex) A building designed exclusively for occupancy by two families living independently of each other.
- (53) **Dwelling Unit** - Any structure or portion of a structure, or other shelter designed as short or long term living quarters for one or more persons, including rental or time share accommodations such as motel, hotel, and resort rooms and cabins.
- (54) **Essential Services** - Overhead or underground electrical, gas, steam or water distribution structures or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required the protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith but not including buildings.
- (55) **Exterior Storage** - The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.
- (56) **Family** - One or more individuals related by blood, marriage, or adoption, including foster children, or a group of not more than five persons (excluding servants), some or all of whom are not related by blood, marriage, or adoption, occupying a single dwelling unit or manufactured home.

- (57) **Farm, Rural** - (see Agriculture).
- (58) **Farm, Suburban** - A non-commercial food processing use primarily intended for the use of the residents, and usually on less than ten (10) contiguous acres. Suburban Agriculture uses may include the production of crops such as fruit trees, shrubs, plants, flowers, vegetables, and domestic pets.
- (59) **Feed Lot** - The place of housing or feeding of livestock or other animals for food, fur, pleasure, or resale purposes in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.
- (60) **Fence** - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.
- (61) **Fill** - A deposit of earth material placed by artificial means.
- (62) **Final Plat** - A drawing or map of an approved subdivision, meeting all requirements of the Subdivision Chapter, and in such form as required by the community for purposes of recording.
- (63) **Floodplain** - The land adjacent to a body of water, which has been or may be hereafter covered by floodwater including that land covered by the regional flood.
- (64) **Floodway** - The minimum channel of a watercourse and those portions of the flood plain adjoining the channel that are reasonably required to carry or store the regional flood discharge.
- (65) **Floodway Fringe** - That portion of the flood plain outside of the floodway. Land within a floodway fringe is subject to inundation by relatively low velocity flows and shallow water depths.
- (66) **Floor Area, Gross** - The sum of the gross horizontal area of the several floors of a building measured from the outside faces of the walls or the centerline of party walls separating two buildings, but not including any interior parking spaces, loading spaces, any space where the floor to ceiling height is less than six feet, any space devoted to mechanical equipment, terraces, breezeways, or screened porches, or basement or other subterranean area not intended for human habitation or service to the public. The floor area for enclosed space having a floor to ceiling height in excess of 20 feet shall be computed on the basis that each 15 feet of height shall be equal to one floor.
- (67) **Floor Area Ratio** - The ratio of the floor area of a building to its lot area. For example: when a floor-area ratio of five-tenths (0.5) is specified the floor area of a building constructed on a lot of ten thousand (10,000) square feet in area is limited to a maximum of five thousand (5,000) square feet. The number of stories being

optional, the building area may be five thousand (5,000) square feet for one (1) story; twenty-five hundred (2,500) square feet for each of two (2) stories, and so forth. The purpose of this ratio is to control the bulk of buildings and encourage the development of open space or plazas about structures in the intensely developed portions of the City.

(68) **Floor Area, Residential** - (see Gross Floor Area).

(69) **Floor Area, Usable** - (For the purposes of computing parking) That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area". Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

(70) **Garage, Private** - An accessory building or portion of a main building designed or used for the storage of motor-driven vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.

(71) **Grade** - The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the average grade shall be determined by averaging the elevation of the ground of the highest and lowest grades adjacent to the building.

(71.5) **Greenhouse** - A glass or transparent plastic covered building solely used to grow plants.

(72) **Historic Site (Commercial)** - A structure or site designated as a historical site by either the State of Minnesota Historical Society, the National Register of Historical Places, the City of Red Wing Heritage Preservation Commission, or City Council in which limited commercial activity for historical or artistic items may occur.

(73) **Hotel** - (See also Motel) A building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: (a) maid service; (b) furnishing of linen; (c) telephone, secretarial, or desk service; (d) bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms.

(74) **Household Pet** - Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, and rodents.

(75) **Industrial Park** - (see also Planned Unit Development) A planned coordinated development of a tract of land with two or more industrial buildings. Such development

is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation and open space.

- (76) **Intensive Vegetation Clearing** - The removal of greater than 30% of the trees or shrubs in a contiguous patch, strip, row, or block.
- (77) **Land Alteration** - The extraction or grading of land involving movement of earth and materials in excess of fifty (50) cubic yards, exclusive of normal yard landscaping.
- (78) **Land Reclamation** - The reclaiming of land by depositing material so as to elevate the grade. Depositing a total of more than fifty cubic yards of material per lot or parcel, either by hauling in or regrading the area.
- (79) **Landscaping** - Planting trees and turf cover such as grasses and shrubs.
- (80) **Loading Space** - An off-street space on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.
- (81) **Lodging Room Establishment**- An establishment with three or more lodging rooms with sleeping and living quarters, but without cooking facilities and meals are not provided. In a suite of rooms, without cooking facilities, each room, which provides sleeping accommodations, shall be counted as one lodging room.
- (82) **Lot** - A parcel of land legally subdivided by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, leased, or operation.
- (83) **Lot Area** - The total horizontal area within the lot lines of the lot.
- (84) **Lot, Buildable** - A single tract of land, under separate ownership, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon. Said buildable lot shall meet or exceed all of the requirements of this Chapter as it relates to area, size, dimensions, and access frontage as required for a new lot located in the same zoning district.
- (85) **Lot, Corner** - A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Chapter if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.

- (86) **Lot Coverage** - The part or percent of the lot occupied by a building including accessory buildings, and other non-porous surfaces such as driveways and parking areas.
- (87) **Lot Depth** - The average horizontal distance between the front and the rear lot lines.
- (88) **Lot Lines** - The lines bounding a lot as defined herein:
- (89) **Front Lot Line** - In the case of an interior lot, is that line separating said lot from the street. In the case of a comer lot, or double frontage lot, is that line separating said lot from either street.
- (90) **Rear Lot Line** - That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, no less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
- (91) **Side Lot Line** - Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- (92) **Lot, Interior** - Any lot other than a comer lot.
- (93) **Lot of Record** - A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Goodhue County; or a parcel of land, the deed to which was recorded in the office of the County Recorder prior to the adoption of this Chapter.
- (94) **Lot Through** - Any interior lot having frontage on two more or less parallel streets as distinguished from a comer lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.
- (95) **Lot Width** - The horizontal distance between side lot lines, measured at the required front setback line\_.,\_
- (96) **Major Thoroughfare** - An arterial street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term on the major thoroughfare plan to identify those streets comprising the basic structure of the major thoroughfare.
- (97) **Master Plan Map** - (See Comprehensive Plan).
- (98) **Mining** - The extraction of sand, gravel, rock, soil, or other material from the land and the removal thereof from the site. For the purposes of this Chapter, mining shall not include: the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved plats, or on the site of utility highway construction, minor agricultural, and sod removal.

- (99) **Mobile Home** - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction Act of 1974, which became effective June 15, 1976.
- (100) **Modular or Prefabricated Home** - (See Mobile Home).
- (101) **Motel** - (See Hotel). A series of attached, semi-detached or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.
- (102) **Non-Conforming Use** - A lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.
- (103) **Nuisance Factors** - An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as: noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation, passenger traffic, water, or excessive run-off.
- (104) **Official Map** - A map adopted in accordance with Section 462.359 of the Minnesota State Statutes which may show existing county roads and county-state aid highways, proposed future county roads and highways and the area needed for widening existing county roads and highways. An official map may also show the location of existing public land and facilities, and other land needed for future public purposes, including public facilities such as parks, playgrounds, schools, and other public buildings, civic centers, and travel service facilities.
- (105) **Off-Street Parking Lot** - A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.
- (106) **Open Storage** - (See Exterior Storage).
- (107) **Out Lot** - A non-buildable lot included within the boundary of a recorded plat which has been set aside as a park or other land dedicated to public use or reserved to private use. Such land may be subdivided in the future for buildable purposes.
- (107.5) **Outdoor Biomass Burner/Boiler** - A freestanding outdoor device designed for solid fuel combustion so that useable heat is derived for the interior of an adjacent building, its

domestic water supply, or a pool/spa. An Outdoor Biomass Burner/Boiler shall include units that are placed in an accessory building.

- (108) **Parking Space** - An area of definite length and width, said area shall be exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.
- (109) **Parkway** - A through street or road with a wide right-of-way and larger than normal structural setbacks. It is usually well landscaped and preserves as much as possible, the natural vegetation and contour of the land in a more curvilinear pattern than normal thoroughfares. Such a wide right-of-way may include trails, landscaping, scenic overlooks, picnic facilities and other recreation attractions. A parkway may connect, be part of, or be adjacent to other public open space.
- (110) **Permitted Use** - A use that may be lawfully established in a particular district or districts provided it conforms to all requirements, regulations, and standards of such district.
- (111) **Principal Building** - A building in which is conducted the main or primary use of the lot upon which it is situated.
- (111.5) **Practical Difficulties** - As used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- (112) **Principal Use** - The main or primary use to which the premises are devoted and the principal purpose for which the premises exist.
- (113) **Property Line** - The line bounding a lot, as defined herein.
- (114) **Protective or Restrictive Covenant** - A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.
- (115.5) **Public Façade** - Any façade of a building that is visible from a public street, a public area, or provides access to the general public.
- (115) **Recreation Equipment** - Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty-five (25) feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures, but not including tree houses, swimming pools, playhouses exceeding twenty-five (25) square feet in floor area, or sheds utilized for storage of equipment.

- (116) **Recreation Vehicle** - Any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications: (a) is not used as the permanent residence of the owner or occupant; (b) is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities; (c) is towed or self-propelled on public streets or highways incidental to such recreational or vacation activities; (d) examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pick-up campers, camping buses, and self-contained, self-propelled truck chassis mounted vehicles providing living accommodations.
- (117) **Recreation Vehicle Parks** - A park, court, camp site, lot, parcel, or tract of land used for the purpose of supplying the location or accommodations for any recreation vehicles as defined herein, and upon which said recreation vehicles are parked. The term "Recreation Vehicle Park" shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the park and its facilities or not.
- (118) **Regional Flood** - A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on average frequency in the magnitude of the 100-year recurrence interval. Regional Flood is synonymous with the term "base flood" used in the Flood Insurance Study.
- (119) **Resort** - Any structure or group of structures containing more than two (2) dwelling units or separate living quarters designed or intended to serve as seasonal or temporary dwellings on a rental or lease basis for profit with the primary purpose of said structure or structures being recreational in nature. Uses may include a grocery for guests only, fish cleaning house, marine service, boat landing and rental, recreational area, and equipment, and similar uses normally associated with a resort operation.
- (121) **Retreat Center/Vacation Home** - A single family detached residential structure/property with sleeping and living quarters including cooking facilities, but which meals are not provided, that is wholly rented to one (1) family or one (1) common party for the purpose of overnight lodging for one (1) night or longer, but less than one (1) month. Retreat Centers and Vacation Homes shall not be rented to more than one (1) family or common party at a time, the premises shall not be the primary residence of the owner, the owner or a representative of the owner shall not occupy the premises during the rental period, and the number of guests shall be limited to two (2) per bedroom with a maximum of twelve (12) guests at any one time.
- (121.5) **Room** - For the purpose of determining lot area requirements and density in a multiple family district, a room is a living room, dining room or bedroom, equal to at least seventy (70) square feet in area. Plans presented showing 1, 2, or 3 bedroom units and including a den, library, or other extra room shall count such extra room as a bedroom for the purpose of computing density.



- (122) **Rooming House** - A building that is the primary residence of the owner and in which rooms are provided by the owner, for compensation, to three or more adult persons not related by blood, marriage, or adoption to the owner.
- (123) **School** - A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools.
- (124) **Screening** - The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.
- (125) **Setback** - The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.
- (126) **Sign** - A structure or device designed or intended to convey information to the public in written or pictorial form.
- (127) **Site Plan** - A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.
- (128) **Specified Anatomical Areas** - Anatomical areas consisting of: a) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and b) Human male genitals in a discernable turgid state, even if completely and opaquely covered.
- (129) **Specified Sexual Activities** - Activities consisting of the following: a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation, or other sexually explicit contact.
- (130) **Story** - That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the height level of the adjoining ground.

- (131) **Story, Half** - An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7 feet 6 inches). For the purposes of this Chapter, the usable floor area is only that area having at least four feet (4) clear height between floor and ceiling.
- (132) **Street** - A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.
- (133) **Structure** - Anything constructed or erected the use of, which requires location on the ground or attachment to something having location on the ground.
- (134) **Subdivision** - The division of a parcel of land after the effective date of this Chapter into two or more lots or parcels, for the purpose of transfer of ownership or building development. This term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.
- (135) **Substandard Building** - (Substandard Structure) Any building or structure lawfully existing on the effective date of this Chapter or any amendment thereto, which building or structure does not conform with regulations, including dimensional standards, for the district in which it is located after the effective date of this Chapter or such amendment.
- (135.25) **Temporary Recreational Shelter** - A temporary seasonal tent, gazebo, or similar structure that is constructed of fabric, nylon, canvas, plastic, or other similar material that is draped over or attached to a frame of poles or attached to supporting ropes, that is intended for recreational use.
- (135.5) **Temporary Storage Container/Portable Storage Unit (POD)** - A transportable container unit designed and used primarily for temporary storage of personal property and other household goods and materials. A temporary storage container/portable storage unit (PODS) shall not be considered an accessory structure or building as defined by Division 10 of the Red Wing Zoning Ordinance and may not be used as an accessory structure or building.
- (136) **Tower** - Any ground-mounted or roof-mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.
- (137) **Tower, Lattice** - Three- or four-legged steel girded structures typically supporting multiple communications users and services generally ranging from 60 to 200 feet in height.
- (138) **Tower, Monopole** - Single pole design, approximately three feet in diameter at the base narrowing to approximately one and a half feet at the top, generally ranging from 25 to 190 feet in height.

- (139) **Use** – Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure on a tract of land.
- (140) **Utility Pole** – Pole used to support essential services such as power, telephone, or cable TV lines; or used to support street or pedestrian way lighting, typically located in public right-of-ways or boulevards.
- (141) **Variance** – A relaxation by the Board of Appeals of the dimensional regulations of the code where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship.
- (142) **Vehicle (Motorized)** – Any car, truck, bus, motorcycle, boat, trailer, recreational motor home and other motorized equipment used in the transportation of individuals, animals, commodities or other materials.
- (143) **Warehousing** – The storage, packing, and creating of materials or equipment within an enclosed building or structure.
- (144) **Wireless Telecommunications Services** – Licensed or unlicensed wireless telecommunication services including, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public.
- (145) **Yard** - An open space on the same zoning lot with a building or structure, unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted. A yard extends along a lot line and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.
- (146) **Yard, Front** - A yard extending along the full length of the front lot line between the side lot lines, and on which the main entrance of the structure may be located.
- (147) **Yard, Rear** - A yard extending along the full length of the rear lot line between the side lot lines.
- (148) **Yard, Side** - A yard extending along a side lot line from the front yard to the rear yard.
- (149) **Yard, Corner Side** - A Side yard which adjoins a public street.
- (150) **Yard, Interior Side** - A yard that is located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.

## 10-30 **Rules of Interpretation for Zoning Use Types and Classifications**

A) **Purpose of Use Types.** The purpose of the USE TYPES is to establish a classification system for land uses and a consistent set of terms defining uses permitted within various zoning districts. The Use Types section also facilitates the process of determining the applicable use type of any activity not clearly within any defined use type.

B) **Interpretation.** In the event of any question as to the appropriate use type of any existing or proposed use or activity, the Zoning Administrator shall have the authority to determine the appropriate use type. In making such determination, the Zoning Administrator shall consider the operational and physical characteristics of the use in question and shall consider the classification contained in the most recent edition of the Standard Industrial Classification Manual published by the U. S. Office of Management and Budget. In addition, the Administrator shall consider the specific requirements of the use in common with those included as examples of Use Types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists. The Zoning Administrator may also determine that a proposed use or activity is sufficiently different from any use type listed below and will require an amendment to the text of this ordinance.

C) **Determinations In Writing.** The Zoning Administrator shall make such determinations of appropriate Use Types in writing, which shall include an explanation of the reasons for the determination.

D) **Appeal.** A determination of the Zoning Administrator may be appealed to the Board of Adjustments pursuant to the procedures for administrative appeals outlined in Section 90-120 of this Ordinance.

10-040 **Definitions of Use Types and Classifications.** For the purposes of this ordinance, the words and phrases listed below in this section shall have the meanings described below.

- (1) **Adult Establishment** - A business engaged in any of the following activities, which utilizes any of the following business procedures or practices: (see page 18 for list of businesses).
- (2) **Agricultural Production** - Establishments engaged in the production of crops, plants or vines, including forestry, and the incidental sale of produce raised on the premises to individuals, or establishments in existence on the effective date of this ordinance which are engaged in the keeping, grazing, or feeding of livestock for sale, value increase, or livestock increase.

- (3) **Agricultural Services** – Establishments that perform services which support or assist the agricultural community, such as soil preparation services, crop services, farm management services, or breeding services on a fee or contract basis, along with experimental farms for research or educational purposes. This category is intended to apply where agricultural land is located, and may include buildings and other structures that provide office, warehouse, and storage areas for these establishments.
- (4) **Agricultural Support** – Establishments engaged in farm equipment sales and repair, farm produce sales and supply (feed grain, elevators) and small-scale farm product processing, such as cidermills, dairies, poultry or meat processing.
- (5) **Air Transportation** – Establishments engaged in domestic, emergency, or foreign transportation of passengers or goods by air, including airports, flying fields, rotocraft terminals, as well as any associated terminal facilities.
- (6) **Animal Husbandry** – The keeping of domestic animals, such as horses, dogs, cats, bees, etc., not primarily for produce or value increase, but rather for show, sport, or as pets.
- (7) **Automobile Maintenance Service** – Repair of automobiles, non commercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services and similar repair and service activities where minor repairs and routine maintenance are conducted.
- (8) **Automobile Parts/Supply** – Retail sales of automobile parts and accessories. Typical uses include automobile parts and supply stores which offer new and factory rebuilt parts and accessories, and include establishments, which offer minor automobile repair services as an accessory use.
- (9) **Bed and Breakfast** – A private, owner-occupied residence, that contains no more than eight (8) guestrooms where lodging, with or without meals, is provided for compensation.
- (10) **Broadcasting or Communication Tower** – Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A Broadcasting or Communication Facility usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna.
- (11) **Business Center** – A building or group of buildings planned, constructed, and managed as a total entity, with common on-site parking for a group of commercial service establishments, with office uses also permitted. In the central development core (B-3), the requirement for common on-site parking need not be met in order to classify a development as a business center.

- (12) **Business Services** – Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, building maintenance, office equipment rental and leasing, photo finishing, business supply services, and computer programming/data processing services.
- (13) **Campgrounds and Trailering** – Establishments engaged in providing overnight or short-term sites for the placement of recreational vehicles or temporary housing, with or without facilities such as water and electricity.
- (14) **Car Wash** – Washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes.
- (15) **Cemetery** – Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.
- (16) **Colleges and Universities** – Institutions of higher learning which offer courses of general or specialized study leading to a degree. They are certified by the State Board of Higher Education or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks. Accessory uses include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, and support commercial. Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, and seminaries.
- (17) **Commercial Kennel** – The boarding, breeding, raising, grooming or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.
- (18) **Commercial Stable** – The boarding, breeding or raising of horses or ponies not owned by the owner or occupant of the property or riding of horses by other than the owner or occupant of the property and their non-paying guests. Included in this definition are riding academies.
- (19) **Commercial Vehicle Repair** – Repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. Typical uses include automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops, and other similar uses where major repair activities are conducted.
- (20) **Communication Services** – Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephone mechanisms. Excluded from this use type are facilities classified

as Essential Services or Broadcasting and Communications Towers. Typical uses include television studios, telecommunications service centers, telegraph service offices or film and sound recording facilities.

- (21) **Community Services** – Establishments of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time (for instance, any senior citizen could join a senior center). The use may provide mass shelter or short term housing where tenancy may be arranged for periods of less than one month when operated by a public or nonprofit agency. The use may also provide special counseling, education, or training of a public, non-profit, or charitable nature. Accessory uses may include offices, meeting areas, food preparation areas, parking, health and therapy areas, day care uses, and athletic facilities. Examples include libraries, museums, senior centers, community centers, police stations, fire stations, social service facilities, and post offices, and environmental centers.
- (21.5) **Concessions** – A business outlet with an official license or business agreement by a landowner or public entity that allows an establishment to be primarily engaged in the preparation of food and beverages, for take-out or table service. This type of use does not employ a drive-up or drive-through service facility, and does not offer curbside service.
- (22) **Congregate Housing** – A dwelling providing shelter and services for the elderly, which may include meals, housekeeping, and personal care assistance and minor medical services, but not intermediate, long term, or extended nursing care for residents.
- (23) **Correctional Facilities** – A public or privately operated use providing housing and care for individuals legally confined, designed to isolate those individuals from a surrounding community.
- (24) **Day Care Center** – Any facility operated for the purpose of providing care, protection, and guidance to 14 or more individuals during only part of a twenty-four hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full twenty-four hour period.
- (25) **Drinking and Entertainment** – Establishments primarily engaged in the selling of drinks for consumption on the premises, where entertainment may be provided and the incidental sale of prepared food for consumption on the premise is permitted. These establishments may often charge a fee or admission charge for the entertainment provided. Included in this category are bars, beer gardens, discotheques, nightclubs, taverns, and dance halls.

- (26) **Drive-in Restaurant** - An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery, or table service, served in disposable containers at a counter and a drive-up or drive through service facility or which offers curbside service.
- (27) **Duplex** - A building on a single lot containing two dwelling units.
- (28) **Educational Service** - Establishments engaged in furnishing specialized academic or technical courses, normally on a fee basis, such as vocational or correspondence schools, barber college, data processing schools, or secretarial schools, along with non-degree granting schools such as post secondary colleges and universities, martial arts, music, art, ceramic, dramatic, charm schools, and dance instruction.
- (29) **Family Day Care** - A residence licensed by the Minnesota Department of Human Services in which no more than ten children at any one time receives care, maintenance and supervision by someone other than their relatives or legal guardians for less than 24 hours per day.
- (30) **Farm Employee Housing** - A dwelling located on a farm for the purpose of housing an employee of that farm operation and his/her family. Also included in this use type would be multi-family dwelling(s) for seasonal employees in connection with an orchard or other agricultural use that relies on seasonal employees who must be housed.
- (31) **Fast Food Restaurant** - An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery, or table service, served in disposable containers at a counter. This use type does not employ a drive-up or drive-through service facility, and does not offer curbside service.
- (32) **Financial Institution** - Provision of financial and banking services to consumers or clients. Walk-in and drive-in services are generally provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions, lending establishments, and automatic teller machines (ATM's).
- (33) **Forestry Operations** - The use of land for the raising and harvesting of timber, pulp woods and other forestry products for commercial purposes, including the temporary operation of a sawmill and/or chipper to process the timber cut from that parcel or contiguous parcels. Excluded from this definition shall be the cutting of timber associated with land development approved by the City which shall be considered accessory to the development of the property.
- (34) **Funeral Home** - Establishments engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals. Typical uses include funeral homes, crematories, or mortuaries.



- (35) **Garden Center (Retail Agriculture)** – Establishments or places of business primarily engaged in retail or wholesale (bulk) sale, from the premises, of trees, shrubs, seeds, fertilizers, pesticides, plants, and plant materials primarily for agricultural, residential, and commercial consumers. Such establishments typically sell products purchased from others, but may sell some material which they grow themselves. Typical uses include nurseries, greenhouses, plant stores, and lawn and garden centers.
- (36) **Gasoline Station** - Any place of business with fuel pumps and underground storage tanks which provides fuels and oil for motor vehicles. A neighborhood convenience store associated with automobile fuel sales shall be considered a gasoline station.
- (37) **Golf Course** – A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters. Included would be executive or par 3 golf courses. Specifically excluded would be independent driving ranges or miniature golf facilities, which are classified as Outdoor Recreation Facilities.
- (38) **Group Family Day Care** – A residence licensed by the Minnesota Department of Human Services in which at least 11 but not more than 14 children receive care, maintenance and supervision by someone other than their relatives or legal guardians for less than 24 hours per day.
- (39) **Group Home** – A residence shared by six or fewer handicapped persons including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible in order to reach their maximum potential.
- (40) **Group Residential Facility** – A licensed public or private establishment, which, for gain or otherwise, regularly provides one or more dependents with twenty-four (24) hour a day substitute for the care, food, lodging, training, education, supervision, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the dependent's own home. This term includes, but is not limited, to state institutions under the control of the Commissioner of Public Welfare, foster homes, maternity shelters, group homes as defined herein with seven or more residents, schools for handicapped children, and homes for battered children or battered spouses.
- (41) **Halfway House** – An establishment providing accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol or drug addiction, to persons re-entering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders.
- (42) **Heavy Industrial** – Establishments involved in the manufacture, fabrication, processing, compounding, or assembling of materials from raw material or previously processed material. These uses have severe potential for adversely affecting surrounding land uses due to potential environmental impacts related to noise, smoke/particulate emissions,

vibration, noxious gases, odor, glare/heat, fire/explosion hazards and waste disposal. In addition, these uses may generate large amounts of truck or auto traffic, may involve the use of large unenclosed production areas, or may require large, tall structures that are unsightly. Heavy industrial uses typically involve primary production processes in the area of paper products (pulp mills), food processing (slaughterhouse, meat packing plant), chemicals (manufacture of inorganic chemicals, resins, plastics, paints, fertilizers, explosives, ink), petroleum products (refineries, bulk storage), primary metals (blasting, smelting, rolling), machinery and equipment manufacture (auto assembly, engines, construction equipment), leather (storing, curing, tanning), gravel based products (manufacture of bricks, concrete, abrasives), lumber products (saw mills), and silica sand processing. Heavy industrial land uses may be subject to Special Provisions, as set forth in Division 55.

- (43) **Home Occupations** – Any gainful occupation or profession engaged in by the occupant of a dwelling at or from a dwelling unit when carried on in accordance with the provisions of this ordinance.
- (44) **Indoor Athletic Facility** – A commercial recreation facility that provides completely enclosed or indoor recreation space, such as racquet clubs, indoor skating rinks, swimming pools, or gymnasiums.
- (45) **Indoor Recreation** – Establishment primarily engaged in activities intended to provide personal amusement, with the largest number of patrons typically during the evening hours or on weekends, and where food and refreshments may be provided as an incidental service, including such uses as bowling alleys, billiard, pool, or bingo parlors, amusement arcades, and indoor theaters (live or motion picture).
- (46) **Interim Uses** – A use, which does not conform to the regulations of the applicable zoning district established for a fixed period of time with intent to discontinue such use upon the expiration of such time. An Interim use shall not involve the construction or alteration of any permanent building or structure (see provisions in Section 55-115).
- (47) **Landfill** – A disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.
- (48) **Laundry Plants** – Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, diaper services, and linen supply services.
- (49) **Light Industrial** – Establishments involved in the processing, fabrication, assembly, or compounding of products where the process involved is relatively clean and nuisance free, usually completely enclosed, and without adverse environmental effects. These uses can be made compatible with surrounding areas through buffering and through separation

required by yard and height limitations. Typically, these uses result in the creation of finished products for sale on a wholesale basis to retailers or directly on a retail basis, and include uses in the following areas: lumber products (millwork, cabinet making), textiles, printing and publishing services, bottling works, carpet and rug cleaning, furniture manufacture, paper (final processing of stationery, bags, etc., from purchased bulk stock), rubber and plastics (compounding processed resins, molding plastics), gravel based products (pottery, cutting, finishing granite, firing and decorating clay products), and ice manufacturing.

- (50) **Local Transit** – Establishments primarily engaged in furnishing local and suburban passenger transportation, including taxi cabs, passenger charter services, school buses, and terminals (including service facilities) for motor vehicle passenger transportation.
- (51) **Manufactured Home Park** – A development on a site under a single ownership which consists of two or more spaces for the placement of manufactured homes for dwelling or sleeping purposes, regardless of whether or not a fee is charged for the utilization of such space.
- (52) **Marina** – A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews, and guests.
- (52.5) **Maritime Commercial Use** – A riverfront business or a mix of business uses that include: restaurant, retail, office, and professional services.
- (53) **Medical Facilities** – Establishments engaged in providing diagnostic services, extensive medical treatment (including surgical services), and other hospital services, as well as continuous nursing service, including general medical and surgical hospitals, specialty hospitals, medical laboratories, bio-medical research and development, outpatient care facilities, medical schools and associated dormitories, medical appliance sales, and similar uses, but not including animal hospitals.
- (54) **Membership Organization** – Organizations operating on a membership basis for the promotion of the interests of the members included such uses as trade associations, business associations, professional membership organizations, labor unions, civic or fraternal organizations, but not including churches, hospitals, golf and country clubs, or credit unions.
- (55) **Motor Freight and Warehousing** – Establishments engaged primarily in either the storage or shipment of goods and materials, including terminal facilities for handling freight, and maintenance facilities in which the truck (including tractor trailer units) involved with the operation of the business are stored, parked and serviced. Materials within a warehouse or terminal facility may be combined, broken down, or aggregated for transshipment or storage purposes where the original material is not chemically or

physically changed. Motor Freight and Warehousing land uses may be subject to Special Provisions, as set forth in Division 55.

- (56) **Multi Family Residential** – A building containing three (3) or more dwelling units. The term includes cooperative apartments, condominiums, and the like. For the purposes of these regulations, regardless of how rental units are equipped, any multifamily dwelling in which units are available for rental periods of one week or less shall be considered a hotel.
- (57) **Neighborhood Convenience Store** – Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. Convenience stores shall not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.
- (58) **Non-production Industrial** – Establishments that normally are considered industrial in character even though they are not involved in the manufacturing or processing of products. These uses generate negative impacts largely through their need for outside storage of equipment and materials, the large expanse of land needed for this storage, and the creation of dirt, dust and noise, along with intermittent truck traffic. These uses generally can be made compatible through screening, and the imposition of limited performance standards, and thus are not objectionable in most industrial or commercial districts. The types of uses categorized here include contractor's yards, lumberyards, utility yards, and public maintenance shops and yards.
- (59) **Nursing and Personal Care** – Establishments primarily engaged in providing intermediate or long-term nursing and health related care to individuals, typically classified as nursing homes.
- (60) **Offices** – A building or portion of a building use for office purposes by a business, service, professional, or institutional establishment, including medical offices or clinics, studios for those involved in art, sculpture, music, and the like, and all other establishments similar in character.
- (61) **Outdoor Entertainment** – An outdoor facility developed for entertainment, amusement, or tourist purposes which typically involve sizable areas of land and concentrated traffic peaks oriented towards events at the facility, including drive-in theaters, amphitheaters, outdoor concert halls, or theme parks.
- (62) **Outdoor Recreation Facility** – A commercial recreation facility that is primarily an open air facility, such as baseball fields, swimming pools, skating rinks, golf driving ranges, or miniature golf facilities.
- (63) **Parking Facility** – Any structure associated with a non-residential use whose purpose is to provide the required off-street parking spaces for a principal use, or any site utilized

for parking which constitutes the principal use on a parcel of land. This category also includes community lots, which are established to meet the parking needs in a residential area.

- (64) **Parks and Open Areas** – Uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses include clubhouses, maintenance facilities, concessions, caretaker's quarters, and parking. Examples include parks, public squares, plazas, recreational trails, botanical gardens, boat launching areas, nature preserves, and land used for grazing that is not part of a farm or ranch.
- (65) **Personal Services** – Establishments primarily engaged in providing services involving the care of a person or his or her apparel, such as barber shops, clothing rental, reducing salons and health clubs, photographic studios, cleaning and garment services (but not including power laundries or dry cleaning plants) or coin operated laundries.
- (66) **Planned Unit Development** – Developments which may have one or more main uses or structures on a single parcel or contiguous parcel of land, controlled by a single land-owner or development group, upon which the developer may be granted relief or design flexibility from specific City Code provisions relating to land use, subdivision, and other similar regulations. This relief or design flexibility may be granted by the City in return for assurances of an overall innovation and/or quality of development, which will be of exceptional benefit to the community as a whole.

While construction of the entire project may occur in planned stages, the entire project must create an environment compatible with adjacent uses and structures.

- (67) **Private Kennel** – The keeping, breeding, raising, showing or training of 4 or more dogs over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective.
- (68) **Private Stable** – The keeping, breeding, or raising of horse or ponies exclusively for the personal use and enjoyment of the owner or occupant of the property or the riding of horses or ponies by the owner or occupant of the property and their guests.
- (69) **Public and Private Schools** – Establishments at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before or after school day care. Examples include public and private daytime schools, boarding schools, and military academies. Exemptions: 1) Preschools are classified as Day Care Facilities, and 2) Business and Trade Schools are classified as Educational Services.
- (70) **Public Assembly** – Facilities owned and operated by a public or quasi-public agency accommodating public assembly for non-recreation purposes. Typical uses include auditoriums, convention facilities, exhibition facilities, convention halls, or armories.

- (71) **Railroad Transportation** – Establishments engaged in domestic freight and passenger transportation by rail, and including railroad yards, freight stations and switching yards.
- (72) **Religious Institutions** – Establishments that are intended to primarily provide meeting areas for religious activities. Accessory uses include Sunday school facilities, parking, caretaker's housing, and group living facilities such as convents. Examples include churches, temples, synagogues, and mosques.
- (73) **Repair and Maintenance Shop** – Establishments engaged in miscellaneous repair services, primarily of household oriented products such as radios, televisions, washers and dryers, furniture (including reupolstery), small engine repair, bicycles, or locksmiths.
- (74) **Research and Testing** – Establishments or other facilities for carrying on investigation in the natural or physical sciences, or engineering and development as an extension of investigation with the objective of creating end products, on a contract or fee basis, and including pilot plant operation.
- (75) **Resource Extraction** – A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and soil mining. Specially excluded from this use type shall be grading and removal of dirt associated with an approved site plan or subdivision.
- (76) **Restricted Recreation** – Commercial recreation facilities that are of greater nuisance than conventional outdoor athletic facilities because of 1) the noise and traffic volumes they may generate, 2) the glare they produce, or 3) the potential danger they may create from flying objects or the use of weapons. This category includes such uses as amusement parks, racetracks (auto, go-cart, motorcycle) or ranges (skeet, rifle, or archery).
- (77) **Retail Trade** – Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. These establishments are characterized by the following: 1) they buy and receive as well as sell merchandise, 2) they may process some products, but such processing is incidental or subordinate to the selling activities, and 3) they predominantly sell to customers for their own personal or household use.
- (78) **Sales and Storage Lots** – Establishments engaged in the display for sale or lease of automobiles, trucks, farm machinery, recreational vehicles and manufactured homes, including auto dealerships or the commercial storage of privately owned trailers, boats, campers, or similar vehicles.
- (79) **Scrap and Salvage Services** – Any lot, land, parcel, building, or structure or part thereof used for the storage, processing, or abandonment of wastepaper, rags, scrap metal or

other scrap of discarded goods, materials, or machinery, or two or more unregistered, inoperable motor vehicles.

- (80) **Self Service Storage Facility** – An establishment designed and utilized for the purpose of renting or leasing individual storage spaces to tenants whom have sole private access to such space for storing personal property.
- (81) **Semi-Transient Accommodations** – Semi-transient accommodations include boarding houses, rooming houses, retreat centers/vacation homes, fraternity and sorority houses, or lodging rooms, as defined by this ordinance.
- (82) **Shopping Center** – A group of commercial establishments planned, constructed, and managed as a total entity with shared access, customer and employee parking provided on-site, provision of goods delivery separated from customer access, aesthetic considerations and protection from the elements.
- (83) **Single Family Attached** – A building containing one dwelling unit attached to another building containing only one dwelling unit, with each building on a separate lot.
- (84) **Single Family Detached** – A building containing only one dwelling unit, surrounded by landscape area or yards on all sides.
- (85) **Standard Restaurant** – An establishment whose principal business is the sale of food and/or beverage to customers in a ready to consume state, and whose principal method of operation includes one or both of the following: 1) customers, normally provided with an individual menu, are served their food and beverage by restaurant employees at the same table or counter at which the food and/or beverage are consumed, 2) a cafeteria-type operation where food and beverage generally are consumed within the restaurant building.
- (86) **Trade Shop** – Any lot, land, building, or structure that serves as the headquarters for contractors involved in specialized activities such as plumbing, painting, plastering, masonry, carpentry, roofing, well drilling, and the like, where tools, equipment and materials used in the business are stored. The category also includes establishments involved in specialized trades such as sheet metal, sign painting, drapers, and exterminators.
- (87) **Transient Accommodations** -Hotels or Motels as defined by this Ordinance.
- (88) **Transportation Services** – Establishments furnishing services related to the arrangement of persons and goods movements, such as freight forwarding, parking services or the rental/leasing of automobiles or two-axle trucks.
- (88.5) **Truck Fleeting Area** – An off-street parking area used for the purpose of parking

freight-carrying trucks and related equipment, during a waiting period before the freight trucks are loaded or unloaded at a nearby facility. Example: grain trucks parked in an area while waiting to be loaded or unloaded for a grain shipment. This area shall not be a parking structure and may be used seasonally for truck fleeting and at other times for other principle uses.

(89) **Veterinary Service** – Establishments engaged in the practice of veterinary medicine, dentistry or surgery, along with those providing animal related services such as kennels, grooming, or breeding services.

(90) **Wayside Stand** – An establishment for the seasonal retail sale of agricultural goods and merchandise primarily produced by the operator on the site, or on a nearby property. Agricultural goods produced on other properties owned or leased by the operator may also be allowed provided a majority of the produce comes from land surrounding the wayside stand. This use type shall include agricultural products picked by the consumer.

(91) **Wholesaling** – Establishments engaged primarily in selling merchandise to retailers, or to industrial, commercial, institutional, or professional business customers, or to other wholesalers, or on a mail order basis to individuals or firms, or which serve as agents or brokers buying merchandise for, or selling merchandise to, individuals and companies.



## DIVISION 15: ZONING DISTRICTS AND PROVISIONS

15-010 **General Purposes.** The Zoning Districts are so designed as to assist in carrying out the intents and purposes of the Comprehensive Plan and are based upon the Comprehensive Plan, which has the purpose of protecting the public health, safety, convenience, and general welfare.

15-020 **Zoning Districts.** For the purposes of this Ordinance, the City of Red Wing is hereby divided into the following zoning districts·,

<i>SYMBOL</i>	<i>NAME</i>
<b>A</b>	Agriculture
<b>AR</b>	Agricultural Residential
<b>AC</b>	Agricultural Conservation
<b>R-1</b>	Single Family Residential
<b>R-2</b>	Two Family Residential
<b>RM-1</b>	Multiple Family Residential (Low Density)
<b>RM-2</b>	Multiple Family Residential (High Density)
<b>B-1</b>	Local Business District
<b>B-2</b>	General Business
<b>B-2A</b>	Mixed General and Central Business
<b>B-3</b>	Central Business
<b>CIVIC</b>	Civic/Institutional
<b>MC</b>	Mixed Use Industrial/Office Commercial
<b>MCT</b>	Mixed Use Commercial Tourism
<b>1-1</b>	Light Industrial
<b>I-2</b>	General Industrial
<b>F</b>	Floodplain Overlay

## **DIVISION 35: INDUSTRIAL DISTRICT REGULATIONS**

### **35-10 Light Industrial (1-1) District**

- A) **Purpose.** The I-1 Light Industrial District is designed so as to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The I-1 district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semi-finished products from previously prepared material. It is further intended that the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, not be permitted.
- B) **Goals.** The general goals of this use district include, among others, the following specific purposes:
- 1) To provide sufficient space and appropriate locations to meet the needs of the City's expected future economy for all types of manufacturing and related uses.
  - 2) To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development.
  - 3) To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards and from offensive noise, vibration, smoke, odor, and other objectionable influences.
  - 4) To promote the most desirable use of land in accordance with a well considered plan. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the City's tax revenue.
- C) **Permitted Principal Uses**
- 1) Car Wash
  - 2) Communications Services
  - 3) Laundry Plants
  - 4) Light Industrial
  - 5) Non-production Industrial
  - 6) Parks and Open Areas
  - 7) Research and Testing
  - 8) Trade Shop
  - 9) Wholesaling

D) Uses **Requiring A Certificate of Compliance**

- 1) Agricultural Support
- 2) Automobile Maintenance Service
- 3) Automobile Parts/Supply
- 4) Broadcasting and Communication (Meeting Criteria)
- 5) Business Services
- 6) Commercial Kennel
- 7) Commercial Vehicle Repair
- 8) Interim Use
- 9) Local Transit
- 10) Motor Freight and Warehousing, except operations involving silica sand, which are subject to Special Provisions as set forth in Division 55 and require a conditional use permit.
- 11) Offices
- 12) Repair and Maintenance Shop
- 13) Retail Trade [Only retail trade that is directly related to and incidental to a principal use on the site that is allowed as a permitted use in 35-010 C) above]
- 14) Sales and Storage Lots
- 15) Self Service Storage Facility
- 16) Transportation Services
- 17) Veterinary Service

E) **Conditional** Uses

- 1) Agricultural Services
- 2) Air Transportation
- 3) Business Center
- 4) Correctional Facilities
- 5) Day Care Center
- 6) Landfill
- 7) Marina
- 8) Silica Sand Motor Freight and Warehousing, as set forth in Division 55.
- 9) Outdoor Recreation Facility
- 10) Parking Facility
- 11) Personal Services
- 12) Planned Unit Development
- 13) Railroad Transportation
- 14) Scrap and Salvage Services
- 15) Fast Food Restaurant
- 16) Indoor Recreation

F) **Dimensional Requirements**

1) **Buildings**

Lot Area ..... 24,000 SF

Lot Width	
At Building Line .....	100 feet
Frontage on Existing Roads .....	100 feet
Front Yard Setback .....	30 feet
Side Yard Setbacks	
Interior .....	20 feet
Comer .....	30 feet
Rear Yard Setback .....	30 feet
Maximum Lot Coverage .....	80 percent
Maximum Height .....	45 feet (Unless Approved By CUP)

2) **Other Lot Requirements**

Lot With Septic System ..... Not Allowed

- G) **Off Street Parking Requirements:** Off street parking spaces shall be required for all permitted uses according to the following schedule. All parking areas shall conform to the design requirements of Division 60, Off Street Parking and Loading Regulations.

Parks and Areas	No requirement
Car Wash	1.5 spaces per bay, plus stacking as required in Section 60-100. Full service car washes also require 1 space per employee on the largest work shift
Communications Services	1 space per 400 square feet of gross floor area, plus 1 space per company vehicle stored on the site
Laundry Plants	See Section 60-090
Light Industrial	See Section 60-090
Non-production Industrial	See Section 60-090
Research and Testing	See Section 60-090
Trade Shop	1 space per employee on the largest work shift, plus 1 space per 200 square feet of usable floor area
Wholesalin	See Section 60-090

35-20 **General Industrial (1-2) District**

- A) **Purpose.** The I-2 General Industrial District is designed primarily for manufacturing, assembly, and fabrication activities including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts. The I-2 district is so structured as to permit the manufacturing, processing,

and compounding of semi-finished or finished products from raw material as well as from previously prepared material.

**B) Permitted Principal Uses**

- 1) Car Wash
- 2) Laundry Plants
- 3) Light Industrial
- 4) Non-production Industrial
- 5) Parks and Open Areas
- 6) Research and Testing
- 7) Trade Shop
- 8) Wholesaling

**C) Uses Requiring A Certificate of Compliance**

- 1) Agricultural Support
- 2) Broadcasting and Communication (Meeting Criteria)
- 3) Business Services
- 4) Commercial Kennel
- 5) Commercial Vehicle Repair
- 6) Interim Use
- 7) Local Transit
- 8) Motor Freight and Warehousing, except operations involving silica sand, which are subject to special provisions as set forth in Division 55.
- 9) Retail Trade [Only retail trade that is directly related to and incidental to a principal use on the site that is allowed as a permitted use in 35-020 B) above]
- 10) Self Service Storage Facility
- 11) Transportation Services
- 12) Veterinary Service

**D) Conditional Uses**

- 1) Air Transportation
- 2) Business Center
- 3) Correctional Facilities
- 4) Heavy Industrial
- 5) Landfill
- 6) Marina
- 7) Silica Sand Motor Freight and Warehousing, as set forth in Division 55.
- 8) Outdoor Recreation Facility
- 9) Parking Facility
- 10) Planned Unit Development
- 11) Railroad Transportation
- 12) Resource Extraction
- 13) Scrap and Salvage Services

**E) Dimensional Requirements**

**1) Lot Area per Principal Structure**

- Lot With Septic System ..... 5 acres
- Lot With Municipal Services ..... 1 acre

**2) Buildings**

- Non Residential Lot Area ..... 1 acre
- Lot Width
  - At Building Line ..... 150 feet
- Frontage on Existing Roads ..... 150 feet

- Front Yard Setback ..... 40 feet
- Side Yard Setbacks
  - Interior ..... 20 feet
  - Comer ..... 40 feet
- Rear Yard Setback ..... 40 feet

- Maximum Lot Coverage ..... 60 percent
- Maximum Height ..... 60 feet (Unless Approved By CUP)

**F) Off Street Parking Requirements:** Off street parking spaces shall be required for all permitted uses according to the following schedule. All parking areas shall conform to the design requirements of Division 60, Off Street Parking and Loading Regulations.

Parks and Areas	No requirement
Car Wash	1.5 spaces per bay, plus stacking as required in Section 60-100. Full service car washes also require 1 space per employee on the largest work shift
Heavy Industrial	See Section 60-090
Laundry Plants	See Section 60-090
Light Industrial	See Section 60-090
Non-production Industrial	See Section 60-090
Research and Testing	See Section 60-090
Trade Shop	1 space per employee on the largest work shift, plus 1 space per 200 square feet of usable floor area
Wholesaling	See Section 60-090

35-030 Industrial Zoning Districts Use Classification Chart:

<b>Industrial Use Classifications</b>	<b>NP</b> Not Permitted <b>P</b> Permitted <b>C</b> Conditional Use Permit		
	<i>Zoning District</i>		<i>Additional Use</i>
	<i>Use</i>	<b>1-1</b>	<b>1-2</b>
<b>Agricultural</b>			
Agricultural Services	C	NP	
Agricultural Support		CC	
<b><u>Institutional and Public Uses</u></b>			
Correctional Facilities	C	C	
Marina			
Outdoor Recreation Facility	C	C	
Parks and Open Areas	P	P	
<b>Commercial Uses</b>			
Automobile Maintenance Service	CC	NP	
Automobile Parts/Supply	CC	NP	
Broadcasting and Communication	CC/C	CC/C	55-240
Business Center	C	C	
Business Services			
Car Wash	P	P	
Commercial Vehicle Repair	CC	CC	
Commercial Kennel			
Communications Services	P	P	
Day Care Center	C	NP	
Offices	CC	NP	
Personal Services	C	NP	
Repair and Maintenance Shop	CC	NP	
Retail Use Incidental to the Permitted Uses		CC	
Sales and Storage Lots	CC CC		
Self Service Storage Facility		CC	
Transportation Services			
Veterinary Service		CC	
<b>Industrial Uses</b>			
Heavy Industrial	NP	P	
Landfill	C	C	55-220
Laundry Plants	P	P	
Light Industrial	P	P	
Motor Freight and Warehousing	CC	CC	
Non-production Industrial	P	P	
Railroad Transportation	C	C	
Research and Testing	P	P	
Resource Extraction	NP	C	90-060
Scrap and Salvage Services	C		
Trade Shop	P	P	
Wholesaling	P	P	

<b>Industrial Use Classifications</b>		NP	Not Permitted	
		P	Permitted	
		C	Conditional Use Permit	
<i>Use</i>		<i>Zoning District</i>		<i>Additional Use</i>
		<b>1-1</b>	<b>1-2</b>	<i>Regulations</i>
<u>Special Uses</u>				
Air Transportation		<b>C</b>	<b>C</b>	
Interim Use		<b>CC</b>	<b>CC</b>	55-115
Local Transit				
Parking Facility		<b>C</b>	<b>C</b>	
Planned Unit Development		<b>C</b>	<b>C</b>	47-010



## **DIVISION 55: SPECIAL PROVISIONS**

55-010 **Purpose.** The Special Provisions set forth herein shall supplement or modify the regulations set forth in Article II, the Base District Regulations. The standards established in this section are designed to encourage a high quality of development by providing assurance that neighboring land uses will be compatible. The standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to the environment. These Special Provisions are organized so that standards that relate to all zoning districts are listed first. Standards are then listed that relate to Agricultural Districts, Residential Districts, and then Commercial Districts.

### *STANDARDS THAT RELATE TO ALL ZONING DISTRICTS*

#### 55-20 **Lots and Yards.**

- A) **More Than One Building on a Lot.** Except in the R-1 Zoning District, more than one building housing a principal use may be erected on a single lot provided that yard and other requirements of these regulations shall be met for each building as though it were on an individual lot.
- B) **Through Lots.** On through lots or lots with double frontage, the required front yard shall be provided on each street. On corner lots, the front yard shall be considered that side of the principal structure to which the main entrance faces a public street.
- C) **Non-Conforming Lots of Record.** An existing vacant lot having less than the minimum frontage, depth or area required by the provisions of this ordinance may be developed for all uses in the appropriate zone, provided:
  - 1) All other provisions of this ordinance are satisfied.
  - 2) Such lots are serviced by public water supply and public sanitary sewer disposal facilities or alternatively meet the requirements of the authority having jurisdiction for private disposal.
  - 3) Such lots have a minimum lot frontage of 25 feet on a road or street.
- D) **Subdivision of Lots.** Any lot or parcel of land subdivided by any means after December 31, 1999 for the purposes of erecting a structure must be approved as required by Chapter 12 of the City of Red Wing Code, Subdivision Regulations.
- E) **No Reduction of the Required Yard or Open Space.** No yard shall be reduced in area or dimension so as to make it less than the minimum required by the zoning district regulations, and if the existing yard is less than the minimum required, it shall not be further reduced.

F) **Yard Encroachments.** Every part of every required yard shall be open and unobstructed from 30 inches above the general ground level of the graded lot upward to the sky except as hereinafter provided or as otherwise permitted in these regulations:

- 1) Roof eaves may project into a required side yard not more than 3 feet where the required side yard.
- 2) Sills, belt courses, cornices, vertical solar screen and other ornamental features may project not over one foot onto the required yard.
- 3) Fire escapes, stairways and balconies whether unroofed, open and unenclosed or enclosed that extend above the ground floor of the building shall not intrude into required yards.
- 4) Solar collectors which are part of the principal building may extend into a required rear yard for a distance not to exceed 10 feet, and solar collectors may extend into a required side yard, provided that they have a minimum 7 foot clearance from grad, and provided further that such extension shall be at least 5 feet distance from the adjacent lot line and shall not extend more than 3 feet from the building.
- 5) Off-street parking, flues, leaders, open terraces, steps, chimneys, flag poles, sidewalks, essential services, exposed ramps (wheelchair), uncovered porches, stoops, or similar features provided they do not extend above the height of the ground floor level of the principal structure or a distance less than 3 feet from any lot line nor less than 1 foot from any existing or proposed driveway.
- 6) Trees, shrubs, plants, yard lights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

G) **Flag Lots.** Red Wing has varied terrain, severe slopes and erodible soils and there are instances when lot shapes may be created with more flexibility in order to adapt to the above conditions. In these instances, flag lots may be created as part of the subdivision process. For the purposes of these regulations, flag lots shall meet the following guidelines:

- 1) Limited frontage but not less than thirty (30) feet on a publicly owned ROW.
- 2) An access drive, paved and constructed to a strength capable of supporting emergency vehicles (fire trucks) to within fifty (50) feet of the structure. Said access drive shall be as straight and level as possible. Access drives fronting onto streets without all planned improvements which may include but not be limited to paved street, curb and gutter, city sewer and water services, and sidewalks, are

not required to have paved access driveways until two years following the completion of all planned improvements as certified by the City Engineer.

- 3) Said access drive shall conform to the requirements of Section 55-080 of these regulations and shall not be on a parcel of land less than thirty (30) feet wide. This access shall be maintained as a landscaped yard similar to the adjacent properties.
- 4) Said lot shall have a lot width at the building setback line of a least sixty (60) feet.
- 5) Said lot shall meet all other area, size, and setback requirements of the underlying zoning district regulations in which it is located.
- 6) Where two flag lots are located adjacent to each other, an access driveway may be shared by both property owners. Documentation of cross easements providing for both property owners to share a common driveway must be presented to the Zoning Administrator prior to approval of any building permits for flag lots with common driveways. In these instances, frontage on a public ROW may be reduced to twenty (20) feet for each flag lot so that there is a total of forty (40) feet of frontage on a public ROW for both flag lots.

55-30 **Setbacks.** Building setbacks are provided for in the District Regulations for each zoning district. The following provisions provide special guidelines related to building setbacks.

- A) **Vacant Buildable Lots.** Where a vacant buildable lot is adjacent to structures existing as of December 31, 1999 having a substandard setback from that required by the District Regulations of the underlying zoning district, the Zoning Administrator shall determine a reasonable, average, calculated yard setback to implement these requirements.
- B) **Setback from Steep Slopes.** No structure shall be setback closer than thirty (30) feet from the Top of a Bluff. The Top of a Bluff means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent or if there is disagreement in the breaking point, the top of the bluff shall be the highest end of the highest 50-foot segment, as measured on the ground and based on a certified survey, indicating an average slope exceeding twenty-five (25) percent.
- C) **Shopping Centers, Multiple-Use Buildings, Planned Unit Developments.** Subject regulations contained in the Building Code and other applicable regulations, side and rear setback requirements may be waived provided party walls are used and the adjacent buildings are constructed as an integral unit and are part of an approved Conditional Use Permit.

D) **Private Roads.** All setback requirements of this Section shall also be applicable to private roads and easement access right-of-way line.

E) **Corner Visibility.** On a corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one half (2 1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and line joining the points along said street lines fifty (50) feet from the point of intersection. See illustration as follows:

55-040 **Height Exceptions.** The height limitations listed in the District Regulations of each underlying zoning district shall not apply to belfries, cupolas, antennas, water tanks, elevator bulkheads, chimneys, spires, flagpoles or other appurtenances usually required to be placed above the rooflevel and not intended for human occupancy.

55-50 **Accessory Uses and Structures.**

A) **Limitation on Establishment.** No accessory structure shall be constructed or established on any lot prior to the time of the substantial completion of construction of the principal structure to which it is accessory.

B) **Accessory Building Number Limits.** In any residential district, except the R-2 District, in addition to the principal building, a detached garage or attached garage and one additional accessory building may be placed on a lot. In the R-2 District, in addition to the principal building, only one accessory building may be placed on the lot. No accessory building shall be built on a lot without a principal building.

C) **Accessory Building Placement on Lot and Height Limit.** Limitations on the size, setback, height, and distance to a principal structure are provided for in the District Regulations for the underlying zoning district to which the property is located, with the following exceptions: that in all districts unattached accessory buildings with a total size of 120 square feet or less may be located five (5) feet or more from a side or rear property line and that in no case shall the height of a detached accessory building located in a residential district exceed the height of the property's principal structure.

D) **Accessory Building Design and Materials.** All exterior, exposed walls of any accessory building or structure located within a residential district shall be constructed of similar material used on the principal building or materials that are compatible with the principal building in terms of color and texture as determined by the zoning administrator. These materials should be durable all-weather materials; in no instance, shall the exterior exposed walls or roof of an accessory building or structure be constructed of fabric, nylon, canvas, plastic, or a similar material. In no instance, shall an accessory structure constructed in a residential district after January 1, 2001, have any metal surface or siding unless it is coated or anodized with a nonreflective, glare-free finish.

A Temporary Recreational Shelter that is 120 Square feet or less in size shall be exempt from the design and material regulations listed above in this Division but may not be erected on a property for more than six months in a calendar year and shall not be used to cover or store personal property or equipment and shall not be occupied or used for living, sleeping, or housekeeping purposes, for more than seven (7) consecutive days. Greenhouses are exempt from the accessory building design and material regulations above.

- E) **Attached Accessory Buildings.** All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
- F) **Accessory Apartments.** Accessory apartments are permitted in existing one family detached dwellings if the following requirements are met:
  - 1) The dwelling is owner occupied.
  - 2) One paved on-site parking stall for the accessory apartment is provided.
  - 3) The unit shall meet one of the following criteria:
    - a) It shall not exceed 600 square feet in size; or
    - b) It shall not have more than one bedroom.
  - 4) Entrances for an accessory apartment in dwellings constructed after January 1, 2000 shall not be placed on the building front; no new entrances shall be established along the building front of an existing dwelling to serve an accessory apartment.
  - 5) The total number of adults that may occupy an accessory apartment is two.
  - 5) An accessory apartment may not be established where a home occupation is already located on the property except through a Conditional Use Permit.
- G) **Accessory Building Upper Story Square Footage.** The upper story useable square footage of any residential detached accessory building shall be limited to 65% of the gross square footage of the structure's main level, unless approved with a Conditional Use Permit. The useable square footage shall be determined by calculating the portion of the upper story that has a height of 4' or greater, as measured from the floor of the upper story to the ceiling or bottom of the roof truss.

#### 55-60 Accessory Parking and Storage

- A) In all districts, all personal property shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for construction and landscaping materials and equipment currently (within a period of twelve months) being used on the premises.

- B) No person shall park or store any motor vehicle, vehicular driven sports vehicle, boat, boat trailer, utility trailer, vehicular drawn camper, or any like business or recreational vehicle in the required front yard of any residential district, except upon the customary driveway emplaced to provide access to a garage attached or adjacent to the principal building, carport, or a rear parking area. Any of the herein vehicles parked within the front yard, on a driveway shall be parked in such a manner as to maintain all wheels and trailer tongues on the driveway surface.
- C) The Zoning Administrator may waive the prohibition of parking licensed vehicles in any front yard provided that a Certificate of Compliance is filed and issued to the applicant and the following findings are made:
- 1) The applicant demonstrates that no other reasonable parking alternative exists.
  - 2) Strict compliance would cause undue hardship because of circumstances unique to the individual property under consideration.
  - 3) Applicants who meet these requirements are permitted to park a vehicle in the front yard only during the winter period of October 1, to March 31 of each year.
- D) Boats and unoccupied trailers, less than thirty two (32) feet in length, are permissible if stored in the side or rear yard no closer than two (2) feet distance from any property line.
- E) Recreational vehicles may be parked or stored in the side or rear yard of a residential or agricultural district provided the following conditions are met:
- 1) No more than one (1) recreational vehicle may be parked or stored outside in the side or rear yard of a residential lot. Additional recreational vehicles may be kept within an enclosed structure which otherwise conforms to the zoning requirements of the district.
  - 2) Recreational vehicles must be maintained in a clean, well-kept, operable condition.
  - 3) Recreational vehicles shall be mobile and shall not be permanently affixed in the ground in a manner that would prevent removal.
  - 4) Recreational vehicles may be permitted in the side or rear yard if parked or stored at least two (2) feet distance from any property line. The parking or storage of recreational vehicles on the rear or side yard, as permitted herein, may be on surfaced or unsurfaced areas.
  - 5) Recreational vehicles may be stored on a lot without regard to the location on the lot for the sole and express purpose of loading and unloading for a period not to exceed twenty-four (24) hours.

- 6) Unmounted slide-in pickup campers must be stored no higher than twenty (20) inches above the ground and must be securely supported at least at four (4) comers by solid support blocks or support mechanisms.
  - 7) Recreational vehicles may not be occupied or used for living, sleeping, or housekeeping purposes, for more than seven (7) consecutive days.
  - 8) Except for routine maintenance or during emergency conditions when power supply is disrupted, the operation of a recreational vehicle power generator plant shall not be permitted in residential districts. Routine maintenance periods shall not exceed sixty (60) minutes per month.
- F) In all districts, all waste, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds.

**55-70 Fences, Walls.**

- A) All fences or walls along property lines shall require a Certificate of Compliance issued from the Zoning Administrator prior to construction or installation.
- B) Fences or Walls may be permitted in any required yard, or along the edge of any required yard provided no such fence or wall shall exceed a height of four feet along the sides or front edge of any front yard and no such fence or wall shall exceed a height of six feet in any other required yard.
- C) No fence or wall shall be located closer than one (1) foot from any lot line.
- D) That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.
- E) Fences in excess of six (6) feet above ground grade shall be prohibited unless the abutting neighbor consents to a higher fence and the applicant is granted a Conditional Use Permit (except fences located in Commercial or Industrial Districts may be up to eight (8) feet, which includes any extensions such as security arm for barbed wire. Fences over eight (8) feet in height in Commercial or Industrial Districts shall require a Conditional Use Permit.
- F) Where the property line is not clearly defined, a survey may be required by the Zoning Administrator to establish the property line.
- G) Electric fences may be permitted to be placed around a private garden on a property located in a Residential District, for the purpose of keeping deer out, subject to the following:

- 1) Any person desiring to construct an electric fence shall make application, on a form to be provided by the City, for a fence permit. Said application shall be accompanied by a fee as determined by the City and proof that the property, on which the electric fence is proposed to be constructed (hereinafter "Property"), is covered by a personal comprehensive liability insurance policy, that does not contain an exclusion of coverage for damage or injury caused by an electric fence, against claims for damage to persons or property arising on the Property in limits of not less than \$300,000.00 in respect to bodily injury or death to more than one person in any one accident, and property damage in all instances in an amount not less than \$100,000.00.
- 2) No electric fence shall be constructed or activated on any Property within the City unless a fence permit has been obtained therefor from the City. No permit shall be issued until the applicant signs the accompanying hold harmless agreement, which shall be a condition of such permit. No electric fence shall be constructed on any Property within the City that is capable of transmitting more than 110 volts. Any fence constructed and maintained pursuant to this Section shall be interruptible, pulsating, and UL listed.
- 3) No person shall activate an electric fence until such time as such electric fence has been inspected by the Zoning Administrator and a Certificate of Compliance with this Subdivision has been issued.
- 4) No electric fences shall be permitted within ten (10) feet of any public rights-of-way, including sidewalks.
- 5) Electric fences shall be placed at least one (1) foot from all property lines. Where the property line is not clearly defined, a Certificate of Survey may be required by the Zoning Administrator to establish the property line.
- 6) A sign, at least 12" x 12" in size, shall be conspicuously posted on a stake, not more than one foot from the fence, at intervals of not more than 100 feet apart. Said sign shall read "Warning: Electric Fence in Operation."
- 7) Violation. Any person who violates the provisions of this Section 55-070 (G), and is convicted thereof, shall, in addition to any punishment prescribed by this Chapter or imposed by law, have his fence permit revoked and be required to remove such electric fence. In the event he or she does not remove such electric fence, the City shall enter the Property and remove the same at the Property owner's expense.

#### 55-80 Access **Drives and Private Drives**

- A) In all districts access drives shall not be placed closer than five (5) feet to any side or rear lot line except that in a R-1 District access drives may be placed within three (3) feet and within a R-2 District access drives may be placed with no setback to any side or rear lot line. In all districts, access drives shall not be placed closer than five (5) feet to any principal structure except that in the R-1 and R-2 Districts, access



drives may be placed within three (3) feet of a single or two-family residential structure.

- B) Access drives onto State, County, or City roads shall require written approval from the State, County or City Engineer. This permit shall be acquired prior to the issuance of any building permits. The Engineer shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- C) Access drives to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. (See "Construction on Slopes", Section 55-090 of this Section). Access Drives on Steep Slopes shall meet the following requirements:
  - 1) All proposed access drives with a proposed slope of more than 10 percent shall require a Certificate of Compliance Permit and follow the procedures and submission requirements as listed in Section 75-010 of this Ordinance.
  - 2) Proposed access drives with proposed slopes of more than 10 percent shall be referred to the Public Safety Department who shall prepare a written review of the proposed access drive with regard to accessibility for emergency vehicles. Lack of access by emergency vehicles shall be cause to deny a Certificate of Compliance for a driveway permit.
  - 3) The Zoning Administrator shall refer the application to the City Engineer and the Building Official for their review and recommendation concerning the proposed accesses drive's compliance with accepted City access drive standards.
  - 4) No principal structure may be constructed where the access drive is longer than two (2) times the length of a straight line from the access drive's point of origin to the proposed building. No access drive may disturb any part of an area where the slope is greater than 25 percent.

**D) Driveway/Accessway Standards.**

	<i>Single-Family Detached</i>	<i>Commercial/ Multi-Family</i>
1) Slopes	10 feet vertical rise in 100 horizontal feet	8 feet vertical rise in 100 horizontal feet
2) Width	10 feet driveway base, vegetation cleared to 8 feet on each side of driveway centerline	10 feet driveway base or as approved by the City Engineer
3) Pavement	Capable of supporting emergency fire or other heavy strength vehicles	

- E) All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway in order to receive a building permit. In addition to the required, direct physical access along the frontage of the lot or parcel to the approved public or private roadway, a lot or parcel may have private easement access drives to the lot over adjacent lots or parcels.
- F) Private roads may be utilized in Planned Unit Developments as provided below:
- 1) Ownership and maintenance of said roads shall be the responsibility of the property owner or a Homeowners Association.
  - 2) Said road design shall meet or exceed the City standards for private roads including travel by emergency vehicles.
  - 3) Said road right-of-way shall be platted as an outlot in the final plat, and shall meet or exceed the right-of-way requirements for an equivalent public road in the City.
  - 4) The Homeowners Association shall establish a formal, written procedure for petitioning City take-over of said road. The Association shall provide written evidence that at least ninety percent (90%) of the voting members of the Association approved the transfer of road responsibilities to the City.
  - 5) The City and the Homeowners Association shall establish an assessment procedure for all abutting, benefiting land in case public dedication and/or upgrading of the previously existing private road is officially petitioned for by the Homeowners Association.
  - 6) An easement is granted to the City by the Association, which allows the City to use the road and road right-of-way for any reasonable public purpose including, but not limited to travel by emergency vehicles and installation of public utilities and conveniences.
- G) Private roads shall not connect two (2) or more existing or proposed public roads or road rights-of-way.
- H) Private roadway systems within Cluster Developments or Planned Unit Developments shall provide access to the public, City road system only and shall not connect with private roads of other developments without the formal written approval of each Homeowners Association and the Council.
- I) Before final approval is given for a private road by the Council the Homeowners Association shall grant the City an option to acquire the full right-of-way otherwise required by the Zoning and Subdivision Chapters for public road purposes along the

entire length of such private road, at such time as the Council in its sole discretion, determines that it is in the public interest to acquire the road without any cost to the City.

#### 55-90 **Construction on Steep Slopes**

- A) Construction of a structure on a slope between 13% to 18% shall require a Certificate of Compliance for a Grading Permit and Storm Water Management Plan as set forth in Division 47, Storm Water Management Regulations. This shall be required even if the grading project disturbs less than 50 cubic yards of earthen material and less than one (1) acre of land area is disturbed. When any land disturbance activity disturbs more than five acres, a Conditional Use Permit shall be Required for the Grading Permit and Storm Water Management Plan. Said Grading Permit shall address erosion and sediment control as required by the City Engineer.
- B) Construction of a structure on a slope between 18% and 25% shall require a Conditional Use Permit for a Grading Permit and Storm Water Management Plan as set forth in Division 47, Storm Water Management Regulations. This shall be required even if the grading project disturbs less than 50 cubic yards of earthen material and less than five (5) acres of land area is disturbed. Said Grading Permit shall address erosion and sediment control as required by the City Engineer.
- C) Construction of a structure on a slope in excess of 25% shall not be permitted.
- D) Building setbacks for structures constructed on the top of bluffs shall meet the requirements as set forth in Section 55-030 of this Ordinance.

#### 55-100 **Performance Standards**

- A) **Purpose.** The regulations of this section are designed to protect all uses in zones, which allow housing, by right from certain objectionable off-site impacts associated with nonresidential uses. These impacts include noise, vibration, odors, glare, and others. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards and nuisances. The use of objective standards provides a measurable means of determining off-site impacts. This method protects specific industries or firms from exclusion in a zone based solely on the general characteristics of industries in the past.
- B) **Relationship to Other Regulations.** The off-site impact standards are in addition to all other regulations of the City Code. The standards do not replace or supersede regulations of the Minnesota Pollution Control Agency, relevant county regulations, or standards such as the Uniform Fire Code.
- C) **Measurements.**

- I) Measurements for compliance with these standards shall be made from the property line or within the property of the affected site. Measurements may be made at ground level or at habitable levels of buildings.
- 2) If the city does not have the equipment or expertise to measure and evaluate a specific complaint, it may request assistance from another agency or may contract with an independent expert to perform such measurements. The City may accept measurements made by an independent expert hired by the controller or operator of the off-site impact source. If the City contracts to have measurements made and no violation is found, the city will bear the expense, if any, of the measurements. If a violation is found, City expenses will be charged to the violator. Nonpayment of the costs is violation of the Code, and enforced through the provisions Division 85 Enforcement and Penalties of this Code.
- D) **Non-Conforming Uses by Reason of Off-Site Impact Standards.** Any use existing on January 1, 2000, or any subsequent amendment to this Code and permitted by right that does not meet the requirements of one or more of the off-site impact standards established explicitly in this section or by reference shall be subject to the nonconforming use provisions of Article IV, Division 70
- E) **Exemptions.** The off-site impact standards do not apply to machinery, equipment, and facilities, which were at the site and in compliance with existing regulations at the effective date of these regulations. Any new or additional machinery, equipment, or facilities must comply with the standards of this chapter. Documentation is the responsibility of the proprietor of the use if there is any question about when the equipment was brought to the site.
- F) **Bulk Storage (Liquid).** All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, nuclear fuels, reactor elements, and similar liquids shall require a conditional use permit in order that the City Council may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare). All existing, above-ground liquid storage tanks having a capacity in excess of ten thousand (10,000) gallons shall be treated as if they have an existing conditional use permit and shall meet all applicable Federal and State standards and regulations. For expansion of existing developments and new developments the City Council may require the development of diking around said tanks. Diking shall be suitably sealed and shall hold a leakage capacity equal to one hundred fifteen percent (115%) of the tank capacity. The City Council may require pressure testing of storage tanks on a periodic basis. All developments shall meet Federal and State regulations that govern the construction and operation of such Bulk Storage facilities.
- G) **Noise.** It shall be unlawful to make, continue, or cause to be made or continued, any noise in excess of the noise levels set forth unless such noise be reasonably necessary to the preservation of life, health, safety, or property.

I) Measurement of Noise. Any activity not expressly exempted by this section which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property (or if a condominium or apartment house within any adjoining development) by more than six (6) decibels above the ambient noise levels as designated in the following table at the time and place and for the duration then mentioned, shall be deemed to be a violation of the Ordinance, but any enumeration herein shall not be deemed to be exclusive.

Duration of Sound	6:00 PM - 10:00 PM		
	7:00 AM - 6:00 PM (all districts)	6:00 PM - 7:00 AM (all other districts)	and 10:00 PM - 7:00 AM (residential districts)
Less than 10 min.	75 db	70 db	60 db
Between 10 min. and 2 hours	70 db	60 db	50 db
In excess of 2 hrs.	60 db	50 db	40 db

- 2) In determining whether a particular sound exceeds the maximum permissible sound level in the above table:
  - a) Sounds in excess of the residential district limitations as measured in residential district are in violation of this section whether the sound originates in a residential district or any other district;
  - b) During all hours of Sunday and State and Federal holidays, the maximum allowable decibel levels for residential districts are set as forth in Column III of the table.

3) Sounds emanating from the operation of motor vehicles on a public highway, aircraft, outdoor implements such as power lawn mowers, snow blowers, power hedge clippers, and power saws, and pile drivers or jackhammers and other construction equipment are exempt from the provisions of this section. Sounds emanating from lawful and proper activities at school grounds, playgrounds, parks, or places wherein athletic contests take place are also exempt from the provisions of this Ordinance.

H) Explosives. No activities involving the storage, use or manufacture of materials or products, which could decompose by detonation, shall be permitted except such as are specifically permitted by the Council in designated Industrial Districts. Such materials shall include, but not be confined to, all primary explosives, such as lead azide and mercury fulminate, all high explosives and boosters, such as TNT, tetryl and nitrates propellants and components thereof such as nitrocellulose, black powder and nitroglycerin, and blasting explosives such as dynamite.

I) Radiation and Electrical Interference. No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical

disturbance (except from domestic household appliances) adversely affecting the operation at any point of any equipment including, but not limited to, radio and television reception other than that of the creator of the disturbance.

- J) Vibration.** Continuous, frequent, or repetitive vibrations, which exceed 0.002g peak, may not be produced. In general, this means that a person of normal sensitivities should not be able to feel any vibrations.
- 1) **Exceptions.** Vibrations from temporary construction and vehicles which leave the site (such as trucks, trains, airplanes, and helicopters) are exempt. Vibrations lasting less than 5 minutes per day are also exempt. Vibrations from primarily on-site vehicles and equipment are not exempt.
  - 2) **Measurement.** Seismic or electronic vibration measuring equipment may be used for measurements when there are doubts about the level of vibration.
- K) Odor.** Continuous, frequent, or repetitive odors may not be produced which exceed scentometer No. 0. The odor threshold is the point at which an odor may just be detected. The scentometer reading is based on the number of clean air dilutions required to reduce the odorous air to the threshold level. Scentometer No. 0 is 1 to 2 dilutions of clean air.
- 1) **Exception.** An odor detected for less than 15 minutes per day is exempt.
- L) Particulates.** No solid or liquid particles shall be emitted at any point in concentrations to exceed 0.1 grains per cubic feet of conveying gas in any residential district and 0.3 grains per cubic feet of conveying gas in any other district. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit, and fifty percent (50%) excess air.
- M) Lighting, Lighting Fixtures and Glare.** In all districts, any lighting used to illuminate an off-street parking area, or other structure or area, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of light shall not be directed into any adjoining property. The source of light shall be hooded or controlled so as not to light adjacent property. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way. No light or combination of lights which cast light on a public street shall exceed one (1) foot candle meter reading as measured from the centerline of said street nor shall any light or combination of lights which cast light on residential property exceed .04 foot candles.

- 1) Lighting standards shall not exceed twenty-five (25) feet or the height of the principal building on the lot; whichever is less, without a Conditional Use Permit.
- 2) All lighting in Non-Residential Districts used for the external illumination of buildings, so as to feature said building, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
- 3) All illumination of signs and any other outdoor features shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

### 55-110 **Building Moving**

- A) **Purpose.** No building or structure, which has been wholly or partially erected, shall be moved within the City corporate limits unless a permit to move the building or structure has first been obtained.
- B) **Application Requirements.** The applicant for a certificate of compliance permit to move a building or structure outside of the City limits shall meet all of the requirements and provide all submission materials as listed in 95-030. In addition to the submission requirements for a certificate of compliance permit as required by 95-030 of this ordinance, the applicant shall also meet the following requirements and provide additional submission materials:
  - 1) A designated route through the City of Red Wing and any stops which the structure must make.
  - 2) The applicant shall obtain a Moving Review Form from the Zoning Administrator and shall have said form filled out and signed by the following authorities and submitted with the certificate of compliance permit application.
    - a) The electrical and natural gas utilities serving the existing and proposed sites.
    - b) The telephone and cable utilities serving the existing and proposed sites.
    - c) The City Engineer; City Public Works Department; Public Safety Department; Building Official; and City Forester.
    - d) The County Public Works Department and the Minnesota Department of Transportation if the designated route involves a State or County roadway.

**Application Requirements.** The applicant for a conditional use permit to move a building or structure to a location inside the City of Red Wing shall meet all requirements and provide all submission materials as listed in Section 95-040 of this ordinance. In addition to the submission requirements for a conditional use permit

as required by Section 95-040 of this ordinance, the applicant shall also meet the following requirements and provide the following additional submission materials:

- 1) A site plan of both the existing and proposed sites including an illustration of how and where the structure will be located during and after the moving operation.
- 2) A designated route and any stops which the structure must make.
- 3) The applicant shall obtain a Building Moving form supplied by the Zoning Administrator and shall have said form filled out and signed by the following authorities and submitted with the conditional use permit application.
  - a) The electrical and natural gas utilities serving the existing and proposed sites.
  - b) The telephone and cable utilities serving the existing and proposed sites.
  - c) The City Engineer, City Public Works Department; Public Safety Department; Building Official; and City Forester.
  - d) The County Public Works Department and the Minnesota Department of Transportation if the designated route involves a State or County roadway.
- C) The Building Official shall prepare a report for the applicant on the Building Code requirements for the house in order for it to comply with the building and housing codes of the City. Any such building or structure proposed to be moved shall meet the requirements of the City Building and Housing Codes as required by the Building Official. All life safety requirements shall be met. In addition, the Council shall review heights, widths, proportions, use of materials, architectural style, and age of the proposed structure to determine compatibility with other adjacent structures.
- D) All moving operations of the structure on public property or right-of-way shall be performed only from 10:00 P.M. to 6:00 A.M., unless otherwise specified in the approval of the conditional use permit.
- E) No structure shall be raised on moving blocks more than seven (7) calendar days prior to or fourteen (14) calendar days after completion of an approved move unless specifically allowed otherwise in the approval of the conditional use permit. In no case shall an exposed vacant basement be left unfenced by the applicant. A minimum four foot high safety fence shall be placed around the entire perimeter of an exposed basement.
- F) All exposed basements shall be filled in or backfilled with clean granular fill within seven (7) calendar days after removal of the house from the lot.



- G) All excavations and basements at the proposed site of the house shall be filled in or backfilled within twenty-one (21) calendar days after completion of the move, unless the Building Official grants an extension of time because of frost conditions, at the Building Official's discretion.
- H) The applicant shall provide a landscape plan as part of the submission requirements for the conditional use permit. All fine grading, seeding and sodding in required yards shall be completed prior to the issuance of a certificate of occupancy by the Building Official, unless the Building Official grants an extension of time because of frost conditions, at the Building Official's discretion.
- I) The applicant shall notify the Police Department at least seventy-two (72) hours prior to the move. The Police Department shall post temporary no parking signs along both sides of the entire moving route at least twenty-four (24) hours in advance of the move.
- J) The applicant shall enter into a performance agreement to insure performance and cover any damages that may be caused by the building-moving project. This performance agreement may provide for a performance bond, letter of credit, or cash deposit that is acceptable to the City Attorney.
- K) Movement to a site outside the City corporate limits.
  - 1) No building or structure shall be moved from a site outside or inside the City limits through the City to a site outside the City limits without a certificate of compliance permit.
  - 2) Certificate of Compliance Permits for moving projects to sites outside of the corporate limits shall require the additional submission requirements and meet all requirements as listed above in Section 55-110 (B, 2-3; D),E),F), and I).
- L) Farm buildings, pre-built or panelized housing, mobile homes, construction shed, buildings moved from one lot to another lot without use of public right-of-way, or temporary structures to be located on a site for 12 months or less shall be exempt from the requirement of a conditional use permit. Buildings of fourteen (14) feet or less in width to be moved on public right-of-way shall be exempt from the requirement of a conditional use permit.
- M) Building movers shall meet all State of Minnesota requirements.

55-115 **Interim** Uses. This section allows short-term and minor deviations from the requirements of the zoning code for uses which are truly temporary in nature, will not adversely impact the surrounding area and land uses, and which can be terminated and removed immediately. Temporary uses have no inherent rights within the zone in which they locate.

A) **Interim Activities Permitted.** The following temporary uses of land are permitted in any zoning district subject to the specific regulations and time limits, which follow, and to other applicable regulations of the district in which the use is permitted.

- 1) Contractors office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project are permitted only during the duration of such project and shall be located on the same property or on property in a district in which the use being constructed is allowed.
- 2) Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing or other development to continue only until the sale or lease of all dwelling units in the development.
- 3) Garage sales. Garage sales and other sales for items from the site may occur for no more than three consecutive days on two different occasions during a calendar year.
- 4) Natural disasters and emergencies. Temporary activities and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency.
- 5) Temporary Recreational Shelters over 120 square feet in size shall be allowed on private property for no more than five consecutive days in all zoning districts and on no more than two different occasions during a calendar year in residential zoning districts. Temporary Recreational Shelters over 120 square feet in size are subject to all primary structure setbacks required in the zoning district in which they are located.

B) **Temporary Activities Permitted as a Certificate of Compliance.** The following uses of land are permitted as a certificate of compliance in the specific zoning districts listed, subject to the restrictions in this section and the other applicable restrictions in the district or districts in which the temporary use is permitted as a certificate of compliance.

- 1) In the A, AC, AR, F1, F2, I-1, and I-2 districts. An outdoor carnival or circus subject to the following restrictions:
  - a) Circuses and carnivals may be operated for a period not to exceed 14 calendar days in one location per year in A, AC, AR, F-1, F-2, I-1, and I-2 districts provided a Certificate of Compliance is approved by the Council. In all other districts a Conditional Use Permit and a public hearing shall be required as per Section 85-020 of this Chapter.

- b) No permit shall be issued for a period exceeding fourteen (14) calendar days in one location per year exclusive of a reasonable period during which the amusement rides, concessions, etc. are erected and removed from the site.
  - c) The applicant shall prepare a site plan which clearly illustrates the following: parking for customers and employees, public restrooms and drinking water, fire hydrants, electrical service meters and surface lines, fuel storage, employee housing, light standards, tents and rides.
  - d) The applicant shall provide certificates of insurance which include a clause, which holds the City harmless regarding the safety of the applicant's equipment.
  - e) When the proposed site is a City Park, the applicant shall also include a water deposit and a performance bond. Upon completion of the circus or carnival operation, the City Clerk shall compile bills accumulated for water usage and park damages and collect such sums from the applicant/operator or utilize the proceeds of the bond sale.
  - f) No carnival or circus shall be located on a parcel of land less than five (5) acres in size.
  - g) Lighting, amusement activities, noise, or increased traffic associated with a carnival or circus shall not unreasonably disturb surrounding residential neighborhoods.
  - h) The applicant shall provide a reasonable plan for traffic control approved by the Traffic Engineer and adequate evidence that said plan will be implemented.
  - i) The carnival or circus shall limit its hours of operation to a daily period extending from 9:00 a.m. to 10:00 p.m.
- 2) Interim Uses shall be allowed in Residential Districts with a certificate of compliance permit as follows:
- a) Mobile home use during construction. Mobile homes may be used for a residence while a permanent residence is being constructed. Mobile homes may remain on the site until the completion of the construction, or for not more than 2 years, whichever time period is less. The mobile home must be removed within one month of issuance of certificate of occupancy.
  - b) Residential sales offices. Sales offices for major subdivisions or planned unit developments are allowed at the development site until all lots or houses are sold. Use of the sales office for sites outside of the project is prohibited.

- c) Seasonal outdoor sales. Seasonal outdoor sales of plants and produce are allowed twice a year for up to five consecutive weeks each time.
  - d) Show of model homes. The viewing of model homes within a subdivision for a fee is allowed for a period not to exceed one month. Only one showing is allowed per phase of a subdivision.
  - e) Staging areas for public utility installation. Staging areas for public utility improvement projects such as the installation of sewer pipes, water pipes, and road improvements, are allowed without a certificate of compliance.
  - f) Temporary storage container/portable storage unit (POD). One (1) POD may be located on a property for a maximum of fourteen (14) consecutive days, including the days of delivery and removal. An extension may be granted to the Applicant by the Zoning Administrator, subject to conditions, for a reasonable additional time period in an amount not to exceed thirty (30) days. A residential property is limited to a maximum of four (4) POD per calendar year, and a minimum of fifteen (15) days shall elapse between the removal of a POD and the placement of a new POD. POD shall only be placed on the property's driveway or in an off-street parking area.
- 3) Interim Uses shall be allowed with a certificate of compliance permit in the Commercial, Industrial, and Mixed Use zoning districts, as follows:
- a) Parking lot sales. Parking lot sales in zones where outdoor display is not otherwise allowed, are allowed for up to two consecutive weeks at any one time.
  - b) Seasonal outdoor sales. Seasonal outdoor sales are allowed for up to one month at any one time.
  - c) Warehouse sales. In industrial zones, retail warehouse sales are allowed for up to one week at any one time.
  - d) Natural disasters and emergencies. Temporary activities and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency without a certificate of compliance permit.
  - e) Staging areas for public utility installation. Staging areas for public utility improvements are allowed without a certificate of compliance permit.

**C) General Regulations.** All interim uses and activities are subject to the following:

- 1) Permanent changes to the site are prohibited.

- 2) Temporary parking areas are allowed only during construction on the site. They must be removed within one month of completion of the interim use.
- 3) Permanent signs are prohibited. All temporary signs associated with the interim use must be removed when the activity ends.
- 4) Interim uses may not cause the elimination of required off-street parking.
- 5) Interim uses on sites where the primary use is a conditional use may not violate the conditions of approval for the primary use.
- 6) These regulations do not exempt the operator from any other required permits such as sanitation facility permits, building permits, etc.
- 7) Any interim use that does not meet the dimensional requirements listed in this section shall be considered an interim use not meeting criteria and shall require a variance following the regulation established by Section 90-110 of this Ordinance.

**55-117 Outdoor Biomass Burner/Boiler.** Outdoor Biomass Burners/Boilers are permitted in all zoning districts with the issuance of a Certificate of Compliance, with the following standards to apply:

- A) An application for a Certificate of Compliance permit shall include information showing the type and size of the outdoor biomass burner/boiler proposed, the energy/hot water loads (i.e. pool, house, outbuildings, domestic hot water) to be used by the outdoor biomass boiler, a copy of the manufacturer's installation and operation recommendations, a manufacturer's list of approved fuels, and a site plan showing: the size and location of the proposed outdoor biomass burner/boiler, proposed stack height, location of house, garage, fencing, and other improvements on the applicant's lot, location of structures on all adjacent lots, location of existing overhead or underground wiring, utility easements, trees, and similar features.
- B) Outdoor biomass burners/boilers may only be installed on a lot/property of one (1) acre or more in size.
- C) Outdoor biomass burners/boilers that use a fuel source that contains more than 10% moisture content must be set back from public right-of-ways by at least 150 feet and must be set back from all other property lines by at least 200 feet. Outdoor biomass burners/boilers that use a fuel source that contains a moisture content of 10% or less must be set back from public right-of-ways by at least 50 feet and must be set back from all other property lines by at least 100 feet.
- D) Any new or existing (as of August 31, 2007) outdoor biomass burners/boilers shall only use fuels recommended by the device's manufacturer. The burning of garbage,

treated lumber, plastic, rubber, leaves, gasoline, and petroleum-based products are strictly prohibited. The City may determine the property to be a public nuisance and may revoke the Certificate of Compliance for failure to comply with these regulations.

- E) Any new or existing (as of August 31, 2007) outdoor biomass burners/boilers that use a fuel source that contains more than 10% moisture content and are located within 500 feet of a residential structure(s) or a primary structure(s) not located on the same property as the outdoor biomass fuel burner/boiler may not be operated between the days of April 1st and October 15th unless written permission is granted by the owner(s) of said structure(s), on a yearly basis. Any new or existing (as of August 31, 2007) outdoor biomass burners/boilers that use a fuel source that contains a moisture content of 10% or less and are located within 300 feet of a residential structure(s) or a primary structure(s) not located on the same property as the outdoor biomass burner/boiler may not be operated between the days of April 1st and October 15th unless written permission is granted by the owner(s) of said structure(s), on a yearly basis. A copy of the written permission must be submitted to the Zoning Administrator prior to the use of the outdoor solid fuel burner/boiler for the season.
- F) The chimney/stack of a solid fuel burner/boiler shall extend a minimum of at least 15 feet above the ground surface adjacent to the device, but shall also extend at least two (2) feet above the peak of any residence or primary structure within 300 feet of the device and shall extend at least to the eave line of any residence or primary structure within 500 feet of the device.
- G) All chimneys/stacks shall meet or exceed the minimum recommendations of the manufacturer. All chimneys/stacks must be classified as "Class A" and shall be designed and constructed to withstand high winds or other related elements.
- H) Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities from a new or existing (as of August 31, 2007) outdoor biomass burner/boiler, may be declared a public nuisance by the Zoning Administrator, Fire Marshall, or Building Official.
- I) Any outdoor biomass burner/boiler installed and/or operating as of August 31, 2007, in any zoning district may continue in such operation until the property is sold, in which case the outdoor biomass burner/boiler must be brought into compliance with all of the provisions of this Division; however, any existing outdoor biomass burner/boiler is subject to and must comply with Section 55-117 D), E) and H) above.
- J) Any new outdoor biomass burner/boiler installed after January 1, 2008, must meet the emissions level for the U.S. EPA's Phase 1 Voluntary Program.
- K) All new and existing outdoor biomass burners/boilers must follow the U.S. EPA's current Best Bum Practices.

- L) Where the use of a legally existing outdoor biomass burner/boiler has been discontinued for any reason for a period of one (1) year or longer, the outdoor biomass burner/boiler shall be considered to be non-conforming and must come into full conformance with these regulations, including the issuance of a new Certificate of Compliance.

*STANDARDS THAT RELATE TO AGRICULTURAL DISTRICTS AND USES*

**55-120 Farming Operations**

- A) **Existing Farms.** All farms in existence upon the effective date of this Chapter shall be a permitted use. However, all regulations contained herein and other City Code provisions in effect shall apply to all changes of the farming operation which will cause all or part of the area to become more intensively used or more urban in character. Setback and other regulations shall apply to farming operations just as they do to urban developments. Any non-dwelling structure exceeding \$1,000.00 in value erected on a farm shall meet the energy and structural requirements set forth for that building type in the State Building Code, and shall require a Certificate of Compliance.
  
- B) **Rural Farm Operations.** Rural farm operations may occur on parcels of ten (10) or more contiguous acres in Agricultural Districts. Rural farm operations may include the production of farm crops, such as vegetables, fruit trees, grain, and other crops and their storage on the area, as well as for the raising thereof of farm poultry, domestic pets, and domestic farm animals.
  - 1) Rural farm operations may include necessary uses for treating, storing, or producing retail farm market products; provided, however, that the operation of any such accessory uses shall be secondary to that of the primary agricultural activity.
  - 2) Rural farm operations may not include commercial livestock pen feeding (feed lots) without first receiving a Conditional Use Permit from the City and a Minnesota Pollution Control Agency Feedlot Permit.
  - 3) Commercial feeding operations shall not include the feeding of garbage to swine or other animals.
  
- C) **Suburban Farm Operations.** Suburban agricultural operations may occur on parcels of less than ten (10) contiguous acres in Agricultural Districts. Suburban agricultural operations may include the production of crops such as fruit trees,

shrubs, plants and flowers, vegetables, and domestic pets, provided such produce is intended for the use of the residents on the property or sale away from the property, or for temporary seasonal produce sales which require no roadside stand.

- I) Suburban farm operations may include domestic farm animals provided:
    - a) The parcel is greater than five (5) contiguous acres in area with at least two (2) acres of grazable acreage per animal.
    - b) An adequate animal shelter structure can be constructed.
    - c) A Minnesota Pollution Control Agency Permit can be obtained by the owner/applicant.
  - 2) Suburban farm Operations shall not include the raising of domestic farm animals (no parcels of less than five (5) acres), roadside stands for sale of products, processing or packaging operations, or similar uses.
- D) The Council may require any farm operation not located in an Agricultural District to secure a Conditional Use Permit to continue said operations in the event of the following:
- 1) A nuisance on a farm is adjacent to or within two hundred (200) feet of any property line and may be detrimental to living conditions by emitting noise, odor, vibrations, hazards to safety, and the like.
  - 2) The farm operations are so intensive as to constitute an industrial type use consisting of the compounding, processing, and packaging of products for wholesale or retail trade and further that such operations may tend to become a permanent industrial type operation that cannot be terminated as can a normal farming operation. Excessive trucking operations shall be considered as intensive use.

#### 55-130 Livestock

- A) **Prohibition of Deposit of Manure Without Safeguards.** No manure or livestock waste shall be deposited, stored, kept, or allowed to remain in or upon any storage site or feed lot without reasonable safeguards adequate to prevent the escape or movement of such manure or wastes or a solution thereof from the site which may result in pollution of any public waters or any health hazard.
- B) **Pollution Control Agency Standard Minimum Requirement.** All regulations imposed by the Minnesota Pollution Control Agency relating to keeping of livestock shall be adhered to and such regulations shall be considered the minimum safeguard necessary to prevent pollution of public water or creation of a health hazard.



- C) **Permit Required.** No feed lot or manure storage site shall be maintained unless a permit therefor has first been issued by the Minnesota Pollution Control Agency and by the Zoning Administrator as provided herein. The application for a permit by the owner or other person responsible for a feed lot or manure storage site, shall be accompanied by plans showing the features and method of construction and operation and existing or proposed safeguards or disposal systems. The governing body may thereafter issue a permit therefor upon such conditions, as it shall prescribe to prevent pollution of any public water or creation of health hazard.
- D) **Inadequate Safeguards.** In case the Zoning Administrator shall find that any manure is stored or kept on any feed lot or storage site without a safeguard, or that any existing safeguard is inadequate, he may order the owner or other responsible person to immediately remove the manure from the feed lot or storage site and refrain from further storage or keeping of any manure thereat unless and until an adequate safeguard is provided as hereinbefore prescribed.
- E) **Notice Concerning Loss.** It shall be the duty of the owner of a feed lot or manure storage site or other responsible person in charge thereof to notify immediately the Zoning Administrator of any loss of stored manure either by accident or otherwise when such loss involves a substantial amount which would be likely to enter any waters of the State. Said notice shall be by telephone or other comparable means and shall be made without delay after discovery of the loss. The notification shall include the location and nature of the loss and such other pertinent information as may be available at the time.
- F) **Hazards and Nuisances.** On parcels of less than forty (40) acres which are not part of a larger crop producing commercial agriculture farm, the keeping of horses, cattle or other grazing animals on a site with less than two and one-half (2 1/2) acres of existing grazable land per animal is hereby declared to be a nuisance. No domestic animals, livestock or kennels shall be placed on any site of less than five (5) acres.
- 1) Grazable acreage shall be defined as open, non-treed acreage currently providing enough pasture or other agricultural crops capable of supporting summer grazing at a density of one (1) cow, or its equivalent, per two (2) acres.

#### 55-140 **Second Farm Dwelling**

- A) "Second Farm Dwelling" means a Dwelling, One Family as defined in Sec. 10-020 (65) of this Code, that is not the Principal building, and in which shall reside only the operators of the farm, or the operator's employees who are directly involved in the operation of the farm.
- B) A maximum of one (1) Second Farm Dwelling may be placed in a farmyard, located within an A-Agricultural District, when the farm is a size of eighty (80) acres or

more of contiguous land, forty (40) of which are tillable acres, and provided that the Second Farm Dwelling meets all of the other provisions of these regulations.

*STANDARDS THAT RELATE TO THE RESIDENTIAL DISTRICTS*

**55-150 Commercial Historic Sites in Residential Districts**

- A) Historic sites with limited commercial uses may be permitted by Conditional Use Permit in any residential district provided:
- 1) Commercial activities are limited to shops and galleries for the showing and sale of historical or art items such as sculpture, glassware, pottery, stained glass, paintings, antiques and artifacts.
  - 2) The sale of food may be permitted provided no alcoholic beverages are sold or consumed on the premises.
  - 3) The sit-down food serving capacity shall not exceed thirty persons.
  - 4) No outdoor advertising shall be permitted other than the official designation as a historical site and the normal signs allowed in the district by the provisions of Division 65, Sign Regulations.
  - 5) Off-street public or private parking in the quantities required in Division 60, Off-Street Parking and Loading Regulations of this Ordinance shall be provided within 1,000 feet of the structure.
  - 6) Manufacture of art items for sale shall be permitted subject to fire and safety regulations and Building Code requirements.
  - 7) The commercial uses shall not be detrimental to the neighborhood and shall be in appropriate harmony with the residential character of the neighboring area if such area exists.
- B) An applicant for a Commercial Historic Site shall apply for a Conditional Use Permit following the procedures and submission requirements as set forth in Section 90-040 of this ordinance.
- C) The Council shall stipulate on the permissible hours and days of operation on the Conditional use Permit issued for a historical site which has commercial activities in a residential neighborhood.

**55-160 Bed and Breakfast Establishments**

- A) Bed and Breakfast establishments shall be permitted in all residential zones within the City subject to the following criteria and upon approval of a Conditional Use Permit.

B) Application for a Conditional Use Permit shall follow the procedures and submission requirements as set forth in Section 90-040 of this code. Additional requirements are listed below:

- I) Upon receipt of an application for a Conditional Use Permit for a Bed and Breakfast, the Zoning Administrator's Office shall refer the application to the City Building Inspection Office. The City Building Inspection Office shall provide the Zoning Administrator with a report concerning the use of the proposed building for a Bed and Breakfast use and shall recommend improvements that are required by the City's Building Code.
- 2) The applicant must furnish evidence that licenses required by the State of Minnesota either have been issued or will be issued before commencing operation.
- 3) Dining facilities, except for the purpose of the special events described herein, must not be open to the public, and must be used exclusively for registered guests.
- 4) A Bed and Breakfast establishment may host an unlimited number of special events with fewer than 25 non-registered guests and may host up to 12 special events per calendar year with 25 or more non-registered guests. "Special events" include, by way of example, weddings, business meetings, retreats, and other functions at which non-registered guests are present. Special events are subject to the following requirements:
  - a) At least two weeks prior to an event with 25 or more non-registered guests, the Bed and Breakfast owner/operator must notify the City Clerk in writing of the event. The notice shall include: the event organizer and nature of the event, the date of the event, the expected number of guests, and information demonstrating adequate off-street parking has been arranged for event guests. It shall also include information on how the property's exterior areas will be used during the event (music, temporary structures, etc.).
  - b) The maximum number of guests allowed at a special event shall be limited to the maximum occupancy of the Bed and Breakfast establishment as determined by City Building and Fire Codes Inspectors. After the effective date of this Ordinance, and prior to hosting any special events or charitable not-for-profit events, a Bed and Breakfast establishment shall arrange for an inspection to determine maximum occupancy. The determination of an occupancy limit shall remain valid absent any change in law and/or alteration of the establishment, in which case the City Inspectors shall re-evaluate the limit.

- c) Special events must comply with the City of Red Wing Noise Ordinance which is in effect from 10:00 p.m. and 8:00 a.m.
- d) A Bed and Breakfast owner/operator and/or the operator's designee must be present during special events, and the operator or designee shall provide adequate supervision of the event. The individual responsible for supervision of a special event shall be identified in the notification required by paragraph 4(a) hereof
- e) Food and/or alcoholic beverages may be furnished by and to special event guests provided all necessary local, state and/or federal permits, licenses or authorizations have been obtained.

A Bed and Breakfast establishment may also host, in addition to the 12 special events described above, up to three (3) charitable not-for-profit events per year. The provisions of paragraphs 4(a) – (c) shall also apply to charitable special events.

- 5) Identifying signs shall be no more than four (4) square feet in total, located on the building, or if free standing, located at least 10 feet off any property line and consistent with the character and architectural features of the building.
- 6) All exterior lighting to be concealed or screened.
- 7) One off-street parking space shall be provided for each Bed and Breakfast room for rent. Two additional off-street parking spaces shall be provided for the owner, one of which shall be located in a garage. Off-street parking is to be screened from the surrounding residences.
- 8) The Bed and Breakfast shall provide eight or fewer rooms for rent and be the owner's personal residence and occupied by the owner at the time of rental.

#### **55-170 Home Occupations**

- A) Home occupations, which meet the following criteria, may be permitted through the issuance of a Certificate of Compliance Permit, which is issued by the Zoning Administrator. The procedures and submission requirements are listed in Section 90-030 of this code. Additional requirements are listed below:
  - 1) Property owners adjacent to the proposed home occupation shall be notified by the applicant. The applicant shall submit an affidavit from said property owners describing their concern or approval of the proposed use.
  - 2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof.

- 3) No person other than members of the family residing on the premises shall be engaged in such occupation.
  - 4) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation and no signs displayed on the premises other than those signs normally permitted in the Residential District.
  - 5) No home occupation shall occupy more than 25 percent of the first floor area of the residence. No home occupation shall be conducted in any accessory building or structure. No home occupation shall be conducted within an attached garage nor shall space within an attached garage be considered in calculating the first floor area of the residence.
  - 6) No pedestrian or vehicular traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard. Such parking shall be limited to three or fewer off-street customer parking spaces.
  - 7) No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates audible or visual interference in any radio or television receivers off the premises.
- B) Uses not meeting the criteria in this Subdivision shall be considered a "proposed home occupation not meeting criteria" and shall require a Conditional Use Permit in those underlying zoning district that allow such uses (See Base District Regulations).

55-180 **Swimming Pools.** In all Residential Districts, swimming pools are allowed as a Certificate of Compliance, with the following standards to apply:

- A) Certificates of Compliance shall be required for any swimming pool with a capacity of over three thousand (3,000) gallons or a depth in excess of 3 1h feet of water. Smaller pools shall be allowed without a certificate of compliance permit.
- B) An application for a Certificate of Compliance permit shall include a site plan showing: the type and size of pool, location of house, garage, fencing, and other improvements on the lot, location of structures on all adjacent lots, location of filter unit, pump, location of back flush and drainage outlets, grading plan, finished elevations and final treatment (decking, landscaping, etc.) around pool, location of existing overhead or underground wiring, utility easements, trees, and similar features, location of any water heating unit.

- C) Pools shall not be located within fourteen (14) feet of any side or rear lot line nor within six (6) feet of any principal structure or frost footing. Pools shall not be located within any required front yard.
- D) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
- E) Pools shall not be located within any private or public utility, walkway, drainage or other easement.
- F) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.
- G) To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainage ways. Water shall not drain onto adjacent or nearby private land.
- H) The filter unit, pump, heating unit, and any other noise-making mechanical equipment shall be located at least fifty (50) feet from any adjacent or nearby residential structure and not closer than ten (10) feet to any lot line.
- I) Lighting for the pool shall be directed toward the pool and not toward adjacent property.
- J) A structure or safety fence of a non-climable type at least five (5) feet in height shall completely enclose the pool. Any required permit for the fence shall be obtained at the same time that the pool permit is obtained.

*STANDARDS THAT RELATE TO COMMERCIAL AND INDUSTRIAL DISTRICTS AND USES*

55-190 Drive In Use. Any application to develop a site as a Drive In Use, where permitted under this Ordinance, shall comply with the following special provisions:

- A) Site Location. Such site shall be located at the intersection of two or more highways, being a street or avenue but not including a lane, provided that a site may be located between intersections where there is a service road or a center dividing strip on the highway.
- B) Site Area and Coverage. In the case of establishments where the customer normally remains in a vehicle for service, the minimum site area shall be 10,000 square feet with a minimum area of building to be erected thereon of 400 square feet. The area of buildings permitted thereon shall not exceed six percent of the total area of any site. In the case of establishments where the customer parks his vehicle for a short period for the purpose of doing business on the premises, the minimum site area shall be 4,000 square feet with a minimum area of buildings to be erected

thereon of 400 square feet. The area left clear of buildings permitted shall be sufficient for the parking of a minimum of 8 cars of customers.

- C) **Access Driveways and Permits.** Access drives onto any City, County, or State highway and or street shall require a written permit from the respective authority. This permit shall be acquired prior to the issuance of any building permit. The engineer for each road authority shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- D) **Maximum Width of Driveway.** The maximum width of a driveway shall not exceed 32 feet not including tapered and section.
- E) **Standard Driveway Approach.** The standard driveway approach on file in the office of the City Engineer shall be used unless otherwise approved in writing by the City Engineer.
- F) **Minimum Distance Between Adjacent Driveways.** The minimum distance between adjacent driveways on the same side of the property shall not be less than a distance of 20 feet from each other, measured at the property line, provided that the City Engineer may increase said minimum clear distance in any cases, where, because of the width of adjacent sidewalks or boulevards or traffic conditions, in his opinion, such increase is necessary for reasons of public safety or convenience. In addition, the Public Authorities regulating access driveways onto State or County roadways may require additional minimum clear distance between driveways.
- G) **Driveways and Parking Spaces.** All parts of the site to which vehicles may have access shall be hard-surfaced and drained to provide a durable dust free surface to the satisfaction of the City Engineer.
- H) **Drainage of Site.** Sufficient on-site detention shall be provided as to result in no net increase in storm discharge unless otherwise approved by the City Engineer. Run-off calculations and points of discharge shall be provided to the satisfaction of the City Engineer. No connectors to the City's storm sewer system shall be constructed without a permit from the office of the City Engineer. All projects shall meet the requirements as set forth in Division 57, Storm Water Management Regulations.
- I) **Lighting.** Any lighting proposed to illuminate off-street parking areas shall be located and arranged so that all direct rays of light are directed upon the site only and not on any adjoining properties. All projects shall meet the requirements as set forth in Section 55-000 (M) *Lighting, Lighting Fixtures and Glare* of this Ordinance.
- J) **Setback of Buildings.** The front wall of a building or structure on a site shall not be less than 10 feet, measured at right angles, from the front property line of the site or such greater distance as prescribed for the District within which the building is located.

**K) Maintenance of Site and Buildings and Businesses.** The owner, tenant, operator, or person in charge of a drive-in shall at all times:

- 1) Maintain the site and the buildings, structures, and improvements thereon in a clean, neat, tidy, and attractive condition and free from all rubbish and debris.
- 2) Provide receptacles for the purpose of depositing therein garbage, rubbish, and debris, sufficient in number and size as may be required by the City Engineer and shall use such receptacles for such purpose.
- 3) Be responsible for the proper, safe, and orderly operation of the business and of motor vehicles using the site, and without restricting the generality of the foregoing shall ensure:
  - a) That operators of motor vehicles do not obstruct the sidewalks and boulevards abutting or adjacent to the site; and
  - b) That operators of motor vehicles enter and leave the site only at the entrances and exits provided for such purposes and not elsewhere.
- 4) Maintain around the boundaries of the site an appropriate fence not less than 30 inches in height, designed so as to contain rubbish or debris, and shall landscape and keep landscaped the site to the satisfaction of the Zoning Administrator.

**55-200 Vehicle Sales and Showrooms.** The buildings and premises for vehicle sales and showrooms shall meet the following requirements:

**A) Setbacks and Lot Requirements.**

- 1) Sales Unit Setbacks. For all vehicles for sale on the premises, the bumper (or bow/stem) line shall be a minimum of five (5) feet from any front or side property line and five (5) feet from any rear property line.
- 2) Building Setbacks. All buildings on the vehicle sales site shall meet or exceed the required building setbacks for the district in which the site is located.

**B) Access Driveways.**

- 1) Driveways to the site shall be setback a minimum of 50 feet from curblines and intersections.
- 2) Driveways shall be spaced a minimum of 50 feet apart.
- 3) Driveways shall be setback a minimum of ten feet from all adjacent property lines, except where a joint driveway access agreement exists.
- 4) Driveways shall be a maximum of 24 feet in width, with curb openings a maximum of 32 feet in width.



- C) **Screening.** An earthen tone wood, metal, or masonry screen of no less than five (5) feet in height shall be erected and maintained along all interior side and rear lot lines, which abut institutional or residential, use districts.
- D) **Site and Landscape Plans.** Prior to issuance of any permits for construction of a vehicle sales operation, the applicant shall submit a site plan, which illustrates the following required improvements on the site prior to receiving an occupancy permit:
- 1) Interior concrete, asphalt, or landscape timber curbing shall be constructed within the property, separating all parking or storage surfaces at the required setbacks and establishing a five (5) foot parking (curbline) setback from any building.
  - 2) The entire parking surface used to park or display autos and trucks shall be paved with a hard surface of concrete or blacktop. Recreational vehicles, boats, and trailers may be parked or displayed on a dustless, hard-packed, non-erodible gravel surface if approved by the Zoning Administrator.
  - 3) Parking for employees shall include one space per employee.
  - 4) Parking for customers shall include one space per 200 square feet of usable indoor display-sales floor space, and one for each service room or bay or 16 spaces per acre for outdoor sales lots, whichever is greater.
  - 5) Landscaping shall be with grass, trees and shrubs; all areas not paved or built upon shall be illustrated on the plan. Landscaping plan shall comply with the requirements of Section 55-000 of this Ordinance.
  - 6) All areas to be lighted for night sales and security lighting purposes shall be designated. All lights shall shine down on the vehicle sales area rather than diffusing floodlight to adjacent properties or on to rights-of-way. All lighting shall comply with the requirements of Section 55-000 of this Ordinance.
  - 7) A surface drainage plan and other improvements which illustrate how all parking display areas will drain on and off the site shall be provided by the applicant. This drainage plan shall comply with all requirements of Division 57, Storm Water Management Regulations.

#### 55-210 **Automobile Service Stations**

- A) Before a Permit for a service station is granted, the minimum requirements of the Zoning District in which the service station is to be located shall be met. Additional requirements are set forth below.
- B) Pump islands shall not be placed closer than twenty-five (25) feet to a property line. A landscaped area shall be maintained not less than five (5) feet from any interior side yard property line or ten (10) feet from a street right-of-way. No driveways at a

property line shall be less than thirty (30) feet from the intersection of two (2) street right-of-way lines. Each service station shall have at least two (2) driveways with a minimum distance of eighty-five (85) feet between centerlines when located on the same street. Driveway access on State and County streets or highways require the review and approval of the permitting authority.

- C) No vehicles shall be parked on the premises other than those utilized by employees or waiting service. No vehicle shall be parked or be awaiting service longer than fifteen (15) days.
- D) Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise.
- E) All areas utilized for the storage, disposal or burning of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean, and safe manner.
- F) Business activities not listed in the definition of automobile service stations in this Chapter are not permitted on the premises of a service station unless a Conditional Use Permit is obtained specifically for such business. Such activities include but are not limited to the following: automatic car and truck wash, rental of vehicles, equipment or trailers, general retail sales.

#### 55-220 Hazardous **and** Infectious Waste.

- A) All treatment, storage, incineration, disposal, or management of hazardous or infectious waste, other than household hazardous waste as defined in Minnesota Statutes Section 115A.96, by anyone other than the generator of said hazardous or infectious waste shall require a Conditional Use Permit for, a) the I-2 district in the case of incineration, and b) the I-1 and I-2 districts in the case of treatment, storage, disposal, or management. Said uses shall be prohibited in all other districts within the City of Red Wing.
  - 1) For the purpose of this Section, "Generator" means a person whose activities produce hazardous or infectious waste, and includes establishments such as gas stations and retail stores, whose primary purpose is something other than the handling or disposal of waste, that are required by law to accept from consumers, used goods or products such as tires, batteries, or automobile oil, for recycling and disposal.
- B) All applications for Conditional Use Permits shall be accompanied by:
  - 1) A detailed explanation of the proposed use stating the sources and types of hazardous or infectious waste, the process to be undertaken at the site, hours of

operation, the final disposition of the hazardous waste and/or end product, safety precautions followed, and such other information as may be required by the city staff; and

- 2) A site plan and data showing:
  - a) Building locations, dimensions purposes, and elevations; all signs, structures, entry areas, storage sites and other structural improvements to the site.
  - b) Circulation plans for traffic, including, but not limited to, parking, loading and unloading facilities.
  - c) Fences and screening devices.
  - d) Fire fighting and other public safety facilities and provisions such as hydrant locations and fire lanes.
  - e) The location of structures on all adjacent lots.
  - f) Where applicable, 25 copies of the Proposed Management Plan as required pursuant to Minnesota Statutes Section 116.79 (subject to review and approval to the extent permitted by law).
  - g) Exterior wall materials and design information.
  - h) A landscape plan specifying the size, type and location of all trees and shrubbery and the location of all seeded and sodded areas.
- C) In addition to compliance with Division 75 of this Ordinance, Section 75-020, a hazardous or infectious waste Conditional Use Permit shall not be issued unless the City Council can make all of the following findings:
  - 1) With respect to infectious waste, that the proposed use complies with all requirements set forth in Minnesota Statutes Sections 116.75 - 116.85, the Infectious Waste Act.
  - 2) That the proposed use complies with all applicable fire, health, building and safety codes.
  - 3) With respect to incineration, that the applicant is in compliance with all federal, state, and local laws and regulations.
  - 4) That the applicant has submitted proof of the issuance of, or ability to obtain, a certificate of occupancy pursuant to City Code Section 33.02.
  - 5) That appropriate hours of operation for the proposed use have been approved by City personnel.

- 6) That all time periods during which hazardous or infectious waste shall remain on the permit site, including specific procedural times and total duration, have been reviewed and approved by City personnel.
  - 7) That inspection by City personnel shall be allowed at any time during hours of operation.
  - 8) That adequate security and safety precautions taken shall be provided to protect the public health and safety.
- D) The findings, site plans, and explanation of use, when approved, shall be made part of the Conditional Use Permit and non-compliance with any of them may be deemed by the Council as grounds for the revocation of the Conditional Use Permit.

**55-230 Adult Entertainment Establishments**

- A) **Purpose and Intent.** The Red Wing City Council recognizes that Adult Entertainment Establishments, because of their very nature, have serious objectionable operational characteristics, thereby generating harmful secondary effects upon the use and enjoyment of adjacent areas. These effects have been documented in studies reviewed by the City of Red Wing, including but not limited to studies conducted by the cities of Cottage Grove, Brooklyn Park, Woodbury, St. Paul, Minneapolis, Hopkins and Rochester, Minnesota. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. It is therefore the purpose of this ordinance to regulate Adult Entertainment Establishments in order to promote the health, safety, morals, and general welfare of the citizens of the City of Red Wing, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Adult Entertainment Establishments within the City. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials protected by the First Amendment.
- B) **Definitions.** For the purpose of this Chapter, certain terms and words are defined in Division 10, Definitions.
- C) **Adult Entertainment Establishment.** Any of the activities and businesses defined in Division 10-020 (Definitions 4-10, and 128-129) shall constitute "Adult Entertainment" and shall be subject to the regulations of this chapter.
- D) **Location and Conditions.** The location and conditions for operation of an Adult Entertainment Establishment shall be as follows:
- 1) An Adult Entertainment Establishment may be located in B-2 (General Business) or PUD (Planned Unit Development) zoned districts upon obtaining a Conditional

Use Permit pursuant to Section 75-020 of this Code, and providing such Establishment meets the following:

- a) No Adult Entertainment Establishment shall be operated or maintained in or within five hundred (500) feet of a R-1, R-2, RM-I, RM-2, or PUD in a residentially Zoned District, any municipal boundary, unless adult entertainment establishments as defined herein are a permitted use at the municipal boundary, other Adult Entertainment Establishment, or within five hundred (500) feet of a lot line upon which any school, day care center, or place of worship is located. Distances shall be determined by a straight-line horizontal measurement from the nearest existing residential district or municipal boundary, lot line for any school day care center, or place of worship, or other Adult Entertainment Establishment to the nearest point of the proposed Adult Entertainment Establishment.
  - b) No Adult Entertainment Establishment shall sell or dispense non-intoxicating or intoxicating liquor or be located in a building, which contains a business that sells or dispenses non-intoxicating or intoxicating liquor.
  - c) No Adult Entertainment Establishment shall be conducted in any manner that permits the perception or observation from any property not approved as an Adult Entertainment Establishment of any materials depicting, describing, or related to Specified Sexual Activities or Specified Anatomical Areas by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.
  - d) No adult Entertainment Establishment shall permit any person under the age of eighteen (18) onto the premises of said Establishment. Nor shall any person under the age of 18 be permitted access to material displayed or offered for sale or rent by the Adult Entertainment Establishment.
- E) **Separability.** Every section, provision or part of this Subdivision shall be separable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Subdivision shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

#### 55-240 **Wireless Communications Facilities**

- A) **Purpose.** The zoning regulation of wireless telecommunications facilities is intended to provide for the appropriate location, development and installation of telecommunications towers and antennae within the City of Red Wing. The provisions of this Code are intended to protect the health, safety and aesthetic concerns of the community by minimizing the adverse visual effects of towers and antenna through careful design, siting and screening; by avoiding potential damage from tower failure to adjacent properties through structural standards and setback

requirements; and by maximizing the use of existing towers, structures or buildings to accommodate new telecommunications antenna in the City.

**B) Definitions.** For the purpose of this Chapter, certain terms and words are defined in Division 10, Definitions. Particular terms that apply include Accessory Equipment Structure; Antenna; Antenna, Concealed; Base Transceiver Station; Co-location; Tower; Tower, Lattice; Tower, Monopole; Utility Pole; and Wireless Telecommunication Services.

**C) Allowance for Towers and Antenna by Zoning District.**

- 1) Permits are not required for:
  - a) Antenna and towers used by the City for City purposes.
  - b) Adjustment or replacement of the elements of an antennae array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.
  - c) Antenna and/or towers erected temporarily for test purposes, for emergency communications.
  - d) Antenna and microwave dishes which are not located on a transmission structure such as the mounting of antenna and dishes upon buildings so long as they do not rise above the highest elevation of the building by more than fifteen (15) feet. This includes educational facilities, religious institutions, government or public utility buildings, or in "upward thrusting architectural elements" such as church steeples, bell towers or smokestacks.
- 2) Wireless telecommunications towers and antenna shall be allowed in any district as a certificate of compliance use permit only as provided below:
  - a) Water Tower - Wireless telecommunication antennae shall be permitted upon City-owned water towers and park properties provided the applicant has an approved lease agreement with the City and has obtained a certificate of compliance use permit and paid all applicable fees. The height of the antennae on water towers shall not exceed fifteen (15) feet and shall not extend more than fifteen (15) feet above the water tower.
  - b) Co-location on Existing Towers – Wireless communication antennae shall be permitted to be attached to existing towers within the City in accordance with the applicable siting guidelines and design criteria in 55-230 (E) after the applicant has provided to the City a written statement of approval from the tower owner or lessor and has obtained a certificate of compliance use permit and paid all applicable permit fees.
  - c) Utility Poles – Wireless telecommunications antennae shall be permitted to be attached to utility poles after the applicant has provided a written

statement of approval from the utility pole owner or lessor and has obtained a Certificate of Compliance use permit from the City and paid the necessary fee. The height of the antennae shall not exceed fifteen (15) feet and shall not extend more than fifteen (15) feet above the pole.

- 3) Conditional Uses, Specific Districts. Wireless telecommunication towers and antenna shall be allowed with the approval of a conditional use permit in the zoning districts specified in the table below and in accordance with the co-location requirements stated in 55-230 (D), siting requirements and design criteria stated in 55-230 (E), and the procedural requirements stated in 55-230 (F). The procedure for review and action on conditional use permits shall be as stated in Section 75-020. The height limitations listed in the following table shall include all parts of the wireless telecommunication tower and antenna structure except for that space needed for lightning diffusion apparatus.

<i>Zoning Districts</i>	<i>Location</i>	<i>Height Limitations</i>	<i>With Co-location</i>
RM-2, B-1, and B-2		90 feet	150 feet *
<b>1-1</b> , 1-2		100 feet	190 feet *
F-2		300 feet	400 feet *

\* Co-location height bonus subject to applicant providing to the City proof of a signed lease arrangement, shared use agreement, or other like document.

**D) Co-location Requirements.**

- 1) A proposal for a new wireless communication tower shall not be approved unless the applicant documents to the satisfaction of the City that the antenna planned for the proposed tower cannot be accommodated on an existing or approved tower or commercial or industrial building within a one-half mile radius, transcending municipal borders, due to one or more of the following:
  - a) The antenna would exceed the structural capacity of the existing or approved tower or commercial building.
  - b) The antenna would cause interference with other existing or planned equipment at the tower or building.
  - c) Existing or approved towers and commercial buildings cannot reasonably accommodate the antenna at a height necessary for the proposed antenna to function.
  - d) Existing or approved towers and commercial buildings are outside of the documented search area.

- e) The owners or lessors of existing or approved towers and commercial buildings are unwilling to allow co-location upon their facilities or are unavailable to grant such an allowance.
  - f) Approval cannot be obtained for co-locating upon an existing tower or antenna site, which is within the documented search area, but outside the Red Wing municipal boundaries.
- 2) It is the City's intent to encourage co-location providers to share accessory equipment building space whenever possible and practical so as to minimize the number of necessary accessory buildings and their impact upon the surrounding community. An applicant co-locating on another provider's tower shall incorporate its base transceiver station and all other equipment into an existing accessory equipment building or suitable principal structure except as otherwise provided below. If this requirement cannot be met due to insufficient space within the existing accessory building, security issues, competition or compatibility concerns, or for other reasons, one of the following options, ranked in preferential order, shall be utilized:
- a) The existing accessory building shall be expanded to a size sufficient to house the co-locator's equipment. Such building expansion shall match the design and features of the existing accessory equipment building. The applicant shall obtain a building permit from the City prior to construction.
  - b) A support platform shall be constructed alongside and adjacent to the existing accessory equipment building upon which the co-locator's equipment shall be attached. The applicant shall obtain a building permit from the City prior to construction.
  - c) A separate building shall be constructed that conforms to all the requirements set forth in this Ordinance.
- 3) Whenever an application for a new wireless telecommunications tower includes a proposal for co-location, the Applicant shall present information that describes how the proposed tower is designed to accept additional antennas. In addition, approval of any conditional use permit for such an application shall include a condition that the applicant accepts future co-location projects.
- E) **Siting and Design Requirements.** The requirements of this section apply to all wireless telecommunications towers and antenna erected, constructed, placed, or replaced in the City. All wireless telecommunication towers and antennae shall be designed and situated to be visually unobtrusive to minimize the impact upon the neighboring uses and shall conform to the following design and siting criteria.
- I) **Setbacks.** The minimum setback from any property line or public right-of-way for a wireless telecommunication tower is as follows:



- a) Front Yard, Side Yard, and Rear Yard in a non-residential zone shall be the setback required for the underlying zone.
  - b) All other towers in residential zones shall be located a minimum distance from any property line equal to 125 percent of the proposed tower height or 200 feet whichever is greater.
  - c) Towers shall not be placed between a principal building and any street (not including alleyways) abutting the property.
  - d) All equipment buildings/boxes or equipment areas shall comply with the minimum property line setbacks for a principal building in the underlying zone.
  - e) No wireless telecommunication site shall be located within 200 feet of an existing residence.
  - f) No tower exceeding 60 feet in height shall be located within 1,000 feet of the boundary of a locally designated historic district as per Chapter 16 of this Code.
- 2) **Accessory Equipment Structures.** The base transceiver station and all other related equipment shall be housed in an existing building whenever possible. If an existing building is unavailable, a new accessory equipment building may be constructed according to Minnesota State Building Code requirements and shall be of the same or better construction, design and appearance as any principal structure or adjacent buildings. If the equipment is to be housed in a weatherproof cabinet-like structure in lieu of a building, it shall be mounted upon a suitable support platform.
- 3) **Fencing.** The Wireless telecommunication antenna tower and/or accessory equipment structure shall be surrounded with a six-foot (6) to eight-foot (8) high-galvanized chain link fence or an approved equivalent fence acceptable to the Zoning Administrator.
- 4) **Landscaping and Screening.** The wireless telecommunications tower and/or accessory equipment building shall be landscaped and screened with a mixture of six-foot (6') tall evergreens and one and one-half inches (1 and 1/2") caliper ornamental deciduous trees at a ratio of four (4) evergreens per every one (1) deciduous tree, spaced on less than eight (8") feet apart on center so as to achieve at least a fifty percent (50%) opaque screen. Trees may be clustered to create a more natural appearance to the screening. The Zoning Administrator, as applicable, may waive the landscaping and/or screening requirements upon request of the applicant if the existing landscaping and screening is deemed

sufficient. In addition, the Zoning Administrator may allow alternatives to the landscape plats listed above in order to match existing landscape.

- 5) **Color.** The wireless telecommunication tower and antenna shall be of a neutral color such as light grey or sky blue unless another color is dictated by the Federal Aviation Administration (FAA), and be designed to minimize visibility and to blend into the surrounding environment.
- 6) **Roof-Mounted Wireless Telecommunication Antennae.** Roof-mounted wireless telecommunication antenna shall not be permitted on buildings with pitched-roofs, unless they are concealed antenna incorporated into upward thrusting architectural elements, such as a church steeple, spire or bell-tower, smokestack, etc. On flat roofs, the height of the antenna and mounting hardware may not be more than fifteen (15) feet above the highest point of the roof to which the antenna is attached.
- 7) **Structurally-Mounted Wireless Telecommunications Antenna.** Telecommunication antenna mounted upon sides of buildings shall be attached flush against building side, not to protrude more than the depth of the antenna. Structurally mounted antenna not affixed to towers shall be made to blend into the design and contours of the structure.
- 8) **Prevention of Radiation.** Wireless Telecommunication antenna shall be subject to state and federal regulations regarding non-ionizing radiation and other health hazards related to such facilities. If the federal government adopts new, more restrictive standards, the antenna shall be made to comply or the antenna shall be removed by the owner or the City at the tower owner's expense. The owner or operator of the tower shall pay any associated costs of compliance verification.
- 9) **Lights.** No wireless telecommunication tower or antenna shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the Federal Aviation Agency, the Federal Communications Commission or the City. This restriction against lights shall not apply to towers, which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar public uses.
- 10) **Signs and Advertising.** The use of any portion of a tower for signs or advertising other than required warning signs shall be prohibited.
- 11) **Interference with Public Safety Telecommunications.** No new or existing telecommunications service shall interfere with public safety telecommunications.

**F) Procedural Requirements.**

- 1) **Certificate of Compliance and Conditional Use Permit.** Applicants requiring a Certificate of Compliance shall follow the procedures as set forth in Section 75-010. Applicants requiring a Conditional Use Permit shall follow the procedures as set forth in Section 75-020. Specific submission requirements for both permit applications include the following:
  - a) A notarized document from the property owner or lessor that allows the applicant to apply for a Certificate of Compliance or Conditional Use Permit to erect a wireless telecommunication tower and/or antenna.
  - b) Demonstration of need in accordance with this Code.
  - c) A site plan, which shows property lines, location of wireless telecommunication tower or antenna, setback distances, any accessory equipment structure, fencing and landscaping proposed.
  - d) Sufficient information to show that construction, installation and maintenance of the wireless telecommunication tower and/or antenna will not create a safety hazard or damage to the property of other persons.
  - e) Proof of insurance in accordance with this Code.
  - f) If proposing a tower that will allow for co-location, a letter of intent that commits the Applicant to allow for the future co-location.
  - g) Any other information necessary for the City to evaluate the permit.
- 2) **Building Permits.** Applicants proposing to erect wireless telecommunication towers and/or antenna shall obtain a building permit. The towers and antenna are subject to inspection by the City building official to determine compliance with the City's building code construction standards. No building permit shall be issued by the City without prior approval of a Certificate of Compliance or Conditional Use Permit if applicable. When no Certificate of Compliance or Conditional Use Permit is required, the applicant shall provide to the City all information as required by Section 55-230 (F) of this Code at the time of application for building permits. Building permits shall not be required for the repair, replacement, adjustment and for alteration of the elements of antenna arrays if such work does not reduce acceptable safety standards. The following information shall be provided at the time of the building permit request:
  - a) A report and plan from a qualified and registered engineer or firm that specifies and includes the following:
    - i) The tower height and design including a cross section and elevation.

- ii) The height above grade for all potential mounting positions for co-location antenna and the minimum separation distances between antenna.
  - iii) The capacity of the tower, including the number and type of antenna that the tower can accommodate.
  - iv) The steps that the applicant will take to avoid interference with established public safety telecommunications.
  - v) An engineer's stamp and registration number.
- 3) **Demonstration of Need.** The applicant shall provide a diagram showing the cell site configuration illustrating the coverage area of the proposed wireless telecommunication tower and/or antenna. This diagram shall demonstrate the frequency re-use and spacing needs of the wireless system in order to provide adequate coverage and capacity to address that cannot be adequately served by locating the antenna on an existing structure.
- 4) **Proof of Insurance.** The Applicant shall provide the City with proof of liability insurance, which protects against losses due to personal injury or property damage relating in any way to the construction, use, or failure of the tower, antenna or accessory equipment. Such proof shall be supplied to the City by the wireless telecommunication tower owner or lessee at the time of application and shall be made available to the City from time to time upon its request.
- 5) **Removal of Abandoned or Damaged Towers.** Any wireless telecommunications tower and/or antenna that are not used for one (1) year shall be deemed abandoned and the property owner shall remove the tower and /or antenna. If the owner fails to remove the tower and/or antenna after one (1) year, it may be removed by the City with the costs of such removal assessed against the property owner of the tower site.
- 6) **Violations.** Deviations from the approved construction plans and Certificate of Compliance or Conditional Use Permit is a misdemeanor, punishable as provided in Division 85 of this Code.
- G) **Nonconforming Wireless Telecommunications Antenna and Towers.** Any wireless telecommunications tower and/or antenna in existence as of the effective date of this Ordinance that does not meet or comply with the provisions of this Chapter are subject to Division 70 of the Zoning Code.

*STANDARDS THAT RELATE TO LAND USES CONCERNING NONMETALLIC RESOURCES*

**55-250 Resource Extraction Activities.**

A) **Purpose.** The purpose of regulating Resource Extraction land uses is to provide minimum standards for all resource extraction operations within City limits in order to protect public health and safety, to preserve the scenic beauty of Red Wing's landscapes and environment, to protect the public from damage to both the quality and quantity of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people of Red Wing and the surrounding communities. This purpose will be fulfilled through the following means:

- 1) Identification of areas in the City where resource extraction is most appropriate and not in conflict with other nearby land uses.
- 2) Establishment of permitting requirements, environmental review procedures and performance standards to regulate resource extraction.
- 3) Establishment of standards that prevent or minimize environment and aesthetic impacts on extracted properties, adjacent properties, and the City as a whole.
- 4) Establishment of standards and financial guarantees that restore extracted land to a condition compatible with adjacent properties and suitable for future uses that are consistent with the City of Red Wing Comprehensive Plan.

B) **Definitions.** For the purpose of this Chapter, certain terms and words are defined below and also in Division 10, Definitions. Particular terms that apply include Resource Extraction, Silica Sand (defined in Division 55-260), and those listed below.

**C) Resource Extraction Activities Defined.**

- 1) *Nonmetallic Resource or Resource* means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, and/or non-renewable material. Nonmetallic minerals include, but are not limited to, stone, rock, sand, silica sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.
- 2) *Resource Extraction* includes any or all of the following activities:
  1. Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation and grading of such materials.

- 11. On-site manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation, washing, compounding, mixing or blending of mineral aggregates or nonmetallic resources obtained by extraction from the mining site or with materials transferred from off-site.
  - 111. On-site manufacturing processes aimed at producing nonmetallic resource products for sale or use by the operator.
  - 1v. Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.
  - v. Transport of the extracted nonmetallic resources, finished products or waste materials from the extraction site.
  - vi. Disposal of waste materials.
  - vii. Reclamation of the extraction site.
- 3) *Resource Extraction Facility* means any area that is being used for on-site removal, stockpiling, processing, transferring, or storage of resources.

D) **Exempted uses and operations.** The following are exempted from the performance standards applicable to resource extraction activities:

- 1) Excavations or grading by a person solely for domestic or farm use at a person's residence or farm.
- 2) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.
- 3) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
- 4) Excavations for building construction purposes conducted on the building site.
- 5) Resource extraction at sites where less than one acre of total affected acreage occurs over the life of the mine.
- 6) Removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

- 7) Stockpiling of resources by retailers, such as nurseries and home improvement stores, for the purpose of resale to the public for non-industrial uses.
- 8) Stockpiling, storage, and transportation of sand, salt, and/or gravel by state, county, and/or City entities.
- 9) Stockpiling, storage, and transportation of dredge spoils removed from public waters.
- 10) Stockpiling, storage, and transportation of sand and gravel for construction purposes and private snow plowing purposes.

E) **Resource Extraction Facility Permit Required.** All persons having a legal or equitable interest in any resource extraction facility commencing on or after the effective date of this Ordinance shall obtain a conditional use permit which shall be processed in accordance with Division 90 of the Zoning Ordinance and the additional procedures and requirements of this Division. Such persons are referred to hereinafter as "owner," "operator," and/or "permittee." These terms are interchangeable for the purposes of this Division.

F) **Resource Extraction Facility Permit Application Requirements.** All persons seeking to engage in resource extraction activities within the City must submit the following:

- 1) Name, address, phone number(s), e-mail address, and website of the operator of the resource extraction facility.
- 2) Name, addresses, phone number(s), and e-mail addresses of all owners or lessors of the land on which the mining operation will occur.
- 3) Acreage and complete legal description of the subject property on which the facility will be located, including all contiguous property owned by the landowners.
- 4) A narrative outlining the type of material to be excavated, mode of operation (including any screening, drying, washing, coating, processing and storage of material), estimated quantity of material to be extracted, plans for blasting, and other pertinent information to explain the request in detail.
- 5) Estimated time frame to operate the facility, to include hours per day, days per week, months per year, and number of years in operation.
- 6) A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
- 7) A description of the estimated average daily and peak daily number of vehicles accessing the facility. If more than one access to the facility is

proposed, provide a breakdown of anticipated daily and peak number of vehicles using each access.

- 8) Any other information or documentation required for issuance of a conditional use permit under the Zoning Code.
- 9) Site maps of the proposed operations that show the entire site(s) and include areas within six-hundred feet (600') of the site. All maps shall be drawn at a scale of one-inch (1") to two-hundred feet (200') unless otherwise stated below:
  1. Map A-Existing site conditions, to include:
    - a) Property boundaries to be surveyed by a Minnesota Licensed Land Surveyor.
    - b) A survey which provides contour lines at five foot (5') intervals.
    - c) Existing vegetation including plant community, evaluation of condition of plant community, and dominant species.
    - d) Existing structures.
    - e) Existing pipelines, power lines and other utilities.
    - f) Easements affecting the permitted property.
    - g) Adjacent public road right-of-way.
    - h) Existing access points to public roads.
    - i) Test borings and monitoring wells used to characterize the site.
    - j) Threatened and endangered species on the site and within 1/4 mile of the site.
    - k) Distribution, thickness and type of existing topsoil and subsoil.
    - l) Location of existing historical, cultural, and archaeological features identified in the State Historic Preservation Office (SHPO) and Goodhue County databases and those not identified but discovered on-site.
    - m) Location of areas previously affected by mining on-site, including location of stockpiles, wash ponds, and sediment basins.



## **GEOLOGY**

- n) Geologic units and contacts.
- o) Depth to bedrock (if applicable).
- p) Confining units (clays, shale, siltstone).
- q) Fracture patterns and traces (for rock quarries).
- r) Location of any known caves, joints, fractures, sinkholes, stream sinks, and springs.

## **HYDROLOGY**

- s) Drainage patterns and permanent water areas within six-hundred feet (600') of the property lines.
- t) Water-table elevations with ground water flow direction.
- u) Wells within a one-mile radius of property lines showing location, depth, static water-level, age and construction.
- v) Location and elevation of any known springs within six-hundred feet (600') of the property lines.
- w) General location of septic systems within six-hundred feet (600') of the property lines.
- x) Location of designated trout streams within six-hundred feet (600') of the property lines.

### ii. Map B-Proposed operations, to include:

- a) Property boundaries surveyed by a Minnesota Licensed Land Surveyor.
- b) Vegetation protection plan for vegetation remaining on site.
- c) Soil salvage plan, including storage areas, methods of protection from erosion, compaction and weeds.
- d) Structures to be erected.
- e) Location of sites to be mined showing depth of proposed excavation.
- f) Location of tailing (strippings or overburden) deposits showing a maximum height of deposits.

- g) Location of processing areas and machinery to be used in the mining operation.
  - h) Location of storage of mined materials, showing height of storage deposits.
  - i) Location of vehicle parking.
  - j) Location of storage of explosives.
  - k) Location of fuel storage.
  - l) Erosion and sediment control structures.
  - m) Water retention ponds.
  - n) Drainage Plan including revisions to existing drainage patterns.
  - o) Proposed internal road system including typical cross sections.
  - p) Proposed new access points to adjacent public roads.
  - q) Proposed haul routes of vehicles removing material from the pit including current spring weight restrictions on the proposed routes.
111. Map C-Reclamation Plan. The Reclamation Plan must take into account the Performance Standards listed in this Division in addition to:
- a) Property boundaries surveyed by a Minnesota Licensed Land Surveyor.
  - b) Final grade of proposed site showing elevations and contour lines at five foot (5') intervals.
  - c) Proposed land use after mining.
  - d) Location, species, rate, and density of vegetation to be seeded and planted.
  - e) Location and nature of any structure to be erected in relation to the end use plan.
  - f) Proposed improvements such as roads, paths, ponds, etc.
  - g) Topsoil restoration plan.

- h) Rates, kinds, and location of soil amendments.
- i) Mulching, erosion control fabric, and other soil stabilization methods.
- j) Include the grading plans, topsoil protection and replacement, seeding, revegetation, mulching, erosion control, and sedimentation control specifications for each phase and final restoration.
- k) Include quantified performance standards for the reclamation and maintenance of each plant community to be restored. These shall be based on a minimum percent cover of acceptable vegetation, maximum percent cover of unacceptable vegetation, and minimum species diversity at reclamation milestones: 0-24 months; 2-5 years; and 6 years or more after substantial completion. Acceptable and unacceptable vegetation shall be defined in the plan.

I0) Supporting documentation: Every application for a resource extraction facility permit shall include submission of supporting documentation. The documentation must take into account the Performance Standards listed in this Division and may be presented in descriptive or map form. Supporting documentation shall include, but is not limited to, the following:

- 1. A description of existing land uses on the subject property.
- 11. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property.
- 111. A description of the soil, vegetation, mineral content and topography of the subject property. A minimum of three (3) soil boring logs representative of the site and a description of the subsurface materials on the subject property must be submitted.
- 1v. A general description of surface waters, existing drainage patterns and groundwater conditions within 114 mile of the subject property.
- v. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
- vi. Copies of all state, federal, and county application documents and operating permits, including but not limited to: Minnesota Pollution Control Agency (MPCA) permits, wetland permits (Minnesota Wetland Conservation Act and/or Corps. of Engineers), Historical and Archaeological permits, Storm Water permits, Mine Safety and Health Administration permits, and the required EAW for the subject property.

- VII. A description of the site hydrology and drainage characteristic during extraction for each phase of mineral extraction including plans to control erosion, sedimentation and water quality of storm water runoff.
- vni. If there are any proposed changes to the existing drainage patterns, include proposed mitigation plans to control down stream off-site damage caused by any increase to the natural flow of water or any diversion of the existing natural flow of water.
- ix. A description of actions to be taken to mitigate potential impacts resulting from mineral extraction and processing, including potential impact related to: wetlands, erosion, noise, air pollution, surface water contamination, traffic, dust, or vibrations.
- x. A description of site screening, buffering, landscaping and security fencing.
- xi. A description of the method in which complaints about any aspect of the resource extraction facility or off-site transportation are to be received and the method by which complaints are to be resolved, such as neighbor notifications, meetings, or property value guarantees.
- xn. A plan for groundwater quality protection. The plan shall include a minimum of three (3) borings showing depth to groundwater. If washing or processing are not proposed, and if groundwater is not encountered at a depth of fifteen feet (15') below the bottom of the proposed pit floor, the applicant need not extend borings any further. If washing/processing is proposed, a minimum of three (3) monitoring wells shall be installed to evaluate the hydrogeologic environment. The City reserves the right to require additional borings or monitoring wells if necessary.
- xm. A minimum of three (3) cross-sections showing the extent of overburden, extent of mineral deposits, the water table, and any evidence of the water table in the past.
- XIV. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water. Descriptions of methods used for filtration and control of water runoff are to be included also.
- xv. Identification of all proposed off-site trucking routes, together with the frequency and the common schedule of travel to be used for transporting extracted materials or products to and from the site.

- xvi. Description of methods to control the weight of vehicles leaving the facility and the methods to ensure vehicles do not travel on roads with weight limits lower than the weight of the vehicles.
- xvn. Description of methods to prevent mud and debris from being tracked onto public roads.
- xvm. A listing of any hazardous materials, including all fuel supplies, that will be stored on-site and a description of measures to be used for securing and storing these materials.
- xix. A listing of all chemicals used in the manufacturing and processing operations and in controlling dust.
- xx. If a mineral extraction facility proposes to dewater the site, a plan must be submitted that includes:
  - a) Dewatering points and their elevations;
  - b) Hydrogeologic parameters of the unit dewatered including hydraulic conductivity, transmissivity, and storativity;
  - c) Proposed volume and rate of dewatering;
  - d) Discharge point; and
  - e) Duration of dewatering.
- xxi. Contingency Plans: A plan for responding to spills and berm/earthen dam failure, or accidental release of chemicals, dust, waste, process water, or tailings.
- xxn. Seismic Monitoring: If a resource extraction facility proposes using explosives, a pre-blast survey performed by a Minnesota Licensed Engineer of surrounding dwellings and buildings within 1/4 mile of the facility shall be conducted prior to initial blasting. Yearly seismic surveys shall be offered and conducted by the applicant's engineer if blasting has occurred within the previous year.
- xxm. Description of site security and property boundary signage to be utilized at the facility.

11) Additional requirements for underground resource extraction facilities:

- 1. A description of the stability of lands overlaying the underground workings.
- ii. Locations of adits, ventilation shafts, and other surface openings.

111. Detailed description of water handling procedures, including dewatering and processing water.
- 1v. Detailed description of the fate and transport of groundwater into and out of the mine workings.
- v. No resource extraction activities shall occur within a five-hundred foot (500') radius of any residential or farm well.
- vi. Designs for mining under public roads require approval of the road authority.
- vii. Mining or tunneling must maintain a two-hundred foot (200') vertical extension setback from permanent surface structures.

**G) Resource Extraction Facility Permit Application Process.**

- I) Application. A request for a resource extraction conditional use permit, as provided within this Division, shall be filed with the Zoning Administrator on an official application form, the required application fee shall be paid, and a deposit made to reimburse the City for its out-of-pocket costs in processing the application.
  1. The application shall also be accompanied by ten (10) hard copies and one electronic copy of the detailed written and graphic materials fully explaining the proposed change, development, or use as specified in this Division.
  11. The Zoning Administrator shall refer the application along with all related information, to the appropriate zoning authorities for consideration.
- 2) Notice. The Zoning Administrator shall notice a public hearing as specified in Division 85-020 of the zoning ordinance.
- 3) Additional Information. The City shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City to review the request or to establish performance conditions in relation to this Division. Failure by the applicant to provide such additional information or consent to such testimony may lead to a determination by the City that the application is incomplete.
- 4) Referrals. The City may refer the application for review and comment to other agencies, including, but not limited to, the Soil and Water Conservation District, the Minnesota Pollution Control Agency, or the Goodhue County Mining Technical Evaluation Panel.

- 5) Recommendation. The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request to the City Council. The City Council may impose restrictions or conditions as deemed necessary to protect the public interest. These conditions may include, but are not limited to, the following:
1. Matters relating to the appearance of the facility.
  - II. Hours of operation.
  - III. Limiting the number of loaded trucks leaving the facility per day.
  - IV. Requiring all access drives to be watered and/or conditioned regularly to minimize dust.
  - v. Increasing setbacks.
  - vi. Blasting notifications and frequency.
  - VII. Limiting the height, size or location of buildings or stockpiles.
  - viii. Controlling the location and number of vehicle access points.
  - ix. Increasing street width and improving access conditions, including turn lanes, bypass lanes, etc.
  - x. Increasing the number, size, location, or lighting of signs.
  - xi. Requiring diking, berming, fencing, buffering, screening, landscaping, or other facilities to protect adjacent or nearby property.
  - xii. Designating sites for open space.
  - xiii. Delineating the area to be mined, total size and open area at any one time.
  - XIV. Requiring phased reclamation.
  - xv. Requiring financial security to guarantee compliance with the conditions of approval.
  - xvi. Air and Water quality monitoring.
  - xvii. On-site and off-site improvements to mitigate impacts caused by revisions to the natural flow of surface waters.
  - xviii. Requiring the owner/operator to enter into a road maintenance agreement with the City which shall specify the owner/operator's

responsibilities with regard to road maintenance costs based on the life expectancy of the operations at the facility.

- 6) City Council's Action and Findings. The City Council shall approve, modify, or deny the request and state the findings of its actions. The Zoning Administrator shall notify the applicant of the City Council's action.
- 7) Reapplication/Lapse of Conditional Use Permit. The City shall not accept reapplication for the same or substantially similar conditional use permit within twelve (12) months of denial.
- 8) Amended Conditional Use Permit. Any material change to the operations or use of the land approved under a current conditional use permit shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The determination of whether any change constitutes a material change shall be made at the sole discretion of the City.

H) **Annual Registration Required.** Annual registration of all resource extraction facilities is required. The purpose of the annual registration is to maintain an updated listing of active mineral extraction facilities in the City, to decertify any permits where the activity has ceased, to monitor compliance with the conditions of approval, to review the applicability of the conditions and to review bonding requirements.

- 1) Permit holders must complete and return registration forms provided by the City. Failure to maintain registration shall be cause for revocation of the permit.
- 2) Conditional use permits for resource extraction facilities will not automatically expire if there are no activities as authorized within a year's time as long as the permittee complies with the annual registration specified herein.
- 3) Annual registration is done administratively by the Zoning Administrator and will not require review by the Planning Commission or the City Council, provided all conditions are being met and the activity meets all standards as outlined in this Division, other permits and Road Impact Agreements.
- 4) For underground resource extraction facilities, a map prepared by a Minnesota Licensed Land Surveyor showing the property boundaries, the location, depth, size, and elevation of the tunnels and extent of the area mined must be submitted with the annual registration fee.

I) **Security Required.** The City shall require the owner of the property in which resource extraction is occurring to post a letter of credit, bond, or cash escrow in such form and sum as determined by the City Council as part of the permit. The security shall be sufficient to reimburse the following costs:



- 1) Costs of bringing the operation into compliance with the resource extraction permit requirements including site monitoring and enforcement costs.
- 2) Extraordinary costs of repairing roads due to special burden resulting from the hauling of materials and traffic associated with the operation.
- 3) Extraordinary costs of providing an alternative water supply to potentially affected residences or agricultural operations located within 1h mile of the resource extraction facility or other such areas shown to be impacted by the resource extraction operations.
- 4) Site restoration.
- 5) Costs the City may incur in enforcing the terms of the conditional use permit, including consultant's and attorney's fees.
- 6) Bonds shall have an initial term of at least one (1) year and shall include a provision for notification of the City at least thirty (30) days prior to cancellation or non-renewal.
- 7) Bonds must be renewed in such a manner that sufficient security is in existence at all times throughout the duration of the resource extraction activities.
- 8) In the event the City determines that the amount of security provided by an owner/operator must be increased, or if the amount provided has been exhausted, the City shall notify the owner/operator of the amount of additional security needed and the basis of that request. The owner/operator shall provide the additional security within thirty (30) days of the request.

**J) Additional Performance Standards for Resource Extraction Facilities.** The following performance standards apply to all resource extraction facilities located in the City and are supplemental and in addition to the other performance standards contained in this Division and the zoning code:

- 1) Normal hours of operation. Resource extraction facilities shall operate only between the hours of 6:00 a.m. and 10:00 p.m., Monday through Saturday, unless specified otherwise in the conditional use permit for the facility.
  1. Exceptions to the hours of operation must be approved by the City Zoning Administrator. Approval may only be granted in conjunction with the furnishing of material for a public improvement, public safety or a public good project that is underway during the hours that the resource extraction facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.

- 2) Fencing. Fencing, signs, and barriers are required around the outer boundaries of the entire resource extraction site, and around any ponding areas and steep sloped excavation areas unless, because of their location, they are not deemed to create a safety hazard.
- 3) Access. The permittee must obtain a permit from the road authority for all proposed new access points to public roads. The road authority may restrict the weight of vehicles allowed to use any permitted access.
- 4) Environmental Assessment Worksheet. To mitigate public nuisances, environmental, and public health concerns, the City shall require all operators of resource extraction facilities with on-site silica sand processing operations to submit an Environmental Assessment Worksheet (EAW).
- 5) Roadway dust control. Operators shall be responsible for providing continuous dust control during facility operation on unpaved roads that are the primary routes to or from a resource extraction facility. Watering roadways or other dust control measures along paved roads accessing the facility such as pavement sweeping and wheel washing may be required.
- 6) Resource extraction facility dust control and air quality. To mitigate public nuisances and public health concerns, the City shall require dust control in all resource extraction facilities.
  - i. Remedies to control dust may include methods such as berming, landscaping, enclosures for processing equipment, and watering stockpiled materials and all roads within the site.
  - ii. All equipment used for mining operations shall be constructed, maintained, and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred feet (600') of the facility lot line.
  111. The City may require air quality/air particulate monitoring of a resource extraction facility. If required, facilities that excavate, transfer, process or stockpile silica sand shall monitor air quality/air particulates as described herein. Monitoring equipment shall be in accordance with MPCA or the City best practices standards, whichever are more stringent.
    - a) If required, the operator shall begin air quality/air particulate and weather monitoring at least six (6) months prior to operation to create a baseline of the area.
    - b) Stationary monitors shall be located at strategic locations along the resource extraction facility property lines, within the

site, and may also be required to be located at neighboring residences within 600 feet (600') of the facility property lines.

- c) Continuous remote readings shall be taken and reported to the City when requested. A summary report shall accompany the operation's annual renewal documentation and fees.
- 7) Blasting permit required. The owner/operator shall obtain a blasting permit from the City, if applicable.
- 8) Noise. Maximum noise levels at the facility will be consistent with the standards established by the MPCA. To mitigate public nuisances, the facility shall use Best Management Practices including building berms, enclosing generators and leaving existing trees at the property boundaries to minimize noise impacts.
- 9) Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment according to all federal and state laws, rules, regulations and statutes.
- 10) Water resources. The resource extraction operation shall not allow surface water to leave the site in a manner that causes flooding, erosion, or alteration of natural drainage patterns. The resource extraction operation shall not adversely affect the quantity or quality of surface or subsurface water. Surface water leaving the site shall be of equal quality as water originating off-site before it passes through the site. The operator shall perform any water treatment necessary to comply with this provision.
- 11) Screening/buffering. Screening barriers shall be subject to the approval of the City.
  1. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties.
  11. A screening barrier may be required between the resource extraction facility and any public road.
  111. A screening barrier may be required to mitigate visual impacts of the resource extraction facility from existing historical, cultural, recreational features and dwellings, including but not limited to trails, navigable waters, and sites identified in the SHPO and Goodhue County cultural databases.
  - 1v. A buffer yard and screening that complies with "Buffer Yard D" as set forth in Division 62-030 is required for all resource extraction facility boundaries that abut residential, parks and open areas, and public assembly land uses.

- 12) Unauthorized storage. Vehicles, equipment, or materials not associated with the resource extraction facility or not in operable condition may not be kept or stored at the facility.
- 13) Setbacks. The following minimum setbacks shall be maintained from property boundaries at the surface and their vertical extensions below the surface:
1. One-hundred feet (100') of adjoining property lines, except for visual screening, reclamation, and berming of overburden material, unless written consent of the owner of the adjoining property is first secured, recorded with the Goodhue County Recorder and a copy submitted to the City Zoning Administrator.
  11. One thousand feet (1,000') of any existing dwelling or platted residential subdivision, not owned by the operator or owner, unless written consent of the owner of the adjoining property is first secured, recorded with the Goodhue County Recorder and a copy submitted to the City Zoning Administrator.
  111. Three-hundred feet (300') of the boundary of any zoning district where such operations are not permitted.
  - 1v. One-hundred feet (100') of any right-of-way of any existing or platted street, road or highway, except berm construction, vegetative screening, or maintenance activities unless by written consent of the adjacent road authority having jurisdiction over the right-of-way and a copy is submitted to the City Zoning Administrator.
  - v. The City Council may increase the setbacks based upon residential locations, social or economic concerns, type of mining, or to mitigate public nuisance concerns.
- 14) Phasing. Phasing plans must be prepared for all mineral extraction facilities. The proposed size of the extraction, processing, staging, and stockpiling operations are to be identified. Resource extraction activities shall be conducted so active extraction operations expose no more than forty (40) acres at any one time, unless specifically approved in the conditional use permit.
- 15) Weed control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.
- 16) Waste disposal. Any waste generated from the mining operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, county, and City requirements.

1. Portable asphalt and concrete plants must be approved on a per project basis by the City.
  11. An estimate of the amount of recycled concrete and asphalt material to be processed must be submitted. An estimate of the time required and the amount required to be stockpiled before being processed must be submitted.
- 17) Water quality monitoring. Water quality monitoring shall be performed when a resource extraction facility is (a) mining below the water table; (b) if the property lines are within six-hundred feet (600') of known Karst features, springs, streams, or lakes; (c) if the operation is proposing to dewater the site; (d) if the site is using chemicals as part of the washing or ponding process; (e) if otherwise required by the City Council or the MPCA; or (f) if mining silica sand, as defined in Division 55-260 of the zoning ordinance.
1. If washing/processing operations are proposed, a minimum of three (3) monitoring wells shall be installed to evaluate the hydrogeologic environment. The City reserves the right to require additional borings or monitoring wells if necessary.
  11. A Water Monitoring Plan shall include placing a sufficient number of monitoring wells in strategic locations along the property lines and within the site to adequately characterize and monitor surface and groundwater.
  111. Monitoring of residential wells within six-hundred feet (600') of the property lines may also be required.
  - 1v. Continuous remote readings shall be taken and reported to the City when requested. A summary report shall accompany the operation's annual registration documentation.
- 18) General compliance. The operators must comply with all federal, state, regional, county, and local laws and regulations applicable to the operation of the resource extraction facility, including, but not limited to, floodplain management regulations, shoreland management regulations, and zoning code regulations.
- 19) Additional regulations. The City may impose additional regulations and requirements on the resource extraction facility to protect the public health, safety, and welfare.
- 20) Land reclamation. The following minimum land reclamation standards and conditions shall apply:
1. For gravel pits, final grades may not exceed one (1) vertical to three (3) horizontal slope except for rehabilitated areas in existence at the

time of adoption of this Ordinance. In completing final grading in each phase, the top of the slope may begin twenty feet (20') from property lines.

- a) Proposed topography shall fit in with regional topography and mirror landforms typical of the area.

IL For rock quarries, the permittee shall submit a plan to explain how the quarries are to be rehabilitated.

111. A minimum of three inches (3") of topsoil shall be placed on all graded surfaces.

IV. Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Areas returned to agricultural production are exempt from the seeding and mulching requirements.

v. Soil restoration, seeding, and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached.

- a) Land shall be reclaimed to native vegetation unless inconsistent with the final proposed land use.

- b) Proposed land uses shall be consistent with the Comprehensive Plan, zoning code requirements, and applicable federal, state, and local regulations in effect at the time the plan is submitted, and may be required to be amended over time.

vi. Soil erosion and sedimentation control measures shall be consistent with MPCA's Protecting Water Quality in Urban Areas and MPCA's General Storm Water Permit.

VII Unless otherwise amended or approved by the City, all final grades and site restoration efforts shall be consistent with the Reclamation Plan.

vni. Within twelve (12) months after completion of resource extraction or after termination of the permit, all equipment, vehicles, machinery, materials, and debris shall be removed from the subject property.

Ix. Within twelve (12) months after completion of resource extraction or after termination of the permit, site reclamation must be completed. Failure to annually register the resource extraction facility will be considered termination of the resource extraction facility and the twelve (12) month period for site reclamation begins.

- x. All water areas resulting from excavation shall be addressed upon reclamation of the site. In unique circumstances where the City Council has reviewed proposals for water bodies at the time of approval of the overall plan and has determined that such would be appropriate as an open space or recreational amenity in subsequent reuse of the site, water bodies may be permitted.
- 21) Transportation Impact Study and Road Impact Agreement. The City shall require the owner/operator of a silica sand processing facility to complete a Transportation Impact Study and may require the owner/operator to enter into Road Impact Agreements as conditions of their permit and registration.
- i. Transportation Impact Studies. When a proposed or amended conditional use permit is requested, the City shall require a Transportation Impact Study.
  - ii. Road Impact Agreements. When a proposed or amended conditional use permit is requested, the City may require a Road Impact Agreement to alleviate the additional burden on the City's financial resources associated with the road infrastructure maintenance affected by granting the request.

**K) Bi-Annual and Annual Reporting.**

- 1) During the first two (2) years of operations, the owner of all resource extraction operations in the City shall submit a report twice per year to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1 and July 1-August 1.
- 2) After two (2) years of consecutive operations, the owner/operator of all resource extraction operations in the City shall submit an annual report to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1.
- 3) The bi-annual and annual reports shall include the following information:
  - i. An identification of the owner/operator and the location of the resource extraction site.
  - ii. A map accurately showing the area of existing excavation, the unclaimed areas and reclaimed areas of the mine site. These maps shall include the acreage of each area.
  - 111. A written, detailed description of activities and operations on the site for the previous half-year (for bi-annual reports) or year (for annual reports).

- iv. A written, detailed description of activities and operations planned for the following calendar year of operations.
- v. A written report demonstrating how the owner/operator has been in compliance with all the terms set forth in the zoning ordinance and the conditional use permit. The report shall include all water and air quality monitoring results.
- vi. A summary of all areas of noncompliance and a detailed plan for bringing noncompliant areas of operation into compliance for the next calendar year of operations.

**L) Inspection, Violations, Penalties and Enforcement.**

- 1) Inspection. In addition to the reporting requirements, the City may make inspections of the facility upon reasonable notice to determine the condition of the resource extraction sites in order to ensure and safeguard the health and safety of the public and determine compliance with the minimum standards under the applicable law.
- 2) Violation a Misdemeanor. Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law, unless a more severe penalty is provided by state or federal law. Each day that a violation is permitted to exist shall constitute a separate offense.
- 3) Additional violations. The following also constitute violations of the zoning code:
  - i. Engaging in resource extraction without properly obtaining a conditional use permit as required by the zoning code.
  - ii. Making incorrect or false statements in the information and documentation submitted in the reporting or during inspection by an authorized representative of the City.
  - iii. Failure to provide a bi-annual or annual report by the applicable deadline.
  - iv. Failure to take appropriate or reasonable action to remediate a known violation, citation, request for additional information or financial assurance, or any other order by the City.
- 4) Enforcement. In the event of a violation or threatened violation of any of the terms of this Division, the City may take appropriate action to enforce this Ordinance, including exercising the performance bonds, application for injunctive relief, action to compel performance, revocation of the conditional



use permit, civil fines, and/or other appropriate action before the City Council or in court if the City deems it necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.

**55-260 Heavy Industrial Land Use - Silica Sand Processing that does not include Resource Extraction.**

A) **Purpose.** The purpose of this zoning regulation is to provide minimum standards for all silica sand processing operations (Heavy Industrial land use) within the City limits in order to protect public health and safety, to preserve the scenic beauty of Red Wing's landscapes and environment, to protect the public from damage to both the quality and quantity of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people of Red Wing and the surrounding communities. This purpose will be fulfilled through the following means:

- 1) Identification of areas in the City where silica sand processing is most appropriate and minimizes conflicts with other land uses.
- 2) Establishment of permitting requirements, environmental review procedures and performance standards to regulate silica sand processing operations.
- 3) Establishment of standards that prevent or minimize environment and aesthetic impacts on extracted properties, adjacent properties, and the City as a whole.
- 4) Establishment of standards and financial guarantees that restore any affected property to a condition compatible with adjacent properties and suitable for future uses that are compatible with the City of Red Wing Comprehensive Plan.

B) **Definitions.** For the purpose of this Chapter, certain terms and words are defined below and also in, Division 55-250 Resource Extraction Activities, and Division 55-270 Silica Sand Motor Freight and Warehousing. Additional terms are also defined in Division 10, Definitions. Particular terms that apply include Heavy Industrial land use and those listed below.

C) **Silica Sand Processing Defined.**

- 1) *Silica sand* means silica/frac sand having composition and grain-size distribution suitable for industrial applications, including, but not limited to, use in the hydraulic fracturing process. Characteristics of silica sand/frac sand include: spherical shape, high silica (quartz) content, hardness (can withstand high pressure), uniform particle shape, and larger grain size. This

definition specifically includes silica sand obtained from Jordan and St. Peter Sandstone.

2) *Silica sand processing* means any or all of the following:

1. Manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation, washing, compounding, coating, mixing or blending of mineral aggregates or nonmetallic resources extracted from off-site involving silica sand.
11. Manufacturing processes aimed at producing silica sand and silica sand products for sale or use by the owner.
111. Stockpiling of nonmetallic resources used in the silica sand manufacturing process for sale or use off-site, and stockpiling of waste materials.
- 1v. Transport of nonmetallic resources, finished products or waste materials from the silica sand processing site.
- v. Disposal of waste materials.
- vi. Exclusion: Silica sand processing as defined in this section does not include processing operations that take place on-site at resource extraction facilities.

3) *Silica sand processing facility* means any area that is being used for silica sand processing.

**D) Silica Sand Processing Facility Permit Required.** All persons having a legal or equitable interest in any silica sand processing facility commencing on or after the effective date of this Ordinance shall obtain a conditional use permit which shall be processed in accordance with Division 90 of the Zoning Code and the additional procedures and requirements of this Division. Such persons are referred to hereinafter as "owner," "operator," and/or "permittee." These terms are interchangeable for the purposes of this Division.

**E) Silica Sand Processing Facility Permit Application Requirements.** All persons seeking to engage in silica sand processing activities within the City must submit the following:

- 1) Name, address, phone number(s), e-mail address, and website of the operator of the silica sand processing facility.
- 2) Name, addresses, phone number(s), and e-mail addresses of all owners or lessors of the land on which the processing operation will occur.

- 3) Acreage and complete legal description of the subject property on which the facility will be located, including all contiguous property owned by the landowners.
- 4) A narrative outlining the type of material to be processed, mode of operation, including any screening, drying, washing, coating and storage of material, estimated quantity of material to be processed, and other pertinent information to explain the request in detail.
- 5) Estimated time frame to operate the facility, to include hours per day, days per week, months per year, and number of years in operation.
- 6) A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
- 7) A description of the estimated average daily and peak daily number of vehicles accessing the facility. If more than one access to the facility is proposed, provide a breakdown of anticipated daily and peak number of vehicles using each access.
- 8) Any other information or documentation required for issuance of a conditional use permit under the zoning code.
- 9) Supporting documentation: Every application for a silica sand processing facility permit shall include submission of supporting documentation. The documentation must take into account the Performance Standards listed in this Division and may be presented in descriptive or map form. Supporting documentation shall include, but is not limited to, the following:
  1. A description of existing land uses on the subject property.
  11. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property.
  111. Copies of all federal, state, and county application documents and operating permits, including but not limited to: U.S. and Minnesota Department of Transportation permits and Minnesota Pollution Control Agency (MPCA) permits.
  - 1v. A description of actions to be taken to mitigate potential impacts resulting from silica sand processing, including potential impact related to: wetlands, erosion, noise, air pollution, surface water contamination, traffic, dust, or vibrations.
  - v. A description of site screening, buffering, landscaping and security fencing.

- vi. A description of the method in which complaints about any aspect of the facility or off-site transportation are to be received and the method by which complaints are to be resolved, such as neighbor notifications, meetings, or property value guarantees.
- VII. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water. Descriptions of methods used for filtration and control of water runoff are to be included also.
- vni. Identification of all proposed off-site trucking routes, together with the frequency and the common schedule of travel to be used for transporting materials or products to and from the site.
- Ix. Description of methods to control the weight of vehicles leaving the facility and the methods to ensure vehicles do not travel on roads with weight limits lower than the weight of the vehicles.
- x. Description of methods to prevent mud and debris from being tracked onto public roads.
- xi. A listing of any hazardous materials, including all fuel supplies, that will be stored on site and a description of measures to be used for securing and storing these materials.
- xn. A listing of all chemicals used in the processing operations and in controlling dust.
- xm. Contingency Plans: A plan for responding to spills or accidental release of chemicals, dust, waste, or process water.
- XIV. Description of site security and property boundary signage to be utilized at the facility.

**F) Silica Sand Processing Permit Application Process.**

- 1) Application. A request for a silica sand processing conditional use permit, as provided within this Division, shall be filed with the Zoning Administrator on an official application form, the required application fee shall be paid, and a deposit made to reimburse the City for its out-of-pocket costs in processing the application.
  - 1. The application shall also be accompanied by ten (10) hard copies and one electronic copy of the detailed written and graphic materials fully explaining the proposed change, development, or use as specified in this Division.

- IL The Zoning Administrator shall refer the application along with all related information, to the appropriate zoning authorities for consideration.
- 2) Notice. The Zoning Administrator shall notice a public hearing as specified in Division 85-020 of the zoning ordinance.
  - 3) The City shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City to review the request or to establish performance conditions in relation to this Division. Failure by the applicant to provide such additional information or consent to such testimony may lead to a determination by the City that the application is incomplete.
  - 4) Referrals. The City may refer the application for review and comment to other agencies, including but not limited to the Minnesota Pollution Control Agency, or the Minnesota Department of Transportation.
  - 5) Recommendation. The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request to the City Council. The City Council may impose restrictions or conditions as deemed necessary to protect the public interest. These conditions may include, but are not limited to, the following:
    1. Matters relating to the appearance of the facility.
    - IL Hours of operation.
    111. Limiting the number of loaded trucks entering or leaving the facility per day.
    - IV. Requiring all access drives to be watered and/or conditioned regularly to minimize dust.
    - v. Increasing setbacks.
    - vi. Limiting the height, size or location of buildings or stockpiles.
    - VIL Controlling the location and number of vehicle access points.
    - vni. Increasing street width and improving access conditions, including tum lanes, bypass lanes, etc.
    - Ix. Increasing the number, size, location, or lighting of signs.
    - x. Requiring berming, fencing, buffering, screening, landscaping, or other facilities to protect adjacent or nearby property.

- xi. Requiring financial security to guarantee compliance with the conditions of approval.
  - xn. Air and Water quality monitoring.
  - xm. On-site and off-site improvements to mitigate potential impacts to surface and subsurface waters.
  - xiv. Requiring the owner/operator to enter into a road maintenance agreement with the City which shall specify the owner/operator's responsibilities with regard to road maintenance costs based on the life expectancy of the operations at the facility.
- 6) City Council's Action and Findings. The City Council shall approve, modify, or deny the request and state the findings of its actions. The Zoning Administrator shall notify the applicant of the City Council's action.
- 7) Reapplication/Lapse of Conditional Use Permit. The City shall not accept reapplication for the same or substantially similar conditional use permit within twelve (12) months of denial.
- 8) Amended Conditional Use Permit. Any material change to the operations or use of the land approved under a current conditional use permit shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The determination of whether any change constitutes a material change shall be made at the sole discretion of the City.
- G) **Security Required.** The City shall require the owner of the property in which silica sand processing is occurring to post a letter of credit, bond, or cash escrow in such form and sum as determined by the City Council as part of the permit. The security shall be sufficient to reimburse the following costs:
- 1) Costs of bringing the operation into compliance with the silica sand processing permit requirements including site monitoring and enforcement costs.
  - 2) Extraordinary costs of repairing roads due to special burden resulting from the hauling of materials and traffic associated with the operation.
  - 3) Extraordinary costs of providing an alternative water supply to potentially affected residences or agricultural operations located within 1h mile of the resource extraction facility or other such areas shown to be impacted by the silica sand processing operations.
  - 4) Costs the City may incur in enforcing the terms of the conditional use permit, including consultant's and attorney's fees.

- 5) Bonds shall be for a minimum of one (1) year and shall include a provision for notification of the City at least thirty (30) days prior to cancellation or non-renewal.
- 6) Bonds must be renewed in such a manner that sufficient security is in existence at all times throughout the duration of the silica sand processing operation.
- 7) In the event the City determines that the amount of security provided by an owner/operator must be increased, or if the amount provided has been exhausted, the City shall notify the owner/operator of the amount of additional security needed and the basis of that request. The owner/operator shall provide the additional security within thirty (30) days of the request.

H) **Additional Performance Standards for Silica Sand Processing Facilities.** The following performance standards apply to all silica sand processing facilities located in the City and are supplemental and in addition to the other applicable performance standards contained in this Division and in the zoning code:

- 1) Normal hours of operation. Silica sand processing facilities shall operate only between the hours of 6:00 a.m. and 10:00 p.m., Monday through Saturday, unless specified otherwise in the conditional use permit for the facility.
  1. Exceptions to the hours of operation must be approved by the City Zoning Administrator. Approval may only be granted in conjunction with the furnishing of material for a public improvement, public safety or a public good project that is underway during the hours that the facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.
- 2) Fencing. Fencing, signs, and barriers are required around the outer boundaries of the entire facility.
- 3) Access. The permittee must obtain a permit from the road authority for all proposed new access points to public roads. The road authority may restrict the weight of vehicles allowed to use any permitted access.
- 4) Roadway dust control. Operators shall be responsible for providing continuous dust control during facility operation on unpaved roads that are the primary routes to or from a silica sand processing facility. Watering roadways or other dust control measures along paved roads accessing the facility such as pavement sweeping and wheel washing may be required.
- 5) Environmental Assessment Worksheet. To mitigate public nuisances, environmental, and public health concerns, the City shall require all

operators of silica sand processing facilities to submit an Environmental Assessment Worksheet (EAW).

- 6) Dust Mitigation Plan.** To mitigate public nuisances and public health concerns, the City shall require Operators to present a Dust Mitigation Plan for approval by the City.
1. Remedies to control dust may include methods such as berming, landscaping, enclosures for processing equipment, and watering stockpiled materials and all roads within the site.
  11. All equipment used for processing operations shall be constructed, maintained, and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred feet (600') of the facility lot line.
  111. The City shall require continuous air quality/air particulate monitoring of a silica sand processing facility. Monitoring equipment shall be in accordance with MPCA or the City best practices standards, whichever are more stringent.
    1. The operator shall begin air quality/air particulate and water monitoring at least six (6) months prior to operation to create a baseline of the area.
    2. Stationary monitors shall be located at strategic locations along the silica sand processing facility property lines, within the site, and may also be required to be located at neighboring residences within 600 feet (600') of the facility property lines.
    3. Continuous remote readings shall be taken and reported to the City when requested. A summary report shall be included in all bi-annual or annual reports, and shall be made available upon request by the City.
- 7) Noise.** Maximum noise levels at the facility will be consistent with the standards established by the MPCA. To mitigate public nuisances, the facility shall use Best Management Practices including building berms, enclosing generators and leaving existing trees at the property boundaries to minimize noise impacts.
- 8) Vibration.** Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment according to all federal and state laws, rules, regulations and statutes.



- 9) Water resources.** The silica sand processing operation shall not allow surface water to leave the site in a manner that causes flooding, erosion, or alteration of natural drainage patterns. The facility shall not adversely affect the quantity or quality of surface or subsurface water. Surface water leaving the site shall be of equal quality as water originating off-site before it passes through the site. The operator shall perform any water treatment necessary to comply with this provision.
- 10) Screening/buffering.** Screening barriers shall be subject to the approval of the City.
1. To minimize problems of dust and noise and to shield silica sand processing operations from public view, a screening barrier may be required between the mining site and adjacent properties.
  11. A screening barrier may be required between the silica sand processing facility and any public road.
  111. A screening barrier may be required to mitigate visual impacts of the silica sand processing facility from existing historical, cultural, recreational features and dwellings, including but not limited to trails, navigable waters, and sites identified in the State Historic Preservation Office (SHPO) and Goodhue County cultural databases.
  - 1v. A buffer yard and screening that complies with "Buffer Yard D" as set forth in Division 62-030 is required for all silica sand processing facility boundaries that abut residential, parks and open areas, and public assembly land uses.
- 11) Unauthorized storage.** Vehicles, equipment, or materials not associated with the silica sand processing facility or not in operable condition may not be kept or stored at the facility.
- 12) Waste disposal.** Any waste generated from the silica sand processing operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, county, and City requirements.
- 13) Water quality monitoring.** Water quality monitoring shall be performed at all silica sand processing facilities.
1. A minimum of three (3) monitoring wells shall be installed to evaluate the hydrogeologic environment. The City reserves the right to require additional borings or monitoring wells if necessary.
  11. A Water Monitoring Plan shall include placing a sufficient number of monitoring wells in strategic locations along the property lines and within the site to adequately characterize and monitor surface and groundwater.

111. Monitoring of residential wells within six-hundred feet (600') of the property lines may also be required.

1v. Continuous remote readings shall be taken and reported to the City when requested. A summary report shall be included in all bi-annual or annual reports, and shall be made available upon request by the City.

**14) Storm Water Management Plan.** The City may require an operator to submit a Storm Water Management Plan to the City for approval.

**15) General compliance.** The operators must comply with all other federal, state, regional, county, and local laws and regulations applicable to the operation of the silica sand processing facility, including but not limited to floodplain management regulations, shoreland management regulations, and zoning ordinance regulations.

**16) Additional regulations.** The City may impose additional regulations and requirements on the silica sand processing facility to protect the public health, safety, and welfare.

**17) Transportation Impact Study and Road Impact Agreement.** The City shall require the owner/operator of a silica sand processing facility to complete a Transportation Impact Study and may require the owner/operator to enter into Road Impact Agreements as conditions of their permit and registration.

1. Transportation Impact Studies. When a proposed or amended conditional use permit is requested, the City shall require a Transportation Impact Study.

11. Road Impact Agreements. When a proposed or amended conditional use permit is requested, the City may require a Road Impact Agreement to alleviate the additional burden on the City's financial resources associated with the road infrastructure maintenance affected by granting the request.

**I) Bi-Annual and Annual Reporting.**

1) During the first two (2) years of operations, the owner of all silica sand processing facilities in the City shall submit a report twice per year to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1 and July 1-August 1.

2) After two (2) years of consecutive operations, the owner of all silica sand processing facilities in the City shall submit an annual report to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1.

- 3) The bi-annual and annual reports shall include the following information:
  1. An identification of the owner/operator and the location of the silica sand processing facility.
  11. A written, detailed description of activities and operations on the site for the previous half-year (for bi-annual reports) or year (for annual reports).
  111. A written, detailed description of activities and operations planned for the following calendar year of operations.
  - 1v. A written report demonstrating how the owner/operator has been in compliance with all the terms set forth in the zoning ordinance and the conditional use permit. The report shall include all water and air quality monitoring results.
  - v. A summary of all areas of noncompliance and a detailed plan for bringing noncompliant areas of operation into compliance for the next calendar year of operations.

**J) Inspection, Violations, Penalties and Enforcement.**

- 1) Inspection. In addition to the annual reports, the City may make inspections of the facility upon reasonable notice to determine the condition of the silica sand processing site in order to ensure and safeguard the health and safety of the public and determine compliance with the minimum standards under the applicable law.
- 2) Violation a Misdemeanor. Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law, unless a more severe penalty is provided by federal or state law. Each day that a violation is permitted to exist shall constitute a separate offense.
- 3) Additional violations. The following also constitute violations of the zoning code:
  1. Engaging in silica sand processing without properly obtaining a conditional use permit as required by the zoning code.
  11. Making incorrect or false statements in the information and documentation submitted in the reporting or during inspection by an authorized representative of the City.
  111. Failure to provide a bi-annual or annual report within the required time period.

1v. Failure to take appropriate or reasonable action to remediate a known violation, citation, request for additional information or financial assurance, or any other order by the City.

4) Enforcement. In the event of a violation or threatened violation of any of the terms of this Division, the City may take appropriate action to enforce this Division, including exercising the performance bonds, application for injunctive relief, action to compel performance, revocation of the conditional use permit, civil fines, and/or other appropriate action before the City Council or in court if the City deems it necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.

#### **55-270 Silica Sand Motor Freight and Warehousing.**

A) **Purpose.** The purpose of this zoning regulation is to provide minimum standards for all silica sand motor freight and warehousing operations (Motor Freight and Warehousing land use) within the City limits in order to protect public health and safety, to preserve the scenic beauty of Red Wing's landscapes and environment, to protect the public from damage to both the quality and quantity of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people of Red Wing and the surrounding communities. This purpose will be fulfilled through the following means:

- 1) Identification of areas in the City where silica sand motor freight and warehousing is most appropriate and minimizes conflicts with other land uses.
- 2) Establishment of permitting requirements, environmental review procedures and performance standards to regulate silica sand motor freight and warehousing operations.
- 3) Establishment of standards that prevent or minimize environment and aesthetic impacts on adjacent properties and the City as a whole.
- 4) Establishment of standards and financial guarantees that restore any affected property to a condition compatible with adjacent properties and suitable for future uses that are compatible with the City of Red Wing Comprehensive Plan.

B) **Definitions.** For the purpose of this Chapter, certain terms and words are defined below and also in Division 10, Definitions. Particular terms that apply include Motor Freight and Warehousing, Silica Sand (defined in Division 55-260), and those listed below.

**C) Silica Sand Motor Freight and Warehousing Defined.**

- I) *Silica sand motorfreight and warehousing* means motor freight and warehousing operations (Motor Freight and Warehousing land use) that involve silica sand, as that term is defined in Division 55-260. Such operations include any or all of the following:
  - i. Operations involving the loading, unloading, transfer, storage, warehousing, stockpiling or shipping of silica sand, regardless of the mode of transportation (truck, rail, barge, etc.).
  - ii. Operations that involve the transfer or movement of silica sand from one mode of transportation to another, such as from truck to barge, or from barge to rail, etc.
- 2) *Silica sand motorfreight and warehousing facility* means any area that is being used for silica sand motor freight and warehousing operations.

**D) Silica Sand Motor Freight and Warehousing Facility Permit Required.** All persons having a legal or equitable interest in any silica sand motor freight and warehousing facility commencing on or after the adoption of this Ordinance shall obtain a conditional use permit which shall be processed in accordance with Division 90 of the Zoning Ordinance and the additional procedures and requirements of this Division. Such persons are referred to hereinafter as "owner," "operator," and/or "permittee." These terms are interchangeable for the purposes of this Division.

**E) Silica Sand Motor Freight and Warehousing Facility Permit Application Requirements.** All persons seeking to engage in silica sand motor freight and warehousing activities within the City must submit the following:

- 1) Name, address, phone number(s), e-mail address, and website of the operator of the silica sand motor freight and warehousing facility.
- 2) Name, addresses, phone number(s), and e-mail addresses of all owners or lessors of the land on which the silica sand motor freight and warehousing operation will occur.
- 3) Acreage and complete legal description of the subject property on which the facility will be located, including all contiguous property owned by the landowners.
- 4) A narrative outlining the type of material to be handled, mode(s) of operation, including a description of the equipment and buildings/containers to be used in the movement and storage of silica sand, estimated quantity of material involved in the operation, and other pertinent information to explain the request in detail.

- 5) Estimated time frame to operate the facility, to include hours per day, days per week, months per year, and number of years in operation.
- 6) A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
- 7) A description of the estimated average daily and peak daily number of vehicles, barges, trains, etc. accessing the facility. If more than one access to the facility is proposed, provide a breakdown of anticipated daily and peak number of vehicles barges, trains, etc. using each access.
- 8) Any other information or documentation required for issuance of a conditional use permit under the zoning code.
- 9) Supporting documentation: Every application for a silica sand motor freight and warehousing facility permit shall include submission of supporting documentation. The documentation must take into account the Performance Standards listed in this Division and may be presented in descriptive or map form. Supporting documentation shall include, but is not limited to, the following:
  1. A description of existing land uses on the subject property.
  11. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property.
  111. Copies of all federal, state, and county application documents and operating permits, including but not limited to: U.S. and Minnesota Department of Transportation permits and Minnesota Pollution Control Agency (MPCA) permits.
  - 1v. A description of actions to be taken to mitigate potential impacts resulting from silica sand silica sand motor freight and warehousing, including potential impact related to: wetlands, erosion, noise, air pollution, surface water contamination, traffic, dust, or vibrations.
  - v. A description of site screening, buffering, landscaping and security fencing.
  - vi. A description of the method in which complaints about any aspect of the facility or on-site and off-site transportation are to be received and the method by which complaints are to be resolved, such as neighbor notifications, meetings, or property value guarantees.
  - vii. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water. Descriptions of methods used for filtration and control of water runoff are to be included also.

- vni. Identification of all proposed off-site trucking, barge, and rail routes, together with the frequency and the common schedule of travel to be used for transporting materials or products to and from the site.
- Ix. Description of methods to control the weight of vehicles leaving the facility and the methods to ensure vehicles do not travel on roads with weight limits lower than the weight of the vehicles.
- x. Description of methods to prevent mud and debris from being tracked onto public roads.
- xi. A listing of any hazardous materials, including all fuel supplies, that will be stored on site and a description of measures to be used for securing and storing these materials.
- xn. A listing of all chemicals used in the silica sand motor freight and warehousing operations and in controlling dust.
- xm. Contingency Plans: A plan for responding to spills or accidental release of chemicals, dust, waste, or hazardous materials.
- XIV. Description of site security and property boundary signage to be utilized at the facility.

**F) Silica Sand Motor Freight and Warehousing Facility Permit Application Process.**

- 1) Application. A request for a silica sand motor freight and warehousing facility conditional use permit, as provided within this Division, shall be filed with the Zoning Administrator on an official application form, the required application fee shall be paid, and a deposit made to reimburse the City for its out-of-pocket costs in processing the application.
  - 1. The application shall also be accompanied by ten (10) hard copies and one electronic copy of the detailed written and graphic materials fully explaining the proposed change, development, or use as specified in this Division.
  - IL The Zoning Administrator shall refer the application along with all related information, to the appropriate zoning authorities for consideration.
- 2) Notice. The Zoning Administrator shall notice a public hearing as specified in Division 85-020 of the zoning ordinance.
- 3) The City shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City to

review the request or to establish performance conditions in relation to this Division. Failure by the applicant to provide such additional information or consent to such testimony may lead to a determination by the City that the application is incomplete.

- 4) Referrals. The City may refer the application for review and comment to other agencies, including but not limited to the Minnesota Pollution Control Agency, or the Minnesota Department of Transportation.
- 5) Recommendation. The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request to the City Council. The City Council may impose restrictions or conditions as deemed necessary to protect the public interest. These conditions may include but are not limited to, the following:
  1. Matters relating to the appearance of the facility.
  - II. Hours of operation.
  111. Limiting the number of loaded trucks, railcars, barges, etc. entering or leaving the facility per day.
  - IV. Requiring all access drives to be watered and/or conditioned regularly to minimize dust.
  - v. Increasing setbacks.
  - vi. Limiting the height, size or location of buildings or stockpiles.
  - VII. Controlling the location and number of vehicle access points.
  - vni. Increasing street width and improving access conditions, including turn lanes, bypass lanes, etc.
  - Ix. Increasing the number, size, location, or lighting of signs.
  - x. Requiring berming, fencing, buffering, screening, landscaping, or other facilities to protect adjacent or nearby property.
  - xi. Requiring financial security to guarantee compliance with the conditions of approval.
  - xn. Air quality monitoring.
  - xm. Requiring the owner/operator to enter into a road maintenance agreement with the City which shall specify the owner/operator's responsibilities with regard to road maintenance costs based on the life expectancy of the operations at the facility.



- 6) City Council's Action and Findings. The City Council shall approve, modify, or deny the request and state the findings of its actions. The Zoning Administrator shall notify the applicant of the City Council's action.
  - 7) Reapplication/Lapse of Conditional Use Permit. The City shall not accept reapplication for the same or substantially similar conditional use permit within twelve (12) months of denial.
  - 8) Amended Conditional Use Permit. Any material change to the operations or use of the land approved under a current conditional use permit shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The determination of whether any change constitutes a material change shall be made at the sole discretion of the City.
- G) **Security Required.** The City shall require the owner of the property in which silica sand motor freight and warehousing is occurring to post a letter of credit, bond, or cash escrow in such form and sum as determined by the City Council as part of the permit. The security shall be sufficient to reimburse the following costs:
- 1) Costs of bringing the operation into compliance with the silica sand motor freight and warehousing facility permit requirements including site monitoring and enforcement costs.
  - 2) Extraordinary costs of repairing roads due to special burden resulting from the hauling of materials and traffic associated with the operation.
  - 3) Costs the City may incur in enforcing the terms of the conditional use permit, including consultant's and attorney's fees.
  - 4) Bonds shall be for a minimum of one (1) year and shall include a provision for notification of the City at least thirty (30) days prior to cancellation or non-renewal.
  - 5) Bonds must be renewed in such a manner that sufficient security is in existence at all times throughout the duration of the resource extraction activities.
  - 6) In the event the City determines that the amount of security provided by an owner/operator must be increased, or if the amount provided has been exhausted, the City shall notify the owner/operator of the amount of additional security needed and the basis of that request. The owner/operator shall provide the additional security within thirty (30) days of the request.
- H) **Additional Performance Standards for Silica Sand Motor Freight and Warehousing Facilities.** The following performance standards apply to all silica sand motor freight and warehousing facilities located in the City and are supplemental and in addition to the other applicable performance standards contained in this Division and in the zoning code:

- 1) Normal hours of operation. Silica sand motor freight and warehousing facilities shall operate only between the hours of 6:00 a.m. and 10:00 p.m., Monday through Saturday, unless specified otherwise in the conditional use permit for the facility.
  1. Exceptions to the hours of operation must be approved by the City Zoning Administrator. Approval may only be granted in conjunction with the furnishing of material for a public improvement, public safety or a public good project that is underway during the hours that the facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.
- 2) Fencing. Fencing, signs, and barriers are required around the outer boundaries of the entire facility.
- 3) Access. The permittee must obtain a permit from the road authority for all proposed new access points to public roads. The road authority may restrict the weight of vehicles allowed to use any permitted access.
- 4) Roadway dust control. Operators shall be responsible for providing continuous dust control during facility operation on unpaved roads that are the primary routes to or from a resource extraction facility. Watering roadways or other dust control measures along paved roads accessing the facility such as pavement sweeping and wheel washing may be required.
- 5) Dust Mitigation Plan. To mitigate public nuisances and public health concerns, the City shall require operators to present a Dust Mitigation Plan for approval by the City.
  1. Remedies to control dust may include methods such as berming, landscaping, enclosures for equipment, and watering stockpiled materials and all roads within the site.
  11. All equipment used for silica sand motor freight and warehousing operations shall be constructed, maintained, and operated in such a manner as to minimize, as far as practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred feet (600') of the facility lot line.
  111. The City shall require continuous air quality/air particulate monitoring of a silica sand motor freight and warehousing facility. Monitoring equipment shall be in accordance with MPCA or the City best practices standards, whichever are more stringent.
    1. The operator shall begin air quality/air particulate and water monitoring at least six (6) months prior to operation to create a baseline of the area.

2. Stationary monitors shall be located at strategic locations along the silica sand motor freight and warehousing facility property lines, within the site, and may also be required to be located at neighboring residences within 600 feet (600') of the facility property lines.
  3. Continuous remote readings shall be taken and reported to the City when requested. A summary report shall be submitted to the City annually, and upon request by the City.
- 6) Noise. Maximum noise levels at the facility will be consistent with the standards established by the MPCA. To mitigate public nuisances, the facility shall use Best Management Practices including building berms, enclosing generators and leaving existing trees at the property boundaries to minimize noise impacts.
  - 7) Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment according to all federal and state laws, rules, regulations, and statutes.
  - 8) Screening/buffering. Screening barriers shall be subject to the approval of the City.
    1. To minimize problems of dust and noise and to shield silica sand motor freight and warehousing operations from public view, a screening barrier may be required between the mining site and adjacent properties.
    11. A screening barrier may be required between the silica sand motor freight and warehousing facility and any public road.
    111. A screening barrier may be required to mitigate visual impacts of the silica sand motor freight and warehousing facility from existing historical, cultural, recreational features and dwellings, including but not limited to trails, navigable waters, and sites identified in the State Historic Preservation Office (SHPO) and Goodhue County cultural databases.
    - 1v. A buffer yard and screening that complies with "Buffer Yard D" as set forth in Division 62-030 is required for all silica sand motor freight and warehousing facility boundaries that abut residential, parks and open areas, and public assembly land uses.
  - 9) Unauthorized storage. Vehicles, equipment, or materials not associated with the silica sand motor freight and warehousing facility or not in operable condition may not be kept or stored at the facility.

- 10) Waste disposal. Any waste generated from the silica sand motor freight and warehousing operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with federal, state, county, and City requirements.
- 11) Storm Water Management Plan. The City may require an operator to submit a Storm Water Management Plan to the City for approval.
- 12) General compliance. The operators must comply with all other federal, state, regional, county, and local laws and regulations applicable to the operation of the silica sand motor freight and warehousing facility, including but not limited to floodplain management regulations, shoreland management regulations, and zoning ordinance regulations.
- 13) Additional regulations. The City may impose additional regulations and requirements on the silica sand motor freight and warehousing facility to protect the public health, safety, and welfare.
- 14) Transportation Impact Study and Road Impact Agreement. The City shall require the owner/operator of a silica sand processing facility to complete a Transportation Impact Study and may require the owner/operator to enter into Road Impact Agreements as conditions of their permit and registration.
  - i. Transportation Impact Studies. When a proposed or amended conditional use permit is requested, the City shall require a Transportation Impact Study.
  - ii. Road Impact Agreements. When a proposed or amended conditional use permit is requested, the City may require a Road Impact Agreement to alleviate the additional burden on the City's financial resources associated with the road infrastructure maintenance affected by granting the request.

**I) Bi-Annual and Annual Reporting.**

- 1) During the first two (2) years of operations, the owner of all silica sand motor freight and warehousing facilities in the City shall submit a report twice per year to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1 and July 1-August 1.
- 2) After two (2) years of consecutive operations, the owner of all silica sand motor freight and warehousing facilities in the City shall submit an annual report to the City of Red Wing's Zoning Administrator between the dates of January 1-February 1.
- 3) The bi-annual and annual reports shall include the following information:

1. An identification of the owner/operator and the location of the silica sand motor freight and warehousing facilities.
11. A written, detailed description of activities and operations on the site for the previous half-year (for bi-annual reports) or year (for annual reports).
111. A written, detailed description of activities and operations planned for the following calendar year of operations.
- 1v. A written report demonstrating how the owner/operator has been in compliance with all the terms set forth in the zoning ordinance and the conditional use permit. The report shall include all air quality monitoring results.
- v. A summary of all areas of noncompliance and a detailed plan for bringing noncompliant areas of operation into compliance for the next calendar year of operations.

**J) Inspection, Violations, Penalties and Enforcement.**

- 1) Inspection. In addition to the reporting requirements, the City may make inspections of the facility upon reasonable notice to determine the condition of the silica sand motor freight and warehousing site in order to ensure and safeguard the health and safety of the public and determine compliance with the minimum standards under the applicable law.
- 2) Violation a Misdemeanor. Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law, unless a more severe penalty is provided by federal or state law. Each day that a violation is permitted to exist shall constitute a separate offense.
- 3) Additional violations. The following also constitute violations of the zoning code:
  1. Engaging in silica sand motor freight and warehousing without properly obtaining a conditional use permit as required by the zoning code.
  11. Making incorrect or false statements in the information and documentation submitted in the reporting or during inspection by an authorized representative of the City.
  111. Failure to provide any required reports or failure to provide reports upon request by the City.

- 1v. Failure to take appropriate or reasonable action to remediate a known violation, citation, request for additional information or financial assurance, or any other order by the City.
- 4) Enforcement. In the event of a violation or threatened violation of any of the terms of this Division, the City may take appropriate action to enforce this Division, including exercising the performance bonds application, for injunctive relief, action to compel performance, revocation of the conditional use permit, civil fines, and/or other appropriate action before the City Council or in court if the City deems it necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.