

***City of Wabasha Zoning, Shoreland, Floodplain  
Ordinance Excerpts***

Full Documents available at,  
<http://www.wabasha.org/city-government/wabasha-city-code/chapter-iii-planning-and-land-use-regulations/>

SECTION 305 ZONING & SHORELAND ORDINANCE

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Department. Such certificate shall show that the building or premises or part thereof and the use thereof are in conformity with the provisions of this Section of City Code and all applicable building code. Such certificate shall be issued only when the building or premises and the use thereof conform to all the requirements of this Section.

2. In the case of weather related delays to exterior completion (landscaping or finishing), residential projects with up to two (2) dwelling units total may be given certificate of occupancy as long as all code issues are met. As an alternative for commercial or multi-family residences of three (3) or more units, the Planning Commission will accept a performance bond or bank letter of credit to be placed in an escrow account at an amount determined by the Commission to cover 110% of the estimated cost of completing all outstanding requirements to be placed in an escrow account. The bond or cash will be returned to the applicant upon satisfactory completion of all requirements. An escrow agreement will be entered into with a deadline for project completion. If project requirements are not met within the defined deadline, the Planning Commission may require such escrow funds to be used to satisfactorily complete the project.

#### C Conditional/Interim Use Permits.

1. Permit. The Planning Commission may issue a Conditional Use Permit for conditional uses or Interim Use Permit for interim uses after review and public hearing, provided such uses or structures are in accordance with the purpose and intent of all City Code and the Comprehensive Plan, and are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or community.
2. Application. Applications for Conditional/Interim Use Permits shall be made to the Planning Department as prescribed on forms provided by that office. Completed applications shall be forwarded to the Planning Commission for consideration as prescribed by State Statute. An application may be rejected by the Planning Department if required information is not provided and a written notice explaining the reason for rejection is given to the applicant within 15 days from submission of the incomplete application. Such applications shall include where applicable:

- a. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, or other key participants and all opposite and abutting property owners of record.
  - b. Description of the subject site by the property address and legal description (lot, block and recorded subdivision or by metes and bounds).
  - c. A written and/or graphic description of the use being requested including an explanation of the proposals compliance with this section and requirement of the specific zoning district where the proposal is located. This may include a site plan of the proposal and/or supporting information including but not limited to proposed: hours of operation, number of employees, locations of structures (existing & proposed), parking, signage, lighting and landscaping. The Planning Department and/or Planning Commission may require that a Site Plan prepared **by a registered Land Surveyor, Professional Engineer, Architect, or Landscape Architect licensed by the State of Minnesota** showing existing and proposed contours and elevations, property boundaries, amount of land (acreage), locations of human made or natural features such as structures, water bodies or wetlands, roads, easement locations, and/or landscaping depending on the specific use requested and/or the nature of the proposed location.
  - d. Additional information pertaining to the proposed project as may be required by the Planning Department and/or Planning Commission.
3. Review and Approval
- a. The Planning Commission shall review the application and consider the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, road access, traffic generation and circulation, drainage, sewerage and water systems and the operation of the proposed use.
  - b. The Planning Commission shall hold a public hearing on the proposed conditional or interim use. Notice of time and place of such hearing shall be published not less than ten (10) nor more than thirty (30) days preceding said hearing and at least once in the newspaper of general circulation in the City. The City shall notify highway agencies where road connections are proposed and all abutting or opposite property owners, as listed by the developer in the original application of the time, date and subject matter of the hearing. Failure to comply with this provision shall not however, invalidate any previous or subsequent action on the application.

4. Criteria

- a. General Standards. No conditional or interim use shall be granted by the Planning Commission unless the Board shall find:
  - i. That the establishment, maintenance, or operation of the use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the City;
  - ii. That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
  - iii. That the establishment of the use will not impede the normal and orderly development of the surrounding property for uses permitted in the district;
  - iv. That adequate utilities, access road, drainage, and/or necessary facilities have been or are being provided;
  - v. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
  - vi. That the use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
  - vii. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, screening (including fencing and/or plantings), security provisions, refuse management, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Board upon its finding that these are necessary to fulfill the purpose and intent of this Section or other sections of City Code.
  - viii. No application for a conditional or interim use that has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order or denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Planning Department
  - ix. In any case where a conditional or interim use has not been established within one (1) year after the date of granting thereof, then, without further action by the Planning Commission, the conditional use or authorization shall be null and void.
  - x. A date or event which will terminate an Interim Use Permit will be identified on the permit and may include termination by a change to the zoning regulations.

xi. An interim use will not be granted if there is a finding by the Commission that its issuance will impose additional costs on the public if it is necessary for the public to take the property in the future.

5. Amendments to a Conditional or Interim Use Permit.

Changes proposed to a Conditional or Interim Use will be considered by the Planning Commission upon application, review, and approval following the same process as a new application. New conditions or time limits may be imposed on the permit based on criteria and conditions in place at the time of amendment application.

Subd. 5 Variances

A Purpose: To hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance maintaining public safety and welfare.

B Procedure:

1. An application for a variance shall be filed in writing with the Planning Department on forms provided. The application shall contain such information as the Board of Adjustment may require. As part of the application, the applicant must cite the hardship as defined under this section of City Code which will allow a variance. An application may be rejected by the Planning Department if required information is not provided and a written notice explaining the reason for rejection is given to the applicant within 15 days from submission of the incomplete application.

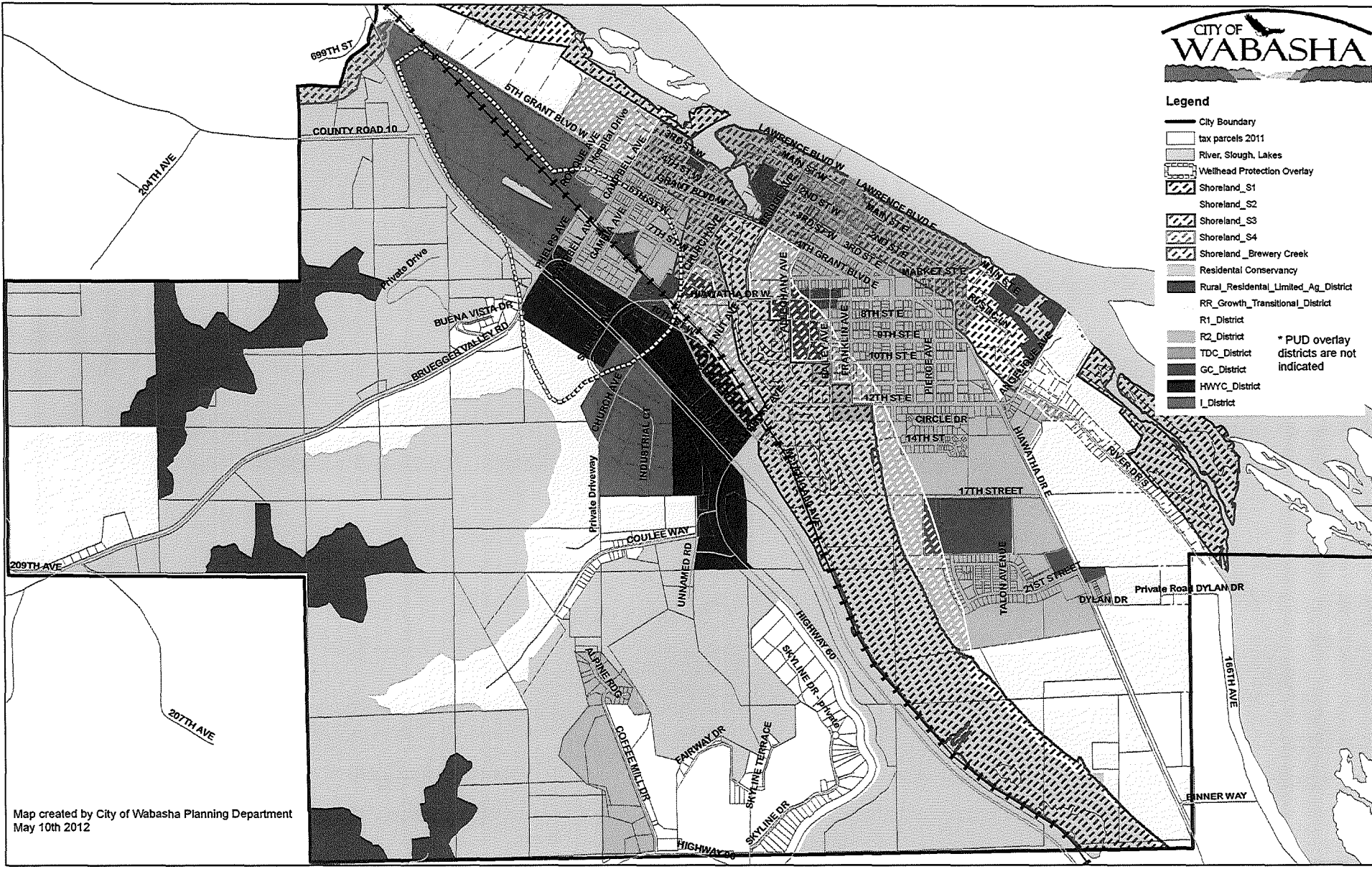
2. Notice of the time and place of a public hearing shall be given by mailing notice thereof to all parties owning real property within one hundred (100) feet of the subject property. Said mailing shall be made at least five (5) days prior to the date of hearing. The Board shall thereafter reach its decision within (60) days from the filing of the application unless a written notice stating the reasons for an extension is sent to the applicant with an anticipated length of extension specifically stated, which may not exceed an additional 60 days (120 total) unless approved by the applicant in writing.

C Standards & Criteria for Variance. The Board of Adjustment will consider varying the regulations of this Section of City Code if an “undue hardship” is shown to exist for the property in question. The Board of Adjustment may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section of City Code. The variance will not permit

**Legend**

- City Boundary
- tax parcels 2011
- River, Slough, Lakes
- Wellhead Protection Overlay
- Shoreland\_S1
- Shoreland\_S2
- Shoreland\_S3
- Shoreland\_S4
- Shoreland\_Brewery Creek
- Residential Conservancy
- Rural\_Residential\_Limited\_Ag\_District
- RR\_Growth\_Transitionals\_District
- R1\_District
- R2\_District
- TDC\_District
- GC\_District
- HWYC\_District
- L\_District

\* PUD overlay districts are not indicated



Map created by City of Wabasha Planning Department  
May 10th 2012



305.05

ESTABLISHMENT OF ZONING DISTRICTS AND MAP

Subd. 1 Districts. In order to classify, regulate and restrict the location of trade and industry, and location of buildings designated for specific uses, to protect residential uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards and open space within and surrounding such buildings, the City of Wabasha is hereby divided into zoning districts. The use, height and area regulations shall be uniform in each district, and said districts shall be known as:

- A. RC Residential Conservancy
- B. RRA Rural Residential/Limited Agriculture
- C. RRG Rural Residential Growth/Transitional
- D. R-1 Low Density Residential
- E. R-2 Medium Density Residential
- F. R-3 High Density Residential
- G. TDC Traditional Downtown Commercial
- H. GC General Commercial
- I. HC Highway Commercial
- J. I Industrial
- K. PUD Planned Unit Overlay District
- L. Shoreland Overlay District
- M. Floodplain Overlay District
- N. Business Park Overlay Design District
- O. Heritage Preservation Overlay District

Subd. 2 Map.  
The boundaries of the aforesaid districts are hereby established as shown on the "Zoning Map" of the City of Wabasha, which is hereby incorporated as a part of this Section. Such map, together with a copy of this Section, shall be available for public inspection in the office of the City Clerk. The map shall be certified by the Mayor of the City and attested by the City Clerk. Any changes in zoning district boundaries shall be recorded on the map. Changes are effective upon adoption of an amendment by the City Council.

Subd. 3 Boundaries.

- A. The district boundaries are either streets or alleys, unless otherwise shown and where the designation of the Zoning Map indicates that various districts are approximately bounded by the center line of a street or alley, such street or alley center line shall be construed to be the district boundary line.
- B. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into lots and blocks, the

district boundaries shall be construed to be the lot lines and where the designations on the Zoning Map are approximately bounded by lot lines, said lot line shall be construed to be the boundary of the district.

- C. In un-subdivided property, the district boundary lines shown on the Zoning Map shall be determined by use of the scale shown on such map.
  - 1. Annexed Territory. Any land which may be annexed to the City in the future shall be placed in the RRA-Rural Residential Agriculture District until action of the City Council shall assign such land to another district.
  - 2. Overlay Districts. Overlay districts as defined in Section 305.09 and provided for in Section 305.06 are hereby established. In the event of conflicting provisions between the underlying zoning district and the overlay district the overlay district standard shall generally apply, unless specifically determined otherwise by the Planning Commission

Subd. 9 HC Highway Commercial

- A **Purpose:** To allow for development or redevelopment of land for commercial/business uses whose needs are, in terms of visibility, transportation access, space, building design, or outdoor usage, inconsistent with the traditional downtown development patterns. A portion of HC is also covered by the Business Park Overlay Design District as described in Section 305.06, Subdivision 14.
- B **Permitted Uses:** Commercial retail, Professional services, Office uses, Major and minor repair and maintenance services, Gas Stations, Indoor & Outdoor recreational & commercial entertainment facilities, Places of public assembly, Funeral Parlors, Restaurants (traditional & drive-in/drive-through), Bars/cocktail lounges, Hotel/motels with up to 50 guest rooms, Commercial PUD's when overlay zoning is approved, Public and private parks, Self-storage facilities (indoor), Non-dwelling accessory structures and uses, Essential utility and public service facilities of up to 600 square feet and Permitted single family uses as required under MN Statute 462.357 Subdivision 7 (or as amended).
- C **Conditional Uses:** Single-family detached residential and accessory uses, Open sales lots, Outdoor sales/display area as a commercial retail accessory use, Child care centers, Accessory apartments to a permitted principal use, Hotel/motels with 51 or more guest rooms, Institutional Uses, Self-storage facilities (outdoor), Light Industrial uses, Industrial warehousing distribution or storage facilities, marinas, Essential utility and public service facilities of 601 square feet or more.
- |   |   |
|---|---|
| D <b>Interim Uses:</b>  | <b>Termination of Interim Use Permit</b>  |
| Mining operation or<br>Extractive Use   | Termination date of permit will be<br>determined at time of issuance based on<br>expected growth and development of the<br>neighboring properties |
| Kennels when part of a<br>pet shop, veterinary<br>clinic, or pet boarding<br>facility | Termination will occur when the business<br>issued permit ceases operation  |
- E Conditions imposed for Conditional or Interim Uses will be based on maintaining the purpose of this district. Of particular concern are aesthetic issues for prominently visible areas within the community and access management. Along with the general conditions specified in Section 305.04 4C, Additional conditions may include but are not limited to the following:

1. Ingress and egress to the property, including provisions for automotive, pedestrian, and bicycle traffic
2. Screening of outdoor storage, refuse service areas, including screening with fencing or vegetation
3. Compatibility of mixed uses
4. Signage and lighting, with reference to glare, traffic safety and compatibility with other properties in the district
5. The control of nuisances to neighboring businesses & residences such as odor, dirt, dust and noise
6. Adequate size and configuration of property for the proposed use or activity
7. Termination schedule of IUP's will be determined at the time of permit issuance and may be based on the following or similar circumstances: anticipated or resulting changes to the surrounding environment (e.g. changes in zoning, land use, environmental conditions, or development projects), sale or transfer of property, violation of laws or codes (health codes, etc.), termination or lapse of other required permits, change of management or ownership

F District Minimum Performance Standards:

Residential Density:	.....	None
Minimum Lot Size:	.....	10,800
Minimum Lot Width:	.....	90 feet
Minimum Lot		
Frontage:	.....	60 feet
Maximum Building		
Height:	.....	50 feet
Maximum Accessory		
Building Height:	.....	35 feet
Principal Building		
Setbacks:	Front: .....	25 feet
	Side: .....	20 feet
	Corner side	
	street: .....	20 feet
	Rear: .....	20 feet

Accessory Building

Setbacks:	Front:	In back of principle building
	Side:	10 feet
	Corner side	
	street:	10 feet
	Rear:	10 feet

Subd. 10 I - Industrial

A **Purpose:** To allow for development or redevelopment of land for industrial, manufacturing, processing, warehousing, packaging or treatment of products and also intensive commercial uses including those with needs for outdoor bulk storage, services that support industrial businesses, or commercial/service businesses that are not appropriate in other more traditional commercial districts.

B **Permitted Uses:** Office buildings, Professional services, Light industrial uses, Industrial warehousing distribution or storage facilities, Industrial service businesses, Gas stations, non-dwelling accessory structures and uses, Self-storage facilities (indoor), Essential utility and public service facilities of up to 1,000 square feet, Industrial or mixed commercial/industrial PUD's when overlay zoning is approved, Public and private parks,

C **Conditional Uses:** Heavy Industrial uses, Open sales lots, Self-storage facilities (outdoor), accessory apartments to a permitted principal use, marinas, Essential utility and public service facilities of 1,001 square feet or more, Waste management facility

D **Interim Uses:**

Mining operation or  
Extractive Use

**Termination of Interim Use Permit**

Termination date of permit will be determined at time of issuance based on expected growth and development of the neighboring properties

Temporary Structures &  
Portable Storage  
Containers

Termination of permit will occur when (if) conditions of approval are no longer being met. A new Interim Use Permit will be considered upon new application for those cases where owner/operator chooses to request a change in conditions.

Adult Entertainment  
Establishment

Sale of business or property, rezoning of property,  
legal violation of owner or operator

E Conditions imposed for Conditional or Interim Uses will be based on maintaining the purpose of this district and protecting non-compatible adjacent uses. Of particular concern are the effects of odor, dust, dirt, noise, vibrations, or unsightly outdoor storage or processing locations on neighboring properties in particular those in different zoning districts with less intensive uses, such as residential and commercial locations. Also of concern is the effect of such businesses on the availability of public infrastructure and services. Along with the general conditions specified in

Section 305.04 4C, Additional conditions may include but are not limited to the following:

1. Demonstrated ability of public infrastructure or services to adequately serve the project or financing provided through escrow or bond to upgrade such services (to maintain pre-existing level of service to the overall community)
2. Ingress and egress to the property, including provisions for automotive, truck delivery and loading traffic. Also pedestrian and bicycle traffic if deemed appropriate by the Planning Commission
3. Screening of outdoor storage, refuse service areas, loading and processing areas including screening with fencing and/or vegetation
4. Signage and lighting, with reference to glare, traffic safety and compatibility with other properties in the district and adjacent properties
5. The control of nuisances to neighboring businesses or properties such as odor, dirt, dust and noise
6. Increased setbacks, screening, or barriers, in particular for uses which may be injurious to the health or welfare of individuals
7. Limitations on the height of structures, appurtenances, and/or storage of bulk or containerized materials
8. Limitations of the amount and locations of impervious surfaces
9. Requirements for additional stormwater planning or other types of engineering models
10. Adequate size and configuration of property for the proposed use or activity
11. Termination schedule of IUP's will be determined at the time of permit issuance and may be based on the following or similar circumstances: anticipated or resulting changes to the surrounding environment (e.g. changes in zoning, land use, environmental conditions, or development projects), sale or transfer of property, violation of laws or codes (health codes, etc.), termination or lapse of other required permits, change of management or ownership

F District Minimum Performance Standards:

Minimum Lot Size:	.....	21,780 square feet (½ acre)
Minimum Lot Width:	.....	90 feet
Minimum Lot		
Frontage:	.....	60 feet
Maximum Building		
Height:	.....	50 feet
Building Setbacks:		
	Front: .....	10 feet
	Side: .....	10 feet

Corner side  
street: . . . . . 10 feet  
Rear: . . . . . 10 feet

## Subd. 12 Shoreland Overlay Zone

### A Statutory Authorization

This Shoreland Management Section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the City Planning and Zoning Enabling Legislation, Minnesota Statutes, Chapter 462.

### B Policy

The uncontrolled use of shorelands of the City of Wabasha, Minnesota affects the public health, safety and general welfare by contributing to pollution of public waters and by impairing the local tax base. It is, therefore, in the best interests of the public health, safety and welfare to provide for the wise development of shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise utilization of waters and related land resources. The Legislature of Minnesota has delegated this responsibility to local governments. The responsibility is hereby recognized by the City of Wabasha.

### C General Provisions And Definitions

1. Jurisdiction. The provisions of this Section shall apply to the shorelands in the City of Wabasha of the public waters identified and classified in Subsection E "Shoreland Classification System" of this Section.
2. Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and sewage treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Section.
3. Enforcement. The Planning Department is responsible for the administration and enforcement of this Section. Any violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Section can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section D1 or Section 305.04, Subdivision 4 of this Ordinance.
4. Interpretation. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be



deemed a limitation or repeal of any other powers granted by MN Statute.

D Administration of Shoreland Regulations

1. Permits Required

A Zoning Permit as identified under Section 305.04 Sub 4a is required for any structure, use of or alteration of land, the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section G6 "Vegetation Alterations" and I Topographic Alterations/Grading and Filling" of this Section. Application for a permit shall be made to the Planning Department on the forms provided. The application shall include the necessary information so that the Planning Department can determine the site's suitability for the intended use and that compliant sewage treatment will be provided.

2. Notifications to the DNR required

- a. Copies of all notices of any public hearings to consider variances, zoning amendments (map or text), conditional uses, and subdivisions or plats within the designated Shoreland must be sent to the commissioner or the commissioner's designated representative (typically the Area Hydrologist) and postmarked at least ten days before the hearing. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- b. Upon final approval of a zoning ordinance amendment a subdivisions/plats, a granting of variances or conditional uses located with the designated Shoreland, notification of such approvals must be sent to the commissioner or the commissioner's designated representative (typically the Area Hydrologist) and postmarked within ten days of final action.
- c. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

3. Appeals and Variances

An application for a variance shall be filed in writing with the Planning Department as specified under Section 305.04 Sub 5

4. Rezoning (modifications to underlying zoning districts within the Shoreland boundary)

Any modification to underlying zoning districts within the Shoreland boundary shall be consistent with the goals, policies, and objectives of the adopted comprehensive land use plan, in conformance with the criteria specified in Minnesota Regulation (Part 6120.3200, Subd. 3, or as amended), and the following criteria, considerations, and objectives:

a. General Considerations and Criteria for All Land Uses:

- i. Preservation of natural areas;
- ii. Present ownership and development of shoreland areas;
- iii. Shoreland soil types and their engineering capabilities;
- iv. Topographic characteristics;
- v. Vegetative cover;
- vi. In-water physical characteristics, values, and constraints;
- vii. Recreational use of the surface water;
- viii. Road and service center accessibility;
- ix. Socioeconomic development needs and plans as they involve water and related land resources;
- x. The land requirements of industry which, by its nature, requires location in shoreland areas; and
- xi. The necessity to preserve and restore certain areas having significant historical or ecological value.

b. Factors and Criteria for Planned Unit Developments:

- i. Existing recreational use of the surface waters and likely increases in use associated with Planned Unit Developments;
- ii. Physical and aesthetic impacts of increased density;
- iii. Suitability of lands for the Planned Unit Development approach;
- iv. Level of current development in the area; and
- v. Amounts and types of ownership of undeveloped lands.

c. When an interpretation question arises about whether a specific land use fits within a given zoning district or "use" category, the interpretation shall be made by the Planning Commission.

d. When there is a request for rezoning within the Shoreland District, the applicant must provide the supporting and/or substantiating information for the specific parcel in question indicating that the new zone would meet the standards described in Section D5 (*a-c above*).

## E Shoreland Classification System

The public waters of the City of Wabasha have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Wabasha County, Minnesota. The shoreland areas for the waterbodies listed below shall be as defined in Section 305.09 and as shown on the Official Zoning Map.

	<b>Protected Water Classification</b>	<b>Protected Waters Inventory I.D.#</b>
U.S. Lock and Dam No.4 Pool (Mississippi Pool #4)	General Development Lake	79005 00
Robinson Lake	General Development Lake	79005 02
Schmidt Coulee (Brewery Creek)	Tributary Stream	Legal Description T111N, R10W, Sec.19 & 30

**F Shoreland Zones and Requirements**

Whenever allowed uses are not consistent between the Shoreland Overlay zone and the underlying zoning district, the more restrictive of the two shall apply.

1. S-1. The purpose of the S-1 shoreland overlay zone is to provide standards for Shoreland areas within the City that are primarily undeveloped.

a. Allowable Uses

i. Permitted Uses

- Single-family detached residential dwelling units
- Forest management
- Sensitive resource management
- Agricultural: cropland and pasture

ii. Conditional Uses

- Parks and historic sites
- Campgrounds

iii. Interim Uses

- Grading, filling, and excavation over 3 cubic yards per 100 square feet of land in the shore impact zone or on steep slopes, and/or more than 1,000 cubic yards outside of shore impact or steep slopes. (see also Section I, “Topographic Alterations, Excavations, and Grading”)
- Extractive uses

b. Minimum lot area & width Standards

<b>Sewered Areas:</b>	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
	15,000	75	10,000	75

<b>Unsewered Areas:</b>	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
	40,000	150	40,000	150

- c. Residential Density
- |           |                   |                   |
|-----------|-------------------|-------------------|
|           | Riparian          | Nonriparian       |
| Sewered   | 2.9 d.u. per acre | 4.3 d.u. per acre |
| Unsewered | 1 d.u. per acre   | 2 d.u. per acre   |
- d. Impervious Surface Coverage: Impervious surface coverage of lots must not exceed 25% of lot area.
- e. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones
- f. Public & semipublic uses with needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
- i. Parking areas or parking structures must be designed to incorporate topographic and vegetative screening from the public waters assuming summer, leaf-on conditions;
  - ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
  - iii. Uses that depend on patrons arriving by watercraft may use unlit signs to convey needed information to the public, subject to the following general standards:
    - No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
    - Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 25 square feet in size; and

- Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

g. Agricultural Use Standards

For cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting steep slopes and shore and bluff impact zones must be maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation district or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone boundary for parcels with allowed (permitted or conditional) agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

h. Animal feedlots

- i. New feedlots are not allowed in the Shoreland districts.
- ii. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or bluff impact zone.

2. S-2

Provides standards for Shoreland areas that have some development, but residential densities are intended to remain low (low density residential land uses)

a. Allowable Uses

i. Permitted Uses

- Single-family residential dwelling units (detached, or attached) with up to four dwelling units
- Multi-family residential with up to four dwelling units
- Forest management
- Sensitive resource management
- PUD with uses as allowed in underlying zoning district

ii. Conditional Uses

- Semipublic uses (when allowed as permitted or conditional in the underlying zoning district)
- Parks and historic sites
- Campgrounds

- Mixed use (Residential & Commercial) with only those uses allowed in the underlying zoning district.
- Commercial and service oriented businesses (as allowed as a conditional or permitted use in the underlying zoning district).
- Golf courses, clubs, and other recreational uses not conflicting with neighboring residential use
- Places of public assembly

iii. Interim Uses

- Grading, filling, and excavation over 3 cubic yards per 100 square feet of land in the shore impact zone or on steep slopes, and/or more than 1,000 cubic yards in all Shoreland areas. (see also Section I, “Topographic Alterations, Excavations, and Grading”)
- Extractive uses

b. Minimum lot area & width Standards

<b>Sewered Areas:</b>	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
<b>Single</b>	14,000	75	10,000	60
<b>Duplex</b>	26,000	135	17,500	120
<b>Triplex</b>	38,000	195	25,000	190
<b>Quad</b>	49,000	255	2,5000	245

<b>Unsewered Areas:</b>	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
<b>Single</b>	40,000	150	40,000	150
<b>Duplex</b>	80,000	265	80,000	265
<b>Triplex</b>	120,000	375	120,000	375
<b>Quad</b>	160,000	490	160,000	490

c. Residential Density

	Riparian	Nonriparian
Sewered	3 d.u. per acre	4.3 d.u. per acre
Unsewered	1 d.u. per acre	2 d.u. per acre

d. Impervious Surface Coverage: Impervious surface coverage of lots must not exceed 25% of lot area.

e. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

- f. Commercial, Public, and Semipublic uses located on riparian lots must meet the following standards:
- i. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Section, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
  - ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
  - iii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
    - No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
    - Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
    - Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

3. S-3

Provides standards for Shoreland areas that cover the historic neighborhoods of the City, which are primarily residential, but also include commercial and institutional uses. The use of PUD's or other clustering techniques is not allowed in order to encourage the traditional neighborhood pattern of development.

a. Allowable Uses

- i. Permitted Uses
  - Single-family residential dwelling units (detached, or attached with up to two dwelling units)
  - Multi-family residential with up to two dwelling units
  - Sensitive resource management
  - Forest management
  
- ii. Conditional Uses
  - Single-family attached residential with 3 or more units (when allowed as permitted or conditional in the underlying zoning district).
  - Multi-family residential with 3 or more units (when allowed as permitted or conditional in the underlying zoning district)
  - Semipublic uses (as allowed in the underlying zoning district)
  - Parks and historic sites.
  - Campgrounds
  - Mixed use (Residential & Commercial) with only those uses allowed in the underlying zoning district.
  - Surface water oriented commercial uses (as allowed in the underlying zoning district).
  - Hospitals, dentists offices and clinics.
  - Places of public assembly.
  - Commercial and service oriented businesses (as allowed as a conditional or permitted use in the underlying zoning district).
  - Essential governmental uses buildings and storage facilities (as allowed as a conditional or permitted use in the underlying zoning district).
  
- iii. Interim Uses
  - Grading, filling, and excavation over 3 cubic yards per 100 square feet of land in the shore impact zone or on steep slopes, and/or more than 1,000 cubic yards in all Shoreland areas. (see also Section I, “Topographic Alterations, Excavations, and Grading”).

b. Minimum lot area & width Standards



Sewered Areas:	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
<b>Single</b>	8,580	60	8,580	60
<b>Duplex</b>	14,300	100	14,300	100
<b>Triplex</b>	38,000	195	25,000	190
<b>Quad</b>	49,000	255	25,000	245
<b>Multi &gt; 4 units</b>	49,000	255	25,000	245
<b>Non-residential</b>	8,580	60	8,580	60

\*All development in this zone must be connected to City sewer

- c. Maximum Residential Density
  - Riparian & Nonriparian
  - Sewered 6 d.u. per acre
- d. Every effort should be made to design roads, driveways, and parking areas to meet structure setbacks. These will only be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- e. Non-conforming structures: A request for a variance (following the process outlined in Subsection D4) will be considered for reconstruction of pre-existing structures within the pre-existing footprint and height if damaged more than 50% of the assessor's market value for uses allowed as permitted or conditional within the S-3 overlay and underlying zoning district.
- f. Impervious Surface Coverage: Impervious surface coverage of lots must not exceed 40% of lot area. Conditional uses may be required to provide up to 75% non-impervious surface (25% impervious)
- g. Commercial, Industrial, Public, and Semipublic Uses located on riparian lots must meet the following standards:
  - i. Parking lots shall be designed to incorporate topographic or vegetative screening of parking areas from public waters when visible from the waters;
  - ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

- iii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
  - No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
  - Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
  - Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

4. S-4

Provides standards for Shoreland areas that are high density, mixed use or commercial in nature historically or designated in the Comprehensive Plan

- a. Allowed Uses: Uses as identified in the underlying Zoning Ordinance shall prevail.
- b. Lot area & width Standards: Standards as identified in the underlying Zoning Ordinance shall prevail. All development in this zone must be connected to City sewer
- c. Impervious Surface Coverage: The following shall apply to new construction or additions to an existing building footprint

Type of Use	Maximum Impervious Surface Coverage
Residential with up to two dwelling units	50%
Commercial, public, or mixed uses of up to 18,000 square feet (building footprint)	No maximum

Commercial, public, or mixed uses of 18,001 square feet or more (building footprint)	25% *
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\* Impervious coverage may be increased by 15% for these uses if the following is provided:

- A stormwater retention plan be submitted showing containment of the 5-year, 24-hour storm event on the parcel.
  - Direct runoff of stormwater to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms, filtration strips, swales or other permanent means.
- d. Every effort should be made to design roads, driveways, and parking areas to meet structure setbacks. These will only be placed within bluff and shore impact zones when no other reasonable and feasible placement alternatives exist. Evidence providing proof that such locations are not feasible must be provided with application and found acceptable by the Planning Department or Planning Commission. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- e. Commercial, Industrial, Public, and Semipublic Uses located on riparian lots must meet the following standards:
- i. Parking lots shall be designed to incorporate topographic or vegetative screening of parking areas from public waters when visible from the waters;
  - ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
  - iii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
    - No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
    - Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be

located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

- Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

5. Brewery Creek

Provides standards for the Brewery Creek Shoreland area

- a. Lot width Standards - There are no minimum lot area requirements for streams. The lot width standards are:

	Sewered	Unsewered
<b>Single</b>	75	100
<b>Duplex</b>	115	150
<b>Triplex</b>	150	200
<b>Quad</b>	190	250

- b. Residential Density: Densities of the underlying zoning district will prevail

- a. Impervious Surface Coverage: Impervious surface coverage of lots must not exceed 25% of lot area

c. Allowable Uses

i. Permitted Uses

- Forest management
- Sensitive resource management
- Agricultural: cropland and pasture

ii. Conditional Uses

- Parks and historic sites
- Campgrounds
- 
- Agricultural Feedlots

iii. Interim Uses

- Extractive use

- d. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no

alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

G Additional Zoning Requirements: The following standards apply to areas within every Shoreland district

1. Setbacks from OHWL

When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

	<u>Structure</u>		<u>Sewage Treatment System</u>
	Sewered	Unsewered	
Mississippi Pool #4	50 feet	75 feet	50 feet
Brewery Creek	50 feet	100 feet	75 feet
Water-orientated accessory structure*	10 feet	10 feet	-
* One water-oriented accessory structure per residential lot designed in accordance with Subsection H of this Section is allowed			

2. Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback From:	Setback
top of bluff;	30 feet
unplatted cemetery;	50 feet

Setbacks from streets and property lines are required as indicated in the underlying zoning district

3. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

4. Uses Without Water-oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

5. A sewage treatment system not meeting the requirements of Subsection P “Sewage Treatment” of this Section must be upgraded,

when a permit or variance of any type is required for any improvement on, or use of, the property.

6. Vegetation Alterations

- a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Subsection J, "Placement Design; Roads, Driveways, and Parking Areas" of this Section are exempt from the vegetation alteration standards that follow.
- b. Removal or alteration of vegetation (except for allowable agricultural and forest management uses) is allowed subject to the following standards:
  - i. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forestland conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
  - ii. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
    - The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
    - Along creeks, existing shading of water surfaces is preserved; and
    - The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- c. Use of fertilizers and pesticides in all districts must minimize runoff into shore impact zones and public waters by use of earth, vegetation, or both.

7. One guest cottage may be allowed on lots which meet or exceed the standards for a duplex within that shoreland zone. The following standards must also be met:

- a. For lots which qualify for future subdivision, the guest cottage must be located in proximity to the principle residence so that the

- structures would remain on the same parcel if a lot split were to occur;
- b. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
  - c. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by use of vegetation, topography, increased setbacks, or color (assuming summer leaf-on conditions).
8. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:
- a. They must meet the width and size requirements for residential lots, and be suitable for their intended uses.
  - b. If docking, mooring, or over-water storage of more than 6 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by 5 percent of the requirements for riparian residential lots for each watercraft beyond 6.
  - c. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.
  - d. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

#### H Design Criteria for Structures.

1. High water elevations. Structures must be placed in accordance with any flood plain regulations applicable to the site. Where these controls do not exist, along Brewery Creek, the elevation to which the lowest floor, including the basement, is placed or flood proofed must be determined as follows:
  - a. By placing the lowest floor at least 3 feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least 3 feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation.
  - b. Technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.
  - c. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
  
2. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subsection F1 - F5 of this Section if this water-oriented accessory structure complies with the following provisions:
  - a. The structure or facility must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed 8 feet above grade at any point;
  - b. The setback of the structure or facility from the ordinary high water level must be at least 10 feet;
  - c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by use of vegetation, topography, increased setbacks, or color (assuming summer, leaf-on conditions);
  - d. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
  - e. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and



- f. As an alternative for general development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.
3. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following requirements:
  - a. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and Planned Unit Developments;
  - b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and Planned Unit Developments;
  - c. Canopies or roofs are not allowed on stairways, lifts, or landings;
  - d. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
  - e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - f. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards herein are complied with in addition to the requirements of Minn. Rules, Chapter 1340.
4. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
5. Steep Slopes. The Planning Department must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to

prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

6. Height of Structures. All structures in residential districts, except places of worship and nonresidential agricultural structures, must not exceed the height limits specified in the underlying zoning districts.

I Topographic Alterations/Grading and Filling

1. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
2. Public roads and parking areas are regulated by Subsection J, "Placement and Design of Roads".
3. Notwithstanding Items 1. and 2. above, a zoning permit will be required based on the following table.

	<b>Shore Impact (within 25 feet of shoreline) or Steep Slopes</b>	<b>Shoreland outside of Shore Impact or Steep Slopes</b>
<b>Under 1 cubic yard per 100 square feet*</b>	No permit required	No permit required
<b>Between 1 and 3 cubic yards per 100 square feet*</b>	Zoning Permit Required	No Permit required
<b>3 or more cubic yards per 100 square feet*</b>	Interim Use Permit Required	Zoning Permit Required
<b>1,000 cubic yards or more total*</b>	Interim Use Permit	Interim Use Permit
* Amount of square feet is the project area where work is occurring not the entire property.		

4. The following considerations and conditions must be adhered to during the issuance of construction permits, zoning permits, conditional/interim use permits, variances and subdivision approvals:
  - a. grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities:\*

- i. sediment and pollutant trapping and retention;
- ii. storage of surface runoff to prevent or reduce flood damage;
- iii. fish and wildlife habitat;
- iv. recreational use;
- v. shoreline or bank stabilization; and
- vi. Noteworthiness, including special qualities such as historic significance, habitat for endangered plants and animals, or others.

\*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers.

- b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
- d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- f. Fill or excavated material must not be placed in a manner that creates an unstable slope;
- g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- h. Fill or excavated material must not be placed in bluff impact zones;
- i. Any alterations below the ordinary high water level of public waters must first be authorized by the DNR commissioner under Minnesota Statutes, section 103G.245;
- j. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted under the following circumstances:
  - i. The finished slope does not exceed 3 feet horizontal to one foot vertical or meets the average slope of the current bank throughout the project area

- ii. , the landward extent of the riprap is within 10 feet of the ordinary high water level
  - iii. The height of the riprap above the ordinary high water level does not exceed 3 feet or the meets the average height of the current bank throughout the project area.
  - iv. Along any shore open to the public (public land or right-of way)
    - At least 1 pedestrian path or stairway for each parcel of land under separate ownership is provided for access to the water
    - Placement of riprap will not cover beaches (areas typically above water at normal water level) unless the DNR verifies the need in order for shore stabilization
5. A Zoning Permit is required for excavations where the intended purpose is connection to public water, such as boat slips, canals, lagoons, and harbors. This may be issued only after the commissioner of the DNR has approved the proposed connection to public waters.

J Placement and Design; Roads, Driveways, Parking Areas

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography in Shoreland areas where it still exists to achieve maximum screening from view from public waters. Documentation must be provided by a Civil Engineer or landscape architect that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones, but must be designed and constructed to take advantage of natural vegetation and topography in Shoreland areas where it still exists, to achieve maximum screening from view from public waters and minimize and control erosion to public waters. Construction requiring grading and filling as identified in I, “Topographic Alterations/Grading and Filling” must meet all zoning permit requirements listed in that section.

K Stormwater Management; General Standards

1. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must

be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities
4. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district.
5. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

#### L Forest Management Standards

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota”.

#### M Extractive Use Standards

1. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
2. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

#### N Conditional Uses

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures established in Section 305.04.04. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria. The Planning Commission shall review the application and consider the waterbody, the topography, vegetation,

and soils conditions on the site and only issue a CUP where there are findings to ensure:

- a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - b. The visibility of structures and other facilities as viewed from public waters is limited in undeveloped areas and screened as deemed appropriate in developed areas;
  - c. The site is adequate for water supply and sewage treatment; and
  - d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
2. Conditions Attached to Conditional Use Permits. The Planning Commission, upon consideration of the criteria listed above and the purposes of the Shoreland section, shall attach conditions to the issuance of conditional use permits as it deems necessary to fulfill the purposes of the Zoning Ordinance & adopted Comprehensive Plan. Conditions imposed will be based on the goals of maintaining or improving water quality and/or the scenic and natural atmosphere from the protected public water. Conditions may include, but are not limited to, the following:
- a. Increased setbacks from the ordinary high water level.
  - b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
  - c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
  - d. Requirements to connect to City sewer services.
  - e. Additional stormwater management infrastructure or procedures.

O Non-conformities

All legally established nonconformities as of the date of this Section may continue, according to applicable state statutes and regulations stated in Subsections F and G of this Subdivision; except that the following standards will also apply in all shoreland areas:

1. Lots of record in the office of the County Register of Deeds on the date of enactment of local shoreland controls that do not meet the requirements of Subsections F and G of this Section may be allowed as building sites without variances from lot size requirements provided the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Section are met.
2. A variance from setback requirements, if necessary, must be obtained before any use, sewage treatment system, or building permit is issued

for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

3. If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section F1 – F5 the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the minimum lot area requirements for that area of Shoreland as much as possible.
4. A deck addition to a structure not meeting the required setback from the ordinary high water level may be allowed without a variance if all of the following criteria and standards are met:
  - a. The structure existed on the date the structure setbacks were established;
  - b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
  - c. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
  - d. The deck is constructed primarily of wood, and is not roofed or screened.

#### P Sewage Treatment

1. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
  - a. The City sewer system must be used where available.
  - b. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this Section.
2. Nonconforming Sewage Treatment Systems
  - a. A sewage treatment system not meeting the requirements of Subsection 1a and 1b of this Section (above) must be upgraded, when a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall be considered conforming if the only deficiency is the setback from the ordinary high water level.

- b. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with insufficient separation from groundwater shall be considered nonconforming.

Q Water Supply

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

R Subdivision Provisions

1. Land Suitability. Each lot created through subdivision, including Planned Unit Developments must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community. Information required as part of the Subdivision process (as detailed in City Code Section 300) will be used to make a determination of land suitability.
2. Consistency with Other Controls. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and sewage treatment consistent with all other sections of this subdivision can be provided for on every lot. In unsewered areas, each lot shall meet the minimum lot size requirements of that district, and have at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
3. Information Requirements. Sufficient information must be submitted by the applicant to make a determination of land suitability. The information shall include at least the following:
  - a. Topographic contours at 10 foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
  - b. The surface water features required in Minnesota Statutes, section



505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

- c. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
- d. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- e. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
- f. Lines or contours representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

S Planned Unit Developments (PUD'S)

- 1. Planned Unit Developments (PUD's) are allowed in the S-2 shoreland area for new projects on undeveloped land, and redevelopment of previously built sites.
- 2. Processing of PUD'S: PUD's must be processed according to Section 305.05, Subdivision 11.
- 3. Site "Suitable Area" Evaluation: PUD's may utilize a tier system to allow for additional density within the shoreland area as based on the following:

a. Shoreland Tier Dimensions

(measured from the ordinary high water level proceeding landward)

	Unsewered (feet)	Sewered (feet)
Pool 4 first tiers	200	200
Pool 4 all other tiers	267	200
Brewery Creek	300	300

- b. The suitable area within each tier is calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial PUD density evaluation steps to arrive at an allowable number of dwelling units or sites.
4. Residential and commercial PUD density evaluation

- a. The base density for residential uses in the S-2 zone is indicated in Subdivision 12, F2c of this Section.
- b. Commercial uses may be incorporated into a PUD as long as all zoning layers allow and be included within the density transfer process. For the purpose of determining density of a commercial use:
  - i. Determine the average residential dwelling unit square footage (interior living space) within the PUD project
  - ii. Apply this to the proposed commercial unit, with each 1 dwelling unit amount of square footage in the proposed commercial use being equivalent to 1 dwelling unit
- c. Allowable densities may be transferred from any tier to any other tier further from the waterbody within the same zoning district, but must not be transferred to any other tier closer to the water.
- d. Density Increases  
Increases to the site base densities listed in Section F-2c are allowable only if the dimensional standards in Section F-2b, the General Requirements stated in G are met, and the structure setbacks from the Ordinary High Water Levels is increased by 50% greater than minimum setback or the impact on the waterbody is reduced through vegetative management, topography, or other means and the setback is at least 25% more than otherwise minimum. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial PUD's:

Maximum Density Increase by Tier (percent)	
First	50
Second	100
Third	200
Fourth	200
Fifth	200

- 5. Conversions  
Existing resorts or other land uses and facilities may be converted to residential Common Interest Communities through the City platting process as outlined in Section 300 of City Code.

Subd. 13 Flood Plain Districts. (See Flood Plain Zoning Ordinance, Section 325)

Subd. 15 Subd. 15 Wellhead Protection Overlay Zone (W.P. Zone)

**A Purpose:** The purpose of the Wellhead Protection zone is to protect the quality of the public water source, ensuring a safe and adequate drinking water supply, by further regulating any potential harmful uses allowed within the Emergency Response Area of the Wellhead.

**B Scope:** The Wellhead Protection Overlay zone shall be the same as the Emergency Response Area (ERA) as defined and identified in The City of Wabasha Wellhead Protection Plan dated September 2010 and/or any additional primary water supply well ERA's identified in additional or updated Wellhead Protection Plans for the City of Wabasha.

**C Appeals and Variances**

An application for a variance shall be filed in writing with the Planning Department as specified under Section 305.04 Sub 5

**D Rezoning (modifications to underlying zoning districts within the wellhead protection zone)**

Any modification to underlying zoning districts within the W.P. zone shall be consistent with the goals, policies, and objectives of the adopted comprehensive land use plan, the adopted Wellhead Protection Plan (also as updated or amended) and the following criteria, considerations, and objectives:

- e. Changes to underlying zoning districts where the utilization, storage, or transportation of potential contaminants to the water supply shall be required to get a Conditional or Interim Use Permit through this Subdivision.

**E Special Notifications**

Any changes to zoning district boundary or uses allowed and all applications for Conditional/Interim Use Permits shall be submitted to the City Wellhead Manager for review and comment. The Wellhead Manager and/or Planning Department may submit information to State or County Health Departments or similar agencies for advice or assistance.

**F Uses Requiring a Conditional or Interim Use Permit**

The following uses and/or development activity shall require a conditional use permit unless an interim use permit is required in the underlying zoning district. This shall be for any area covered by an ERA. Only those uses allowed as conditional, interim or permitted within the underlying zoning district shall be allowed.

- Agricultural Services
- Animal Feedlots
- Impervious surface development other than structures

- Constructed Rain Gardens or other infiltration infrastructure
- Contractor Yards
- Crop farming
- Excavations
- Excavation/ Mineral extraction
- Extractive Uses
- Fill, Filling, or Filling Operations
- Funeral Parlors
- Establishment of new private wells
- Garages, Commercial
- Garages, Storage
- Gas Stations
- Hazardous materials storage or use
- Industrial Services
- Industrial Warehousing Distribution or Storage
- Industrial, Heavy
- Industrial, Light
- Institutional Uses
- Junkyards
- Landfills
- Mining site/operations
- Nursery/ Greenhouses
- Landscaping businesses
- Repair and maintenance services – major
- Retail Agriculture
- Self-storage facilities
- Sewage Treatment Systems
- Waste Management Facilities

**G Conditions**

Conditions imposed will be based on maintaining the purpose of this district which may include but are not limited to the following:

1. Structures and/or mechanisms for containment of potential contaminant spills
2. Spill response plans
3. Security measures on storage areas
4. Stormwater infrastructure which protects the water supply from potential contaminant infiltration
5. Site plans and road management programs (including salt application management) of roads, parking lots, or other similar surfaces in order to protect the water supply from potential contaminant infiltration
6. Site plans and turf management programs (including fertilizer application management) for open and/or vegetative areas to protect the water supply from potential contaminant infiltration
7. Evidence of required state and/or federal permits and required monitoring programs

305.07

Performance Standards

The purpose of the performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to the environment. Standards shall apply to future development in all districts unless otherwise noted.

Before any building permit is approved, the Planning Department shall determine whether the proposal will conform to the performance standards. The developer, applicant, or landowners shall supply data necessary to demonstrate such conformance.

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious or otherwise objectionable conditions that could adversely affect the surrounding areas or adjoining premises, except that any use permitted by this ordinance may be undertaken and maintained if acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits as established by the following performance requirements.

Subd. 1 Heights

Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, silos, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcast towers, masts or aerials, and necessary mechanical appurtenances are hereby excepted from the height regulations of this Section and may be erected in accordance with other regulations or Ordinances of the City.

Subd. 2 Fire Hazards.

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire-prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.

Subd. 3 Vibration.

No vibration shall be permitted that is discernible without instruments on any adjoining lot or property. The standard shall not apply to vibrations created during the process of construction.

Subd. 4 Air Pollution.

No pollution of air by fly-ash, dust, vapors, odors, smoke or other substances shall be permitted which are harmful to health, animals, vegetation or other property, or which can cause excessive soiling. For the purpose of this

ordinance, the regulations and standards adopted by the Minnesota Pollution Control Agency shall apply.

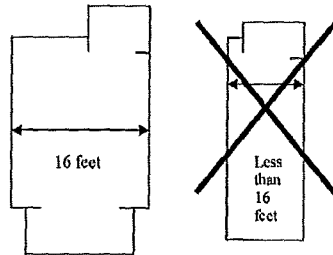
Subd. 5 Refuse.

All waste material, debris, refuse or garbage shall be kept in an enclosed building or property contained in a closed container designed for such purposes. The owner of vacant land shall be responsible of keeping such land free of refuse.

Subd. 6 Dwelling Units and Structures

All structures intended for the purpose of serving as a dwelling (with the exception of those categorized as a Manufactured Home under MN Statute, Chapter 327.31 or as amended) shall meet the following standards:

- A. All residential dwellings shall be a minimum of sixteen feet wide (measured at its maximum width)



- B. All dwellings shall be placed on a permanent foundation which complies with all standards and specifications of the Uniform Building Code as adopted in Minnesota. Said foundation shall be solid extending the entire length and width of the dwelling.
- C. New porches and decks (as defined in Section 305.09) shall be required to meet all setbacks. Pre-existing porches and decks may be re-constructed as long as they are not enlarged and any encroachment is not furthered or expanded. Stoops and patios are not required to meet structural setbacks. No porch, deck, stoop or patio shall be placed on any recorded easements.
- D. All residential structures shall be required to have sewer and water which meets state health code standards and city Code chapters 500 and 505. The minimum lot size for Individual Sewage Treatment Systems (septic systems) shall be determined by MN Rules 7090 (or as amended).

Subd. 7 Accessory Structures (permanent)

All accessory structures including those not requiring a building permit (under the size of 120 square feet or as amended in the Uniform Building Code) shall meet the following standards:

- A. Meet all zoning district setbacks for accessory structures
- B. Shall not be placed in any required front yard for the zoning district it is in

Subd. 8 Minor Structures, Fences, & Walls

Any small (under 120 square feet), movable accessory construction such as birdhouses, tool houses, play equipment, arbors, as well as walls and fences shall meet the following standards:

- A. Be contained wholly within the property to which it belongs
- B. Be set back from property lines sufficiently to allow for accessibility for maintenance purposes from within the property to which it belongs
- C. No fence shall be allowed to be constructed or maintained which will obstruct road intersection sight lines or which will in any other way create a hazardous situation for the public
- D. All fences located within the required front or corner lot street side yard (or setback) shall be
  - 1. No more than 4 feet in height **OR**
  - 2. Meet the definition of an “open fence”
- E. All fences over 6 feet in height shall require a building permit (or as amended in the International Building Code)
- F. All retaining walls over 4 feet in height shall require a building permit (or as amended in Uniform Building Code)

Subd. 9 Temporary Structures

All temporary structures as defined in Section 305.09 shall meet the following standards:

- A. No temporary structure shall be placed within the required front yard (setback) of any zoning district.
- B. Temporary structures must meet all setback requirements for the zoning district in which it is located.

Subd. 10 Portable Storage Containers

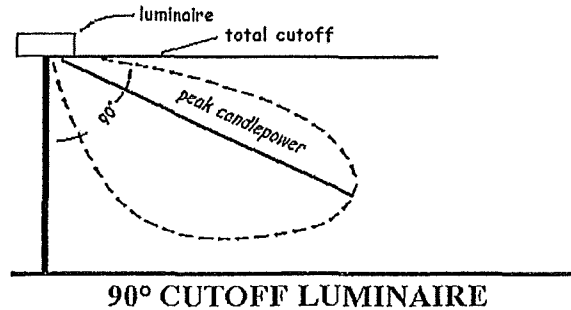
All portable storage containers as defined in Section 305.09 shall meet the following standards.

- A. Shall be allowed for no more than 30 days for the purpose of loading or unloading, truck sales, or similar short term uses with no more than four 30 day periods within a one year time frame. Each 30 day period may begin after 15 calendar days have elapsed.
- B. Location of the container shall be placed in the rear yard or on paved or graveled driveway if in the front or side yard of a property.
- C. Exception to these requirements are for those storage containers within zoning districts where they are explicitly allowed as either permitted or conditional (specific zoning district standards apply) and for parking during the process of delivery, loading, or unloading of merchandise or personal effects from delivery trucks.

Subd. 11 Vehicles & Equipment  
See City Code Section 1110 "Parking Regulations"

Subd. 12 Lighting

- A. Lighting level should be the lowest possible for the purpose intended.
- B. All lighting installations shall be designed and installed with illumination to be at a cut off of 90 degrees or less except as in exceptions in F below,



- C. Maximum lamp wattage for commercial lighting shall be 250 watts
- D. Maximum lamp wattage for residential lighting shall be 100 watts incandescent, 26 watts compact fluorescent.
- E. Light trespass shall be controlled with the proper choice of luminaires and optics.
- F. The following are excepted from the above lighting standards:
  - 1. Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
  - 2. Exit signs and other illumination required by building codes.
  - 3. Lighting for stairs and ramps, as required by the building code.
  - 4. Signs are regulated by the Sign Code, but all signs are recommended to be fully shielded.
  - 5. Holiday and temporary lighting (less than thirty days use in any one year).
  - 6. Athletic field lighting (e.g. football, baseball, softball), with Planning Commission approval, when steps have been taken to minimize glare and light trespass, and utilize sensible curfews.
  - 7. Low voltage landscape lighting, but such lighting be shielded in such a way as to eliminate glare and light trespass.

Subd. 13 Landscaping

In all districts where setbacks exist or are required, all developed uses shall provide a landscaped yard, which may include among other items grass, decorative stones, or shrubs and trees, along all streets. In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.



- Subd. 14 Transportation Interconnectivity  
All development shall provide for the segment of road, sidewalk, and/or trail on the development property to adjacent property line where such transportation routes have been identified within any plan or policy adopted by the City of Wabasha.
- Subd. 15 Stormwater Management & Erosion Control
- A. All projects shall be required to meet Minnesota National Pollutant Discharge Elimination System (NPDES) and the State Disposal System (SDS) standards for sediment control.
  - B. The rate of water run-off for post-development of any project shall be the same as pre-development rates for the same property.
  - C. Applicants/land owners may be required to provide to the City storm water calculations and surveys of drainage ways to meet these requirements.
- Subd. 16 Wetlands  
All projects shall be required to meet federal and state wetland protection rules, in particular MN Rules 8420 and 6115 (or MN. State Wetland Conservation Act or as amended). For this purpose, the following standards shall apply:
- A. The Wabasha Soil & Water Conservation District (SWCD) shall be the designated Local Government Unit (LGU) administering the Wetland Conservation Act (WCA)
  - B. Any proposed project/development which has a likelihood of impact on an existing wetland within the City of Wabasha *may* be required to conduct and provide to the City and/or Wabasha SWCD a wetland delineation.
  - C. Any proposed project/development which has the likelihood of creating a wetland (or feature which meets the definition of wetland under State standards) *may* be required to conduct a pre-construction survey of soils and provide to the City and/or Wabasha SWCD a copy of that survey.
- Subd. 17 Bluffs  
For all properties that contain or are contained within a bluff impact zone, all development, construction, and alterations to topography and vegetation shall be conducted in such a manner as to prevent bluff erosion and preserve existing scenic values, water and soil qualities. For this purpose, the following standards shall apply:
- A. New structures and accessory facilities (with the exception of stairways, lifts, and landings) shall not be placed within bluff impact zones
  - B. Pre-existing structures located within a bluff impact zone may be reconstructed, if damaged by fire, weather or other force of nature or act of God, provided the damage is less than 50% of the fair market value of the damaged structure.

- C. Setback from the top and toe of bluff to any structure in any district shall be no less than twenty (20) feet.
- D. No person shall begin a new mining or quarrying activity within three hundred (300) feet of the toe or top of a bluff without a Conditional Use Permit when allowed as a permitted or conditional use within the zoning district.
- E. No towers, with the exception of emergency towers, shall be located within one-quarter (1/4) mile of the bluff impact zone.
- F. Stairways and lifts may be allowed to achieve access up and down bluffs and steep slopes to shore areas or plains. All stairways and lifts on bluffs and in shoreland areas shall be visually inconspicuous, and meet the following design requirements:
  - 1. Stairways and lifts shall not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and Planned Unit Developments.
  - 2. Landings for stairways and lifts on residential lots shall not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties, and Planned Unit Developments.
  - 3. Canopies or roofs are not allowed on stairways, lifts, or landings.
  - 4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
  - 5. Stairways, lifts, and landings shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water and lower areas, assuming summer leaf-on conditions, whenever practical.
  - 6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore and lower areas, provided that the dimensional and performance standards of sub-items 1-5 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- G. No grading, excavating or filling within the bluff impact zones, except for approved erosion control measures. Erosion control projects within the bluff impact zone shall comply with 1. and 2. below:
  - 1. Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Wabasha Soil and Water Conservation District and the USDA, Natural Resources Conservation Service.
  - 2. Plans to place fill or excavated materials in bluff impact zones shall be prepared by a qualified professional for continued slope stability, and approved by the Department of Environmental Services. All costs to be born by the applicant.

H. The top or toe of bluffs shall be determined by the Planning Department and the applicant may be required that a registered land surveyor determine such location.

Subd. 18 Home Occupations

Where allowed (as permitted, conditional, or interim in the zoning district, Section 305.06), home occupations shall meet the following minimum standards:

- A. The business shall be located within the principal dwelling structure or an accessory structure of the property of the business owner.
- B. The maximum amount of space devoted to the business shall not exceed 25% of the gross floor area of the residence.
- C. No stock-in-trade shall be displayed so as to be visible from any street
- D. The home occupation shall comply with all county, state, and federal regulations.

Subd. 19 Pools – See Section 725 of City Code.

Subd. 20 Raising of Animals – See Section 705 of City Code

Subd. 21 Loading and Unloading Requirements.

In any Commercial or Industrial District, sufficient space for the loading and unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that the public street shall at all times be free and unobstructed to the passage of vehicular and pedestrian traffic.

Gross Floor Space	Loading and Unloading Space Required in Terms of Square Feet of Gross Floor Area
0 to 1,500 Sq. Ft.	None
1,501 to 10,000 Sq. Ft.	One (1) Space
10,001 and Up Sq. Ft.	One (1) Space Plus One (1) Space for Each 20,000 Sq. Ft. in Excess of 10,000 Sq. Ft.

All spaces shall be of at least ten by fifty (10X50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height.

Subd. 22 Off-Street Parking Requirements.

- A. No parking lot shall be constructed or reconstructed unless and until a Zoning Permit is issued. Applications for a Permit shall be submitted with two (2) copies of plans for the development and construction of the parking lot.

- B. Adequate ingress to the parking lot shall be provided and all parking spaces shall be provided adequate access by means of maneuvering lanes. Provision of adequate ingress and egress shall receive review and the approval of the City Engineer or other officials as may be desired by the City Council.
- C. Parking spaces shall be a minimum of nine by seventeen (9x17) feet in size for spaces arranged in a perpendicular lot layout or approved by the City Engineer for other layouts.
- D. The following table of parking requirements for various uses shall be applied to all new and expanded developments with the exception of those located in the TDC zone (see section 305.06, Subdivision 7F for TDC parking requirements). Allocation of said parking areas should be indicated on the plans required for obtaining a Zoning or other required permits. Off-street parking shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve measured from the nearest point of the building to the nearest point of the off-street parking lot.

<b>Use</b>	<b>Number of Spaces Required</b>
Accessory/Caretaker apartments accessory to a permitted principal use	1 space per dwelling unit plus spaces required for the principal use
Adult entertainment establishments	1 space for each employee and 1 space for every 2 customers
Agricultural crop farming	0
Agricultural limited livestock raising	0
Agriculturally related commercial	1 space per 500 square feet of usable floor area, plus 1 space for every employee
Animal Hospitals and Kennels	2 Spaces per Employee
Arts & Crafts fabrication and studios	1 space per each employee
Auto Sales Establishments	2 Spaces per Employee
Bars/cocktail lounges	1 space per 3 patrons calculated at maximum capacity
Bed & Breakfast establishments	1 space per each room or guest unit, plus 2 spaces per permanent residential unit
Boarding Houses, Etc.	1 Space per 3 Rooming Units, plus 1 Space per each employee
Bowling Alleys	See Indoor minor commercial entertainment & recreational facilities

<b>Use</b>	<b>Number of Spaces Required</b>
Campgrounds and travel trailer parks	1 Space per Campsite, plus 1 space per each 2 employees
Car Wash Establishment	1 Space per 3 Employees, plus 1 Space for Manager, plus Spaces Equaling 5 times that of capacity of the wash
Cartage and Express Facilities, Industrial distribution, freight or transfer facilities	1 Space per Vehicle Operated, plus 1 Space per 2 Employees
Cemeteries	1 space per each employee
Church related buildings	(See specific use, residence, school, etc.)
Commercial Retail	1 space for each 200 square feet of usable space, plus 1 space for each vehicle owned and/or maintained by the business (e.g. delivery or service vehicles)
Commercial Schools (Music, Dance, Etc.)	1 Space per 2 Employees, plus 1 Space per Every 5 Students
Commercial stables	1 space per employee plus 1 space for every 4 animals stabled
Communication antenna towers and related accessory structures	1 space per employee, plus 1 space per each vehicle stored on site, with a minimum of 1 space provided
Community Center & Cultural Institutions	Parking Spaces Equal to 30% of Capacity in Persons
Contractor or Construction Yards or offices	1 Space per 1 Employee, plus 1 space for each vehicle owned and/or maintained by the business
Child care centers serving more than 4 children	1 space for every 4 children calculated at maximum capacity which may include short-term drop off parking
Dentists offices & clinics	1 space for every 2 exam rooms and 1 space per each employee
Elementary Schools	1 Space per 2 Employees, plus 1 Space per 10 Students
Essential utility and public service facilities over 600 square feet	1 space per employee, plus 1 space per each vehicle stored on site, with a minimum of 1 space provided
Excavation/ Mineral extraction	
Funeral Parlors	8 Spaces per Chapel or Parlor, plus 1 Space per Funeral Vehicle owned and/or maintained by the business

Use	Number of Spaces Required
General Industrial Establishments	1 Space per 1.3 Employees (Max Number of Employees at One Time in Plant)
Government or private institutional uses <ul style="list-style-type: none"> <li data-bbox="537 453 915 516">• Offices providing community services</li> <li data-bbox="537 600 915 663">• Places of public assembly</li> </ul>	<p data-bbox="932 453 1453 558">1 space per every employee, plus 1 space per each 2 private offices located within department or facility</p> <p data-bbox="932 600 1453 663">See Places of public assembly</p>
Heavy Industrial uses	1 space per each employee
Permitted Single-family and Multi-family uses	1 Space per employee plus the following based on specific type of use:
<ul style="list-style-type: none"> <li data-bbox="537 831 915 869">• Day care facilities</li> </ul>	1 space for every 4 attendees which may include short-term drop off parking
<ul style="list-style-type: none"> <li data-bbox="537 936 915 1012">• Residential facility or housing with services</li> </ul>	1 space per every 2 dwelling units (individual apartments within a complex) and/or 1 space for every two beds.
Hospitals	1 space for each two hospital beds plus one space for each employee
Hotels & Motels	1 Space per 3 Rooms, plus 1 space per each employee, plus parking required for <i>additional</i> uses (restaurants, bars, banquet facilities, and retail shops etc.) based on parking specified for those uses
Indoor recreational & entertainment minor facilities (minor) including bowling alleys, pool halls, skating rinks, dance halls, athletic clubs, and private clubs/lodges	1 space per 3 patrons calculated at maximum capacity, plus parking required for <i>additional</i> ancillary uses (restaurants, bars, banquet facilities, and retail shops etc.) based on parking specified for those uses
Indoor Theaters (other than schools)	See Places of public assembly
Industrial service businesses	1 space for each employee, plus 1 space for each 1,000 square feet of gross floor area, plus 1 space for each vehicle owned and/or maintained by the business

Use	Number of Spaces Required
Industrial warehousing distribution or storage facilities	1 space for each 1,000 square feet of gross floor
Laboratories	1 Space per 3 Employees
Landscaping businesses, Commercial Greenhouse, or Nursery operations	1 Space per 1 Employee, plus 1 space for each vehicle owned and/or maintained by the business, plus 1 space per each 300 square feet of floor area devoted to customer sales and service
Laundries	1 Space per 3 Employees
Libraries	1 Space per 800 Gross Sq. Ft.
Light industrial and agriculturally related service businesses	1 space for every employee, plus 1 space for every 1,000 square feet
Light Industrial uses, Industrial manufacturing (light or heavy)	1 space per each employee (including office, service, and manufacturing), plus an additional 5 % of the number of spaces for employees, and 1 space for each vehicle that the business owns and/or maintains
Major entertainment and recreational facilities,	15 spaces plus 50 per every acre of developed recreational area
Major repair and maintenance service facilities	1 space per every employee plus 1 space per every 400 square feet of usable waiting room, display or similar public area
Manufactured Home Parks	See Section 415 City Code
Marina's	1 space for every two boat slips, plus parking required for <i>additional</i> ancillary uses, (restaurants, bars, banquet facilities, and retail shops etc.) based on parking specified for those uses
Medical and Dental Clinics	3 Spaces per Staff Member
Minor repair and maintenance services	1 space for each 200 square feet of usable space, plus 1 space for each vehicle owned and/or maintained by the business (e.g. delivery or service vehicles)

Use	Number of Spaces Required
Mixed use structures or developments	For any structure or development which involves more than one type of land use, the total off-street parking required shall be the sum of the various uses computed separately.
Mobile Home Parks	2 Spaces per Lot
Multi-Family dwellings	1.5 spaces per number of dwelling units
Nursing homes	1 Space per 4 Beds, plus 1 Space per 2 Employees,
Open sales lots	1 space per employee, plus 1 space for every 200 square feet of usable space beyond those spaces used for the display of merchandise on sale
Outdoor recreational & entertainment facilities (minor) including golf courses, hunting & shooting clubs, and other similar sporting and recreational facilities	1 space per 4 patrons calculated at maximum capacity, plus parking required for ancillary uses, such as restaurants, bars, banquet facilities, and retail shops, based on parking specified for those uses
Philanthropic and Charitable Uses	1 Space per 2 Employees, plus Adequate Number to Serve Public (As Determined by the Planning Commission)
Places of public assembly including churches, public meeting rooms, and commercial theaters	1 space per every six seats at maximum capacity or 1 space per every 11 feet of pew, bench, or similar seating arrangement
Pool Halls, Dance Halls, Pools, Skating Rinks	Parking Spaces Equal to 30% of Capacity in Persons
Post Offices	1 Space per 2 Employees, plus 1 Space per 300 Gross Sq. Ft. In Excess of 4,000 Sq. Ft.
Printing and Publishing Establishments	1 Space per 3 Employees
Private guest cottage or accessory apartments,	1 additional space beyond what is required for the main residence
Professional services Offices	1 space per every employee, plus 1 space per each 2 private offices located with the firm or business



<b>Use</b>	<b>Number of Spaces Required</b>
Public or private parks	None are required unless required as part of a Conditional Use Permit.
Public or private schools or training facilities (other than K-12 schools)	1 space per every 3 students at maximum capacity, plus 1 space per every employee
Radio and TV Stations	1 Space per 2 Employees
Resorts	1 Space per 2 Employees, plus Spaces Equal to 20% of Capacity or 1 Space per Rental Unit Whichever Is Greater
Restaurants (Traditional or Drive-in/drive-through)	1 space per every 100 square feet of usable floor area or 1 space per every 2 patrons calculated at maximum capacity, whichever is greater
Riding Stables	1 Space per 1 Employee, plus 1 per every three patrons at maximum capacity
School Auditoriums Gyms, Stadiums, Etc.	1 Space per 8 Seats, which may be calculated out of the parking required for the school if parking is within 300 feet from the facility
Schools	See Elementary or Secondary Schools
Secondary Schools	1 space per each employee, plus 1 space per every 3 students (at maximum capacity) in 11 <sup>th</sup> & 12 <sup>th</sup> grades
Service Gas Stations	1 Space per 2 Employees, plus 1 Space for Manager
Single-family attached and condominium dwellings	1.5 spaces per dwelling unit
Single-family detached residential	2 Spaces per Dwelling Unit
State licensed residential facilities or supervised group residential facilities,	1 space per every three persons at maximum facility capacity (unless residents are prohibited from owning or operating personal automobiles), plus 1 space per each employee
Warehousing and Publishing Establishments	1 Space per 3 Employees
Waste management facility	1 space per each employee, plus one space for each vehicle operated

- E. The following standards shall apply in the calculation of spaces required for off-street parking (in all districts).
  - 1. When calculation of the number of required off-street parking spaces results in a fraction, the fraction shall be rounded up to the next highest number.
  - 2. When the number of off-street parking spaces is based on the maximum number of persons or patrons this shall be defined by building or fire code requirements.
  - 3. When the number of off-street parking spaces is based on the number of employees, this shall be defined by the number of employees at the facility during the largest shift regardless of full time status.
  - 4. When number of parking spaces is based on number of seats and benches, pews, or other similar seating facilities are used, each twenty-two inches of such seating facilities shall be counted as one seat.
  - 5. In cases where future potential uses of a building or development site will generate additional parking demand, the city may require a proof of parking plan for the difference between minimum parking requirements and the anticipated future demand.
  - 6. Spaces required for vehicles owned and/or maintained by the business use including service trucks and vans and passenger vehicles which are being used and/or stored at the facility in question. The Planning Commission may consider reducing the number of spaces required for passenger vehicles owned by the business if evidence is provided that adequate storage is being provided off site.
- F. The parking requirement for uses not listed in this subdivision, Subdivision F, may be established by the city based on the characteristics of the use and available information on parking demand for such use.
- G. The Planning Commission shall consider varying the amount, location, and design requirements for parking in PUD's if a finding is made that changing (potentially lessening) of standards provides adequate parking for the proposed development and better meets the goals of Section 305.06 Subdivision 11A.

305.08

NON-CONFORMING USES, STRUCTURES AND LOTS.

Subd. 1 Lawful non-conformity

The burden of proof to show a lawful non-conformity rests with the applicant and/or property owner. Documentation as to a non-conformity existing prior to adoption or changes to this section of City Code may be required if an application for any permit or zoning action is received.

Subd. 2 Existing (Lawful) Non-Conforming Uses.

- A. The lawful pre-existing non-conforming use of a structure, land, or waterway existing at the time of the adoption or amendment of this Section may be continued although the use does not conform with the provisions of this Section.
- B. Lawful non-conforming uses may not expand or intensify unless allowed to do so under this section or by other law (such as with the issuance of a special permit, if require). Only that portion of the land or structure in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this Section, **unless** the value of the extension, enlargement, reconstruction, substitution or structural alteration of the structure does not exceed 50% of the assessor's market value of the structure at the time of the extension, enlargement, reconstruction, substitution or structural alteration.
- C. Total life-time structural repairs, extensions, enlargements, reconstructions, substitutions or alterations to house or support a non-conforming use, shall not exceed 50% of the assessor's market value of the structure at the time of the extension, enlargement, reconstruction, substitution or structural alteration, unless it is permanently changed to conform to the use provisions of this Section.
- D. Substitution of new equipment or similar changes related to the non-conforming use may be permitted by the Board of Adjustment if such equipment or change will reduce the incompatibility of the non-conforming use with the neighboring uses. Application for such approval will follow the process of appeals (See Section 305.04 Subd. 6).
- E. Abolishment or Replacement.
  1. If such non-conforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Section.
  2. A current file of all non-conforming uses shall be maintained by the Zoning Administrator listing the following: Owner's name and address; use of the structure or land; and assessed value at the time of its becoming a non-conforming use.

Subd. 3 Existing Non-Conforming Structures.

The lawful non-conforming structure existing at the time of the adoption or amendment of this Section may be continued although its size or location does not conform with the width, yard, height, parking and loading and access provisions of this Section. Enlargement, reconstruction, substitution or structural alteration may occur if it does not exceed 50% of the assessor's market value of the structure at the time of the extension, enlargement,

reconstruction, substitution or structural alteration and the non-conformity is not enlarged or furthered.

Subd. 4 Changes and Substitutions.

Once a non-conforming use or structure has been changed to conform, it shall not revert back to a non-conforming use or structure.

Subd. 5 Substandard Lots.

In any district, an allowable use and its accessory structures may be erected on any lawful non-conforming lot or parcel, providing such lot or parcel was of record in the Office of the County Register of Deeds before the effective date of the ordinance establishing the minimum lot standard. Such lot or parcel shall be in separate ownership from abutting lands, if abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Section. If in separate ownership, all other district requirements (uses, setbacks, building heights etc.) shall be complied with.

DEFINITIONS.

Subd. 1	Accessory apartments:	A dwelling unit with up to 50% of the principle structure, subordinate to and located in an owner-occupied single-family dwelling or principle structure of a commercial business
Subd. 2	Accessory Building/ Structure:	A building subordinate to but not part of the principle building, and used for a purpose incidental to the principle building, structure, or use. Accessory buildings include residential garages, sheds, and other structures, but shall not include any structure lacking a permanent foundation including, but not limited to, shipping containers, trailers or construction offices, truck bodies (with or without wheels or carriages) or other constructions used for temporary or permanent storage or habitation.
Subd. 3	Accessory structures, non-dwelling:	Any accessory structure that is not connected to public or private sewer.
Subd. 4	Accessory Use:	A use subordinate to but not part of the principle use, incidental to the principle use of the site.
Subd. 5	Adult Entertainment Establishment:	As defined in Minnesota State Statute 617.242, a business that is open only to adults and that presents live performances that are distinguished or characterized by an emphasis on the depiction of sexual conduct or nudity. For the purpose of this ordinance, this definition includes those establishments that sell food, beverage, and/or liquor where such performances take place, and those establishments where any person is in a state of nude or semi-nude condition.

Subd. 6	Agricultural Services:	Establishments that perform services which support or assist agricultural endeavors, 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 including buildings and other structures that provide office, warehouse, and storage areas for these establishments.
Subd. 7	Agricultural Stand:	A structure, or portion thereof, up to 1,000 square feet or an outdoor area used for the retail sale of agricultural and related incidental products primarily grown on the premises (excluding livestock).
Subd. 8	Agriculturally Related:	Uses that are associated with the operation of or primarily use products from farming or other agricultural endeavors
Subd. 9	Alley:	A dedicated public or private thoroughfare (platted or recorded easement) located through the interior of a block generally to provide secondary access and limited travel from local roads for the purpose of accessing utility, parking and service needs to adjacent lots.
Subd. 10	Allowed Use:	A use which is accepted in a certain zoning district with or without any additional permits required includes both permitted and conditional uses.
Subd. 11	Animal Feedlot:	A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate. Or, where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots.

Subd. 12

Animal unit:

A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or manure storage area calculated by multiplying the number of animals of each type in clauses (1) to (9) by the respective multiplication factor and summing the resulting values for the total number of animal units.

Dairy 1 mature cow  
(milked or dry)

> 1,000 lbs. 1.4 animal units

< 1,000 lbs. 1.0 animal units

1 calf 0.2 animal units

1 Swine

> 300 lbs. 0.4 animal units

between 55lbs- 0.3 animal units

300lbs.

< 55 lbs. 0.05 animal units

1 horse 1.0 animal units

1 sheep or lamb 0.1 animal units

Sheep

1 chicken (dry  
manure system)

> 5 lbs. 0.005 animal units

< 5 lbs. 0.003 animal units

1 Turkey

> 5 lbs. 0.018 animal units

< 5 lbs. 0.005 animal units

1 duck 0.01 animal units

\*Or as amended by the Minnesota Pollution Control Agency.

\*\*For animals not listed above, the number of animal units, is the average weight of the animal in pounds divided by 1,000 pounds.

Subd. 13

Antique Shop:

A retail establishment offering for sale, primarily within a building, articles such as glass, china, furniture or similar furnishings and decorations that have value and significance as a result of age, design or sentiment.

Subd. 14	Art Gallery, Commercial:	The display and sales of art with at least 51 % of sales being retail.
Subd. 15	Arts & Craft Fabrication:	The production of arts or crafts, where the goods are custom-produced in small quantities often one of a kind, including but not limited to items made from wood, glass, metal, paint, paper, fabric.
Subd. 16	Arts & Crafts Studios:	A building that contains artist or craft studio space or schools and where art or craft fabrication takes place and where items produced on site may be sold on or off the premises.
Subd. 17	Bar/cocktail lounge:	An establishment where alcoholic beverages are sold at retail for consumption on the premises and where if food is also sold, sale of alcoholic beverages is 25% or more of gross receipts.
Subd. 18	Basement Story:	A story which is not a crawl space that is that portion of any structure located at least partly below the average adjoining lot grade, including walkouts or basements.



Subd. 19	Basement:	Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level (as defined in the Floodplain Ordinance)
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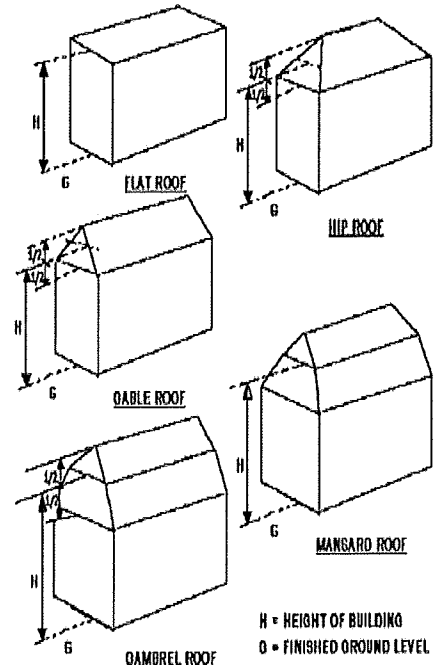


Subd. 20	Bed & Breakfasts Establishments:	A structure designed for and occupied as a single-family residence with not more than five guestrooms used to provide transient accommodations and meals for overnight guests for a daily or weekly fee.
Subd. 21	Bluff Impact Zone:	A bluff and land located within 20 feet from the top of a bluff.
Subd. 22	Bluff:	<p>A topographic feature such as a hill, cliff, or embankment having the following characteristics</p> <ul style="list-style-type: none"> <li>• The slope rises at least 25 feet above the adjacent plain;</li> <li>• The grade of the slope from the toe of the bluff to a point 25 feet or more above the adjacent plain averages 30 percent or greater; (an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff)</li> </ul>
Subd. 23	Boathouse:	A structure designed and used solely for the storage of watercraft or boating equipment.

Subd. 24

Building Height:

The vertical distance from the average curb level in front of the lot, or the finished grade at the building line, whichever is higher, to the highest point of the coping of flat roof, to the deck line of a mansard roof, to the average height of the gable of a gambrel, or to the hip or pitched roof.



Subd. 25

Building Line:

Lines creating a building envelope defining the area where a structure may be built. These are determined by drawing parallel lines to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

Subd. 26

Building Setbacks:

See yard requirements

Subd. 27

Building, Accessory:

See "Accessory Building"

Subd. 28

Building, Principal:

A building in which the principal use of the site occurs.

Subd. 29

Building, zero lot line:

A building attached by party walls with other buildings in such a manner that the common (party walls) is located on the common lot line(s) including but not limited to such common references as twin homes.

Subd. 30

Building:

See structure

Subd. 31	Bunkhouse:	A residential accessory structure secondary to a cabin or dwelling used for sleeping quarters, with no sanitation or cooking facilities.
Subd. 32	Business Complex:	A building or group of connected buildings containing two (2) or more businesses and under the same control or ownership.
Subd. 33	Business:	Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
Subd. 34	Cabin - Seasonal or Recreational:	A residence occupied only on a part-time basis for seasonal or recreational use and not as a single family dwelling.
Subd. 35	Caliper:	The diameter of the trunk of a tree as measured 6 inches above ground level, up to and including 4-inch caliper size, and 12 inches above ground for larger sizes.
Subd. 36	Campground:	An open-air recreation area where temporary shelters, such as tents and Recreational Camping Vehicles, are allowed and intended to provide transient occupancy and associated buildings and accessory structures such as picnic shelters, bath houses, and offices used in the operation of the facility.
Subd. 37	Childcare Center:	Those facilities licensed by the Minnesota Department of Human Services and defined under MN Rules 9503 which provide child care services that are not included in the definition of Permitted Single-family Uses. These include commercial non-residential childcare facilities. For this purpose, a child is a person who is under eighteen (18) years of age.
Subd. 38	Church:	See "Institutional Use"
Subd. 39	Commercial Planned Unit Development:	A commercial use project developed under the Planned Unit Development process

Subd. 40	Commercial Retail:	The selling of merchandise or goods in small quantities to the end consumers (as opposed to wholesale). This includes but is not limited to: grocery stores/supermarkets, meat markets, bakeries, drug stores, department stores, apparel shops, jewelry stores, hardware stores, furniture stores, bookstores, stationery, flower, gift shops, antique stores, craft & hobby supply, sporting goods, and household items.
Subd. 41	Commercial Use:	In shoreland zones is the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
Subd. 42	Common Interest Community Plat (C.I.C. Plat):	A type of plat defined in State Statute 515B (or as amended) which provides for a development and platting process for condominiums, planned communities, and/or cooperatives in which the unit owners' interests are characterized as real estate.
Subd. 43	Conditional Use:	A use of land, water or building, type of development or development activity which is not generally permitted in a specific zoning district, but may be allowed with restrictions and conditions after the issuance of a special permit upon a finding that with these conditions the use is appropriate to and compatible with the purpose of the district and conforms with the Comprehensive Plan.
Subd. 44	Condominium:	As defined by State Statute 515B Subdivision 11, which is “a common interest community in which (i) portions of the real estate are designated as units, (ii) the remainder of the real estate is designated for common ownership solely by the owners of the units, and (iii) undivided interests in the common elements are vested in the unit owners” or as amended.

Subd. 45	Constructed Rain Garden:	A method of stormwater management, a shallow water retention pond where the soil is amended to a minimum depth of 18" with 1 part organic matter to 2 parts soil, planted with grasses, and/or shrubs, and/or trees; that stores water and performs bio-filtration.
Subd. 46	Contractor Yards:	A site used for storage of equipment and supplies used by a construction or landscape contractor in the operation of their business
Subd. 47	Corner Lot:	A lot abutting two or more streets at their intersection.
Subd. 48	Crawl space:	Space below or above grade below the first floor of a structure which is unusable as living space but may provide access to structural systems or foundation
Subd. 49	Crop farming:	The tilling of the soil, the growing, harvesting and storing of crops including are see also "farm site".
Subd. 50	Cultural Institution:	A facility used for the storage, preservation, study, or exhibition of objects of importance to human history, culture or scientific interest operated by a public or legitimate private non-profit entity for the recreation or cultural education of the public. Includes museums, libraries, interpretive centers or similar educational or cultural establishments. Gift shops, educational or recreational services as ancillary uses are included.
Subd. 51	Day Spa:	An establishment offering a variety of personal health and beauty related services, including weight reduction, massage, beauty treatments and hair styling, with no overnight accommodations, but expressly excluding anything that is defined under adult entertainment establishments.

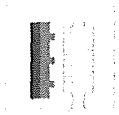
Subd. 52	Deck:	A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than 3 feet above ground.
Subd. 53	Density, Residential:	The number of dwelling units per acre; for the purpose of meeting minimum performance standards this shall be calculated as the net density and shall not include temporary structures, or transient dwelling units.
Subd. 54	Density, Residential Gross & Net:	"Density" means the method of describing the intensity of development patterns typically measured in dwelling units per acre. Gross density includes the entire property, whereas net density refers to the land available for development (e.g., less roads and critical areas).
Subd. 55	Development Project:	Construction projects of buildings, structures, streets, or other infrastructure.
Subd. 56	DNR Commissioner:	The commissioner of the Minnesota Department of Natural Resources.
Subd. 57	Duplex, Triplex, and Quad (Shoreland):	A residential structure in the shoreland districts having two, three, and four dwelling units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
Subd. 58	Duplex:	See Dwelling Unit, Multi-family
Subd. 59	Dwelling Site, Transient:	A designated location for use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites (termed Dwelling Site under State Shoreland Standards)

Subd. 60 Dwelling Unit, Transient Any structure or portion of a structure, designed as short term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins (termed Dwelling Unit under State Shoreland Standards).

Subd. 61 Dwelling Unit: Any room or group of rooms located within a dwelling forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating, and sanitation by one family (with a connection to public or private sewer).<sup>1</sup>

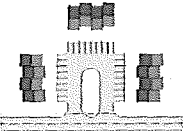
Subd. 62 Dwelling, multiple family: A structure or portion thereof intended and designed for two or more dwelling units.



**DWELLING - MULTI-FAMILY**



Subd. 63 Dwelling, Single Family Attached: A building designed or used exclusively for residential purposes by one family on it's own separate lot and is attached on at least one side by another single family dwelling,

**DWELLING - SINGLE FAMILY ATTACHED**



Subd. 64	Dwelling, Single Family Detached:	<p>A building containing one (1) dwelling unit on its own separate lot, not attached to any other dwelling units, having yards on all sides of the unit, including but not limited to stick built housing, manufactured housing complying with Minnesota Statutes Sections 327.31 - 327.35, and mobile homes complying with Minnesota Statutes Sections 327.31 through 327.35 designed for and occupied by one family only, the entire length and width of the dwelling.</p>	<p><b>DWELLING - SINGLE FAMILY DETACHED</b></p>		
Subd. 65	Dwelling:	Any building or portion thereof used and occupied for human habitation or intended to be so used.			
Subd. 66	ERA (Emergency Response Area):	That part of the wellhead protection area that is defined by a one year time of travel within the aquifer that is used by the public water supply well. It is used to set priorities for managing potential contamination sources within the Drinking Water Supply Management Area.			
Subd. 67	Essential utility and public service facilities:	Structures which provide shelter for equipment, a central utility hub for utilities, booster, or transmitting (not including towers).			
Subd. 68	Excavation	A development process and not an ultimate land use including any artificial movement of the earth, including grading, digging, filling, removal, or addition of earth material made by tunneling or breaking or undermining the surface of the earth			
Subd. 69					



Subd. 70	Extractive Use:	The use of land for surface or subsurface removal only of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51 through an excavation process.
Subd. 71	Family:	An individual, couple, or group of persons living together as a single housekeeping entity in a single dwelling unit.
Subd. 72	Farm Site	Land and farm buildings for storing and protecting farm machinery and equipment from the elements; and farm dwellings occupied by farm owners, operators, tenants or seasonal or year 'round hired farm workers. Excluded in this definition are industrial operations such as grain elevators or commercial transfer stations and storage facilities.
Subd. 73	Feedlot:	See "Animal Feedlot"
Subd. 74	Fence Height:	The height of a fence, hedge, or wall measured from the ground level at the lowest grade level within three feet of either side thereof.
Subd. 75	Fence, Open:	A fence, including entrance and exit gates, designed and constructed so that the surface area of any segment of such fence contains at least seventy percent (70%) open spaces and thirty percent (30%) or less solid materials.
Subd. 76	Fence, Ornamental:	An open fence other than a chain link fence that is erected for decorative purposes only and is not intended to be used, either by itself or together with wire or other material, as an enclosure, barrier, or means of protection or confinement.
Subd. 77	Fence, Solid:	A fence that is not an open fence
Subd. 78	Fill, Filling, or Filling Operation:	The depositing of fill, dredge, sand, gravel, dirt and all other similar material in excess of 1,000 cubic yards or more onto or into a parcel of land.

Subd. 79	Flea Market:	A market (indoor or outdoor) conducted by an operator as a business where five (5) or more individual vendor spaces are rented, leased, or are otherwise available to individual vendors who offer goods for sale to the public.
Subd. 80	Floating zones:	Zoning districts that do not have predetermined boundaries and can be applied within a jurisdiction if certain criteria are met, including meeting the goals of the Comprehensive Plan. Planned Unit Developments is one example.
Subd. 81	Floor Area Ratio:	The square footage of floor area on all floors for each square foot of lot area.
Subd. 82	Floor Area:	Area in square feet of all floors in all buildings including elevators and stairways. Measured from outside of exterior wall to outside of exterior wall and multiplied by the number of floors. (Includes basement stories.)
Subd. 83	Forest Land Conversion:	The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.
Subd. 84	Frontage:	The smallest dimension of a lot, parcel or plot of land abutting a public street measured along the street line.
Subd. 85	Funeral Parlor :	Private non-denominational funeral chapels and other facilities for the purpose of spiritual meditation and vigil before burial of deceased persons.
Subd. 86	Garage, Commercial:	Any building or premises, other than a private or storage garage, where motor-driven vehicles are equipped, repaired, serviced, sold or stored.
Subd. 87	Garage, Private:	An accessory building or space for the storage only of not more than three (3) motor-driven vehicles per dwelling or other equipment or personal items.

Subd. 88	Garage, Storage:	Any building or premises used for storage only of motor-driven-vehicles, or other equipment or other items and where no vehicles are serviced, repaired, hired or sold.
Subd. 89	Gas Station:	An establishment which sells gasoline typically at outdoor pumps to automobiles and other vehicles, and may include a retail component selling convenience items, groceries, prepared food, and travel items.
Subd. 90	General Development Lakes:	As defined by Minnesota Rules 6120.3000 "SHORELAND MANAGEMENT CLASSIFICATION SYSTEM", are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.
Subd. 91	Ghost Platting:	A plan that shows the potential eventual build out of a parcel at urban densities by establishing future lot lines; building envelopes; layout of future streets; easements; and information on how public utilities may be extended to accommodate future, development.
Subd. 92	Governmental uses and buildings:	Buildings and their accessory and ancillary uses which are owned and/or operated by Federal, State, or local governments for the use in governmental operations, including offices, storage facilities, and meeting rooms used in the operation of the government or the provision of services.
Subd. 93	Grade or Grading:	The process of moving 1,000 cubic yards or less of earth to level or smooth a site to a desired gradient in the preparation for construction or development of the land.

Subd. 94	Guest Cottage (private):	An accessory structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
Subd. 95	Hardship, undue:	Means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.
Subd. 96	Hazardous materials:	Any substance that because of its quantity, concentration, or physical/chemical characteristic poses a significant present or potential hazard to human health or the environment when improperly used, handled, treated, processed, stored, transported, disposed of, or otherwise managed.
Subd. 97	Height of Building:	See building, height

Subd. 98	Home Occupation:	Any occupation or business conducted within the principle building (home) or accessory structure by the resident ('s) including where there is: advertising (on or off premise) of the location as a business, the presence of customers, signage, or equipment or product on display or stored in a visible location at the residence or where construction of structures or modifications to a site are proposed for the purpose of operating such a business, but which is clearly secondary to the main use of the premises as a dwelling place, for the gain or support of the residents of the property and, where the space used by the business does not exceed twenty-five percent (25%) of the usable floor area of the principal structure (home).
Subd. 99	Home Office:	Considered part of residential use, the use of part of a residence for work associated with business or an occupation which is conducted by the resident('s) of the premise and there is no outward appearance of any business activity (e.g. no signage, customers, or visible storage of equipment).
Subd. 100	Hotel/Motel:	A structure or group of structures in which three or more units for lodging are offered to transient guests with furnishing of sleeping accommodation in rooms or suites of rooms for compensation, and may also include an ancillary eating establishment, gift shop, or other ancillary tourist services available to guests and/or to the general public.
Subd. 101	Impervious surface:	A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, storage areas, and concrete, asphalt or gravel driveways.

Subd. 102	Industrial Service:	Establishments involved in large scale repair and servicing of industrial, or business machinery, equipment, products. Examples include welding shops, machine shops, tool, electric motor, industrial instruments repair, heavy truck servicing and repair, fleet storage and maintenance, building, heating, plumbing or electrical contractors that include workshops, with some ancillary sales, repair, storage, or salvage operations and truck stops.
Subd. 103	Industrial Use:	The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
Subd. 104	Industrial Warehousing Distribution or Storage:	Establishments involved in the storage or distribution of materials or equipment on a primarily wholesale basis or as support to a service industry includes but is not limited to: warehousing facilities, Freight terminals, fleet storage, Contractors yards, wholesale Industrial equipment sales and rental, and ancillary business offices.

Subd. 105	Industrial, Heavy:	Establishments involved in the manufacturing, fabrication or compounding of products, on a primarily wholesale basis, in particular those involving the use of mechanical power and machinery to produce products from raw materials, or to prepare or alter materials for use in a finished product, or to assemble parts into products where there is the creation of odor, dirt, dust and noise, including but not limited to: tire retreading, or recapping, large scale laundry, dry-cleaning and carpet cleaning plants, lumber products (millwork, cabinet-making), textiles, bottling works, furniture manufacturing, rubber and plastics (compounding processed resins, molding plastics), gravel or stone based products (pottery, cutting, finishing granite, firing and decorating clay products), metal fabrication, machine shops, assembly operations, and ancillary business offices.
Subd. 106	Industrial, Light:	Establishments involved in the processing or assembly of products where the process involved is relatively clean and nuisance-free, in the creation of finished products for sale on a primarily wholesale basis including but not limited to: electronic assembly, dental laboratories, Newspaper or printing, Laboratories, Large scale Laundromats/cleaners, and ancillary business offices.
Subd. 107	Institutional Use	Any use which typically provides a service on a not-for-profit basis by an organized establishment, foundation, society, or the like, including religious, private, or public non-profit organizations such as schools, hospitals, churches, and government facilities.

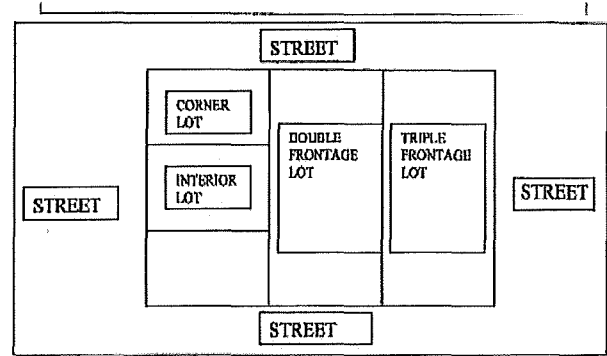
Subd. 108	Intensification of Use:	The changes to a use which is greater than when it was initially approved or allowed including such circumstances as the increase in traffic produced by the use (including both to or from the location of the use), an increase in the number of customers visiting the location, an increase in the amount of outside storage or other outdoor usage at the location, and/or construction of additional structures, parking spaces, or other facilities to allow such increases.
Subd. 109	Intensive Vegetation Clearing:	The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
Subd. 110	Interim Use:	A temporary use of property until a particular date, until the occurrence of a particular event, or until the use is no longer allowed by zoning regulations.
Subd. 111	Junkyard:	Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery or two or more unregistered, inoperable motor vehicles or other type of junk and ancillary business offices. A junkyard does not include such uses conducted entirely in an enclosed building.
Subd. 112	Kennel:	See City Code 705.06
Subd. 113	Landfill	See also Waste Management Facility
Subd. 114	Landscaping:	Planting of vegetation material including items such as trees, grass, ground cover, or shrubs, and including the use of items for soil or plant support, stabilization, and containment such as rock, timbers, paving, and trellis.
Subd. 115	Legal/Lawful Non-conforming Use	See Non-conforming Use, legal/lawful



Subd. 116	Light Trespass:	Exterior lighting from another property which is 0.5 horizontal foot candles or more at a distance of 25 feet beyond the property boundary.
Subd. 117	Limited Livestock Raising:	The keeping, grazing or feeding of livestock for sale, value increase, or livestock increase including dairy and beef cattle, goats, horses, ponies, sheep, hogs, poultry, game birds, dogs, deer, rabbits, mink, and bees with a maximum of 1 animal unit per acre and a minimum of 2 acres for the first animal unit. Excluded in this definition are commercial feedlots, commercial transit stations or animal stockyards and auction houses, canning or slaughterhouse operations, wherein agricultural products produced primarily by others are stored or processed.
Subd. 118	Liquor Stores, Off-sale:	The sale of liquor in original packages in a retail store for consumption off or away from the premise where sold.
Subd. 119	Loading Area:	A completely off-street space or berth on the same lot for the loading or unloading of carriers, having adequate ingress and egress to a public street or alley.
Subd. 120	Lot Frontage:	See frontage.
Subd. 121	Lot Lines:	The lines bounding lots as defined herein.
Subd. 122	Lot Size:	A measurement which is the area of the land surface of a designated lot.

Subd. 123

Lot Types:



Subd. 124

Lot Width:

The shortest distance between lot lines measured at the midpoint of the building line.

Subd. 125

Lot, Depth of:

The main horizontal distance between the front and rear lot lines.

Subd. 126

Lot:

A parcel of land on a public street having a width and depth sufficient to provide the space necessary for one main building and its accessory building together with the open space required by this Section.

Subd. 127

Maintenance:

Definition for "maintenance" from the Uniform Building Code (or as amended) shall apply.

Subd. 128

Manufactured Single Family Dwelling:

A structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contain therein, or as modified in the Manufactured Home Building Code as defined in Minnesota Statutes Chapter 327.31 Subdivision 3.

Subd. 129

Marina:

A dock or basin providing moorage for four watercraft or more and which may offer supply, repair, rental, or other support facilities.

Subd. 130	Mineral resources:	Rock, gravel, sand and metallic and non-metallic substances of commercial value.
Subd. 131	Mining site/operation:	A tract of land and the operations necessary to process extracted mineral resources which may include the extractive process but also allows processing, stockpiling, and the retail, wholesale, contract purchase, or transfer of mineral products. For purposes of this title, the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g. residential subdivision, commercial development, etc.) does not constitute a mining site/operation, if: processing of the material does not occur on the property; the activity is completed quickly, does not occur over an extended period of time, and on-site stockpiles are fully depleted; and, a mining permit is not required from the Department of Natural Resources.
Subd. 132	Minor Structures:	Any small (under 120 square feet), movable accessory construction such as birdhouses, tool houses, play equipment, arbors, and walls and fences under four (4) feet in height.
Subd. 133	Mixed Use Planned Unit Development:	A mix of different types of residential (single and multi-family) and/or mix of residential, commercial, and/or institutional uses developed under the Planned Unit Development process
Subd. 134	Mixed use:	A mix of more than one principal use per lot or parcel including different types of residential (single and multi-family) and/or mix of residential, commercial, and/or institutional uses.
Subd. 135	Mobile home:	Any vehicle designed, used, or so constructed as to permit its being used as a conveyance upon the public streets or highways and constructed in such a manner as will permit occupancy thereof as a residence or sleeping place for one or more persons.

Subd. 136	Movable Construction:	Any structure which is not permanently affixed to the ground by means of footings, foundation, or slab.
Subd. 137	Multi-family Residential Structure:	See dwelling, multi-family
Subd. 138	New Development:	Is a new structure or a structure extended or enlarged to a size equal to or more than fifty percent (50%) of the size of the existing structure.
Subd. 139	Nonconforming building or structure:	A building or structure that was lawfully established prior to the adoption or applicable amendment of this title, which fails by reason of such adoption or amendment to conform to the present setback, lot coverage, or other development requirements of this chapter.
Subd. 140	Nonconforming lot:	A lot that was lawfully established prior to adoption or applicable amendment of this title, which fails to conform to the present area or dimensional requirements of this chapter.
Subd. 141	Nonconforming use	A use of land, buildings, or structures that does not conform to the present land use regulations established in this chapter and which may be legal or illegal depending on what uses were allowed at the time the use in question was established.
Subd. 142	Nonconforming use, legal/lawful:	A use of land, buildings or structures that was lawfully established prior to the adoption or applicable amendment of this title and since maintained, which fails by reason of such adoption or amendment to conform to the present land use regulations established by this chapter.
Subd. 143	Nursery/ Greenhouse Landscaping business:	A business growing and selling trees, flowering, decorative and/or edible plants which may be conducted in or outside of a building.
Subd. 144	O.H.W.L.:	See Ordinary High Water Level

Subd. 145	Occupant Car Ratio:	The minimum number of off-street parking stalls without parking time limits to be provided for the occupant of each living unit in a multi-family structure.
Subd. 146	Office Showroom:	A facility in which the handling of information or the performing of administrative services is conducted as a principal use; including services provided to persons both on-site and off-site on a walk-in or appointment basis. Up to 25% of the gross floor area of the structure may be used for the display of merchandise and equipment, and its sale to a customer where delivery of purchased merchandise is made directly to the ultimate consumer from a warehouse.
Subd. 147	Office Use:	A use wherein services are performed involving predominately administrative, professional, or clerical operations where the sale, production, or service of goods is ancillary to the office use. This includes but is not limited to: financial institutions, insurance, private or public utility, telephone exchanges, Call centers, broadcasting facilities, corporate headquarters or regional offices.
Subd. 148	Opaque:	At least 80% of the view from the opposite side is blocked, when observed from a point perpendicular to the opaque material, fence, or wall.
Subd. 149	Open Sales Lot:	A business where the majority of goods, materials, or merchandise is displayed, stored, or purchased outside of a permanent structure with a roof.
Subd. 150	Open Space Ratio:	The square footage of site "open space" provided for each foot of building floor area.

Subd. 151	Open Space, Common:	Any open space, including parks, nature areas, playgrounds, trails, and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.
Subd. 152	Open Space:	Any open area not covered by structures, not limited to the following uses: required or established yard areas, parking areas, sidewalks, school walks, trails, recreation areas, water bodies, shorelands, watercourses, wetlands, ground water recharge areas, floodplain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitation for development.
Subd. 153	Ordinary High Water Level:	The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool. For Wabasha, the O.H.W.L. elevation has been determined to be 670.3 (NGVD 1929 datum) for the main river channel.
Subd. 154	Outdoor dining/seating:	More than 3 tables (with or without chairs) or 4 benches or chairs provided by a business for the purpose of allowing their patrons to eat and/or drink outside of the business. Includes areas covered by awnings, porches, and/or enclosed or partially enclosed by fencing or landscaping elements.

Subd. 155	Outdoor sales/display accessory use:	The use of an outdoor space for display and/or sales as an accessory use to a business where the majority of product is located and business occurs within a permanent structure.
Subd. 156	Overlay Zone:	A set of zoning requirements that are described in the zoning ordinance text, are mapped, and subsequently imposed in addition to those of the underlying district. Development within the overlay zone must conform to the requirements of both zones, or whichever is stricter.
Subd. 157	Overlay Zoning District:	Generally used when there is special public interest that doesn't coincide with the traditional zoning in that geographic area. It is a mapped area with restrictions in addition to or less than those in the underlying traditional zone. Rather than attempt to create a new zoning category, an overlay zone is superimposed over the traditional area and establishes additional regulations, or reduces or extends the existing uses. While the underlying zone or zones identify permitted land uses, the overlay zone might provide design restrictions, additional setbacks, or other exceptions to the base district regulations.
Subd. 158	Parks and Open Spaces:	Public or privately owned lands which are open to the public without a fee and generally provide a location for natural environmental, cultural, or recreational activities and enjoyment. Parks may include areas of specialized recreation use, including those that charge a special use fee such as campgrounds, for equipment rental (e.g. boating), swimming pool access, or similar amenities.
Subd. 159	Pastures:	Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

Subd. 160	Patio:	An uncovered paved area or platform 17 inches or less above the ground (measured from the top of the decking surface) used as an outdoor living space within the yard of a principal use.
Subd. 161	Permanent Structure:	Any structure which is permanently affixed to the ground by means of footings, foundation, slab, and/or utilities whether constructed or erected on site or prefabricated off site and relocated to the site wholly or in pieces and then assembled.
Subd. 162	Permitted Single Family Use:	A use which is required under MN Statute 462.357 (or as amended) to be permitted in zoning districts that allow single-family residential as a permitted use. These include a state licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children. A residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use under this definition.
Subd. 163	Permitted Multifamily Use:	A use which is required under MN Statute 462.357 (or as amended) to be allowed in zoning districts that allow multi-family residential as a permitted use. These include a state licensed residential facility serving from 7 through 16 persons or a licensed day care facility serving from 13 through 16 persons.
Subd. 164	Places of Worship:	A tax exempt institution that people regularly attend to participate in or hold religious services meetings and other activities related to religious ceremonies. See also "Institutional Uses"



Subd. 165

Planned unit development - shoreland:

"Planned unit development" in shoreland zones means a method of land use or development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and that incorporates clustering of these units or sites to provide areas of common open space, and a mix of structure types and land uses. These developments may be organized and operated as residential or commercial enterprises such as individual dwelling units, townhouses, condominiums, time-share condominiums, cooperatives, common interest communities, shared-interest communities, apartment buildings, non-resort campgrounds and youth camps, recreational vehicle parks, manufactured home parks, hotels, motels, or any combination of these. Planned Unit Developments may also include any conversion of preexisting structures and land uses in order to utilize this method of development.

Subd. 166

Planned unit development (PUD):

A method of land use or development which utilizes a unified site design characterized by mixed land uses, infill, and/or clustering of development with the purpose of allowing flexibility in order to further broad public interests by encouraging variety, preservation of local identity, conservation of and sensitivity to resources, efficient use of land and infrastructure, cohesive high amenity neighborhoods or districts and goals identified in the adopted Wabasha Comprehensive Plan. A Shoreland PUD is one type of PUD with additional or alternate standards.

Subd. 167	Pole Building:	A type of building constructed with a design using poles placed in holes in the ground, which are then filled with cement. These poles are generally spaced 8+ feet apart to form square or rectangle buildings. The poles provide support for engineered trusses. These trusses are connected to the poles and are designed to support the roof system, which usually consist of purlins. Pole barns can have enclosed sides or open sides, as in a lean-to design.
Subd. 168	Porch:	An open or enclosed gallery or room covered with a separate roof and attached to the outside of a structure or incorporated into the roofline of a structure generally used as an outdoor living space or entry to a building.
Subd. 169	Portable storage containers:	Shipping containers, truck bodies without wheels or carriages, trailers or similar items not permanently attached to the ground with footings or foundation.
Subd. 170	Preservation:	The act or process of applying measures to maintain and sustain the existing form, integrity and material of a building, structure or district and the existing form of a site.
Subd. 171	Primary façade:	One or more principal faces or elevations of a structure with features that define the character of the structure's architecture.
Subd. 172	Primary Water Supply Well:	A well that is regularly pumped by a public water supply system to provide drinking water.
Subd. 173	Principal:	Primary or predominant, as applied to a use or structure, as distinguished from secondary or accessory.
Subd. 174	Private Office:	A work space where private meetings may occur with clients.

Subd. 175	Private Open Space:	An outdoor area adjoining each dwelling unit, designed to provide privacy and having one or more points of ingress to the residence.
Subd. 176	Private Vacation/ Residential Club	A private club with shared ownership in a vacation residence similar to a time share or interval use.
Subd. 177	Professional Engineer:	An engineer licensed by the state of Minnesota.
Subd. 178	Professional Service:	The selling of personal or professional services to the end consumers that typically do not produce a tangible commodity and the sale of merchandise is less than 25% of the business. This includes but is not limited to: dental, medical, chiropractic, law, secretarial, printing or copying, banks, financial, insurance, real estate, laundry, tailor, barber, beauty, shoe repair, photography, architectural, and engineering services.
Subd. 179	Public & Private Institutions	See Institutional Use
Subd. 180	Public and semi public uses:	The use of land by government or by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside of the regular constituency.
Subd. 181	Public Waters:	Any waters as defined in Minnesota Statutes, section 103G.005, subdivision 15.
Subd. 182	Recreation and entertainment establishment, Major:	A structure or open space operated with the intention of providing entertainment or recreational opportunity for the public including but not limited to: Riding stables, Amusement centers, Movie theaters with more than 2 screens or stages, and indoor or outdoor water parks or amusement parks, concert venues, dance halls (excluding those which are defined as adult entertainment establishments).

Subd. 183	Recreation and entertainment establishment, Minor:	A structure or open space operated with the intention of providing entertainment or recreational opportunity for the public including but not limited to: parks and open spaces, bowling alleys, pool or billiard halls, tennis courts, racquetball courts, golf courses, riding stables, roller and ice skating rinks, driving ranges, concert venues with a capacity of up to 200 patrons, theaters with up to 2 screens or stages, (excluding those which are defined as adult entertainment establishments).
Subd. 184	Recreation Space Ratio:	The square footage of space for active recreation provided for each square foot of building floor area.
Subd. 185	Recreation Space:	Total area in square feet which is countable as open space, but is not paved in streets, walks or driveways and is suitable for active recreational pursuits. The smallest countable recreation area is 1,000 square feet. That part of a recreational area having a dimension of less than twenty (20) feet shall not be included as countable recreation space.
Subd. 186	Repair and maintenance services – major:	The provision of repair or maintenance services including auto, mechanical, machinery repair or retooling.
Subd. 187	Repair and maintenance services – minor:	The provision of repair or maintenance services including electrical, watch, clock or jewelry, re-upholsters and furniture, miscellaneous repair, and repair service occurring on-site.
Subd. 188	Re-plat:	The process of changing the lot lines, legal description, and/or other elements of an area which was previously platted through the Subdivision process.
Subd. 189	Residential Density	See Density, Residential

Subd. 190	Residential Planned Unit Development - Shoreland:	A use in a shoreland district where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential Planned Unit Developments. To qualify as a residential Planned Unit Development, a development must contain at least 5 dwelling units or sites.
Subd. 191	Residential Planned Unit Development:	A residential use project developed under the Planned Unit Development process. A shoreland residential PUD is one type of residential PUD with additional or alternate standards.
Subd. 192	Residential Use:	A location comprised of one or more dwelling units that are occupied by the owner or by a renter or lessee.
Subd. 193	Resort:	A commercial establishment, that includes buildings, campgrounds, lodges, structures, dwelling units/sites, enclosures or any part thereof kept, used, maintained or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public and primarily to those seeking recreation, for periods of one day, one week, or longer, and having for rent three or more cabins, rooms, campsites, or enclosures. These establishments must be primarily service-oriented for transient lodging of guests. All cabins, rooms, dwelling units/sites, or enclosures must be included in the resort rental business except dwellings used as residences for resort staff.
Subd. 194	Restaurant, drive-in/drive-through	Any eating establishment with a drive-through or a drive-in facility.

Subd. 195	Restaurant, traditional:	An eating establishment where food and beverage is served to a customer and consumed while seated at a counter or table or where food is selected by a customer while going through a serving line and taken to a table for consumption. Establishments serving alcohol for consumption (where gross sales of alcohol are 25% or less) on site or providing take out food to order as ancillary use are included. Also includes but is not limited to cafes, coffee shops, ice cream parlors, tearooms, and cafeterias.
Subd. 196	Restoration:	The replication or reconstruction of a building's original architectural features.
Subd. 197	Retail Agriculture:	Establishments that are primarily engaged in providing services related to or conducting the sale at retail of horticulture and floriculture products, including nurseries, greenhouses, lawn and garden services, or ornamental shrub and tree services with majority of retail products produced or grown of their own stock, rather than imported from other establishments.

Subd. 198	Retail shopping:	Stores and shops selling the personal services or goods over a counter, these include items such as: antiques; art and school supplies; auto accessories; bakeries; barber shop; beauty parlor; bicycles; books and stationery; candy; cameras and photographic supplies; carpets and rugs; catering establishment; china and glassware; Christmas tree sales; clothes pressing; clothing and costume rental; custom dressmaking; department stores and junior department store; drugstores, dry goods; electrical and household appliances, sales and repair; florist, food, furniture, furrier shops; garden supplies (year-round operation only); gifts; hardware; hats; hobby shops for retail of items to be assembled or used away from the premises; household appliances; hotels and apartment hotels; laboratories; medical and dental research and testing; laundry and dry cleaning pick-up; processing to be done elsewhere; Laundromats; leather goods and luggage; locksmith shops; musical instruments; office supply equipment; optometrists; paint and wallpaper; audio and video accessories; tape cassettes; audio and/or visual discs; photography studios, traditional restaurant; shoes; sporting goods; tailoring; theater, except open-air drive-in; tobacco; toys; variety stores; wearing apparel and similar type uses.
Subd. 199	Rezoning:	An amendment to the Zoning Map, changing the designation of a parcel or parcels from one zoning district to different zoning district.
Subd. 200	Riparian Lots:	All lots within 200 feet of the Ordinary High Water Level (OHWL) within any shoreland district.

Subd. 201	Riprap	Coarse stones and natural rock averaging more than 6 inches and less than 30 inches in diameter which is free from debris(including concrete) that may cause pollution or siltation that is placed randomly and loosely along the shoreline to stabilize banks or slopes <sup>ii</sup>
Subd. 202	Scenic View:	A view available to the public (visible from public right-of-way or public property) and/or visible from 5 or more private properties which provides a view of natural, cultural, or historic area of importance within the community including the river, the slough, backwaters, bluffs, coulees, and historically developed, open space, or rural areas of the City.
Subd. 203	Self-storage facility	A site, structure or building in which customers can rent space to store possessions. Indoor self storage facilities are those that are completely enclosed with walls and roof.
Subd. 204	Semipublic Use:	The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
Subd. 205	Sensitive Resource Management:	The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
Subd. 206	Setback:	The minimum horizontal distance between a structure, sewage treatment system, or other facility measured from the nearest point of the structure or any projection thereto and an ordinary high water level, top of a bluff, road, highway, property line, or other facility. SEE ALSO "YARD"



Subd. 207	Sewage Treatment System:	A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in MN Rules 7080.
Subd. 208	Sewer System:	Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
Subd. 209	Shopping center:	A structure or group of structures developed as a planned business center with a unified arrangement of buildings and service facilities for the purpose of providing commercial business locale.
Subd. 210	Shore Impact Zone:	Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.
Subd. 211	Shoreland Transient Planned Unit Development:	Typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations in a shoreland district which are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities. (Referred to as Commercial PUD in state Shoreland standards).
Subd. 212	Shoreland:	Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage and 300 feet from a river or stream, or the landward extent of a floodplain designated by Section on a river or stream, whichever is greater, as indicated on the City Zoning Map. The City of Wabasha has several shoreland districts within this boundary which are detailed herein. Pool 4 of the Mississippi River includes the area commonly known as the slough.

Subd. 213	Sign:	Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks by which anything is made known and which are used to advertise or promote an individual, firm, association corporation, profession, business, commodity or product and which is visible from any public street or highway.
Subd. 214	Significant Historic Site:	Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
Subd. 215	Significant Tree:	A deciduous tree 6 inches in caliper or greater and evergreen trees 8 feet or greater in height.
Subd. 216	Significant Vegetation:	Deciduous trees 6 inches in caliper or greater, and evergreen trees 8 feet or greater in height.
Subd. 217	Site Plan Review:	The process whereby the Planning Commission and staff or an appointed site plan review team, review the site plan or a development to assure that they meet the stated purposes and standards of zoning and other regulations, provide for the necessary public facilities such as roads and schools, and protect and preserve desirable features and adjacent properties through the appropriate location of structures and the uses of landscaping.

Subd. 218	Site Plan:	A scale drawing showing proposed uses and structures for a parcel of land as required by applicable regulations. It includes lot lines, lot area, streets, parking spaces, private roadways, walkways, topographic features, reserved open space, buildings, and other structures, major landscape features, and the location of proposed utility easements. It is more detailed than a plat and may include density and statistical data.
Subd. 219	Sketch Plan:	Preliminary submittals drawn to scale, which fully delineate the architectural characteristics of a structure, but which are not detailed enough to be considered working or construction drawings.
Subd. 220	Start of Construction:	The first placement of permanent construction of a structure on a site such as the pouring of slabs, footings, or foundation, the installation of piles, columns, or piers, or the placement of a manufactured home on a foundation. Land preparations such as clearing, grading and filling and the installation of streets and/or walkways, and the excavation for a basement or footings and the construction of accessory structures does not qualify as the “start of construction”
Subd. 221	State licensed residential facility:	These include “housing with services establishment” registered under and defined in MN State Statute chapter 144D or as amended.
Subd. 222	Steep Slope:	Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Section. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over distances of 50 feet or more, that are not bluffs.

Subd. 223	Stoop:	An uncovered series of steps and landings along with railings and/or walls with no step or landing being more than 25 square feet in size.
Subd. 224	Story:	That portion of a building included between the surface of a floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.
Subd. 225	Street Line:	A dividing line between a lot, tract or parcel of land and a contiguous street.
Subd. 226	Street:	All property dedicated or intended for public or private street purposes or subject to public easement.
Subd. 227	Structural Alterations:	Any change in the supporting members of a building or any substantial change in the roof or in the exterior walls.
Subd. 228	Structure, Temporary:	Any enclosure larger than 120 square that does not meet the definition of "Manufactured Home" (as defined in Minnesota Statutes) which is not permanently attached to the ground with a foundation Including but not limited to stretched fabric on frame structures, trailers or temporary construction offices, or other constructions used for temporary or permanent storage
Subd. 229	Structure:	Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to: buildings, factories, sheds, detached garages, cabins, and manufactured homes.
Subd. 230	Surface water-oriented commercial use:	The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal business operation. Marinas, resorts and restaurants with transient docking facilities are examples of such use.
Subd. 231	Temporary Structure	See Structure, Temporary

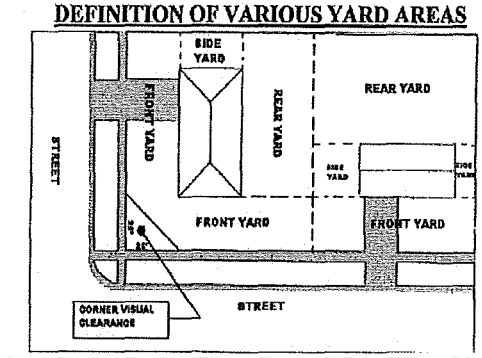
Subd. 232	Toe of the Bluff:	The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50 foot segment, measured on the ground, with an average slope exceeding 18 percent.
Subd. 233	Top of the Bluff:	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, the top of the bluff shall be determined to be the upper end of a 50 foot segment, measured on the ground, with an average slope exceeding 18 percent.
Subd. 234	Townscape:	The interrelated elements of the urban landscape including the physical setting, street patterns, watercourses, vegetation, building placement, building height, scale, wall types and prominent views.
Subd. 235	Transient Accommodations:	The rental or leasing of overnight accommodations, up to and including one complete dwelling unit or more, for one month or less at a time, including hotels, motels, resorts, and tourist house or condominium rental.
Subd. 236	Travel Trailer:	A vehicular, portable structure built on a chassis, designed to be used as temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

Subd. 237	Tributary river segments:	As defined by Minnesota Rules 6120.3000 "SHORELAND MANAGEMENT CLASSIFICATION SYSTEM", consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes in items D to H. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.
Subd. 238	Usable Floor Area	That interior area of a structure used for or intended to be used for the principal use such as living space for residences or for commercial use the sale of merchandises or services, use of space for patrons, clients or customers and all that area devoted to employee workspace. Such floor area which is used or intended to be used principally for the storage of merchandise, hallways, elevator or stair bulkheads or for utilities or sanitary facilities shall be excluded from this computation of "usable floor area". Measurement of usable floor area shall be the horizontal areas of all the floors of a building, measured from interior wall to wall.
Subd. 239	Use:	Activity to which land or building is devoted and for which either land or building is, or may be occupied or maintained.
Subd. 240	Variance:	The same as defined or described in MN Statute, Chapter 462.
Subd. 241	Vision Clearance:	An unoccupied triangular space at the corner of a corner lot which is bounded by the street lines and a setback line connecting the points determined by measurements for the corner of each street line.

Subd. 242	Waste Management Facility:	The land, structures, monitoring devices, and other improvements on the land used for the processing of garbage, mixed municipal solid waste, recyclable materials, construction debris, and/or yard waste as defined in Section 115A.03 of MN Statute or as amended.
Subd. 243	Water Feature:	An artificial ornamental water storage structure used in a landscape such as fountains, fish ponds or other similar landscape features.
Subd. 244	Water-Oriented Accessory Structure or Facility:	Any small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.
Subd. 245	Wellhead protection plan:	The Wabasha Minnesota Wellhead Protection Plan adopted by City Council on September 7 <sup>th</sup> 2010, including any amendments to that plan or any subsequent Wellhead Protection Plan adopted by the Wabasha City Council with a purpose of ensuring a safe and adequate drinking water supply.
Subd. 246	Wetland:	Any lands as defined in Minnesota Statutes, section 103G.005, subd. 19. These lands are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have the following three attributes: (1) have a predominance of hydric soils; (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (3) under normal circumstances support a prevalence of such vegetation.

- Subd. 247      Yard, Front:      A yard extending the full width of the lot between the front lot line and the nearest part of the main building.
- Subd. 248      Yard, Rear:      A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the main building.
- Subd. 249      Yard, Side:      A yard extending from the front yard to the rear yard, being the minimum horizontal distance between a building and side lot line.
- Subd. 250      Yard:      An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

Subd. 251      Yards:



Subd. 252      Zoning Action:      Actions regulated under the Zoning Ordinance such as Conditional & Interim Use Permits, Variances, and Zoning Permits.



# Three District Floodplain Management Ordinance

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## THREE DISTRICT FLOOD PLAIN MANAGEMENT ORDINANCE

### SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapters 103F, 412, 191, 462.351-462.365 and 471.62 delegated the responsibility to local government units to adopt regulations designated to minimize flood losses. Therefore, the City of Wabasha, Minnesota does ordain as follows:

#### 1.2 FINDINGS OF FACT:

- 1.21 The flood hazard areas of the City of Wabasha Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- 1.22 Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing established by the Minnesota Department of Natural Resources.
- 1.3 Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by provisions contained herein.

### SECTION 2.0 GENERAL PROVISIONS

- 2.1 Lands to Which Ordinance Applies: This ordinance shall apply to all lands within the jurisdiction of the City of Wabasha shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.
- 2.2 Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this ordinance. The attached material shall include the Flood Insurance Study for the Wabasha County, Minnesota and Incorporated Areas, prepared by the Federal Emergency Management Agency and dated June 29, 2000, and the Flood Insurance Rate Map panels therein June 20, 2000, that are numbered 27157C0095 D, 27157C0210 D 27157C225 D, and 27157C0230 D. The Official Zoning Map shall be on file in the Office of the City Clerk and the Zoning Administrator.
- 2.3 Regulatory Flood Protection Elevation: The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- 2.4 Interpretation:
- 2.41 In their interpretation and application, the provisions of this Ordinance shall be held to be minimum

requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

- 2.42 The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.
- 2.5 Abrogation and Greater Restrictions: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
- 2.6 Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Wabasha or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
- 2.7 Severability: If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- 2.8 Definitions: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.
- 2.811 Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- 2.812 Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- 2.813 Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in the zoning ordinance exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- 2.814 Equal Degree of Encroachment - a method of determining the location of floodway boundaries so

that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

- 2.815 Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- 2.816 Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 2.817 Flood Fringe - that portion of the flood plain outside of the floodway.
- 2.818 Flood Plain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- 2.819 Flood-Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.820 Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- 2.821 Obstruction - any dam, wall, warf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- 2.822 Principal Use or Structure - means all uses or structures that are not accessory uses or structures.
- 2.823 Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 2.824 Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
- 2.825 Regulatory Flood Protection Elevation - The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- 2.826 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 9.31 of the ordinance and other similar items.

2.827 Variance - means a modification of a specific permitted development standard required in an official development standard required in an official development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

## SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS

3.1 Districts:

3.11 Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 2.2.

3.12 Flood Fringe District. The Flood Fringe District shall include those areas designated as Zone AE on the Flood Insurance Rate Map adopted in Section 2.2 that are located outside of the floodway.

3.13 General Flood Plain District. The General Flood Plain District shall include the following areas on the Flood Insurance Rate Map adopted in Section 2.2: 1) those AE areas for the Mississippi River where a floodway boundary is not shown; and 2) the Zone AE for the Old Zumbro Riverbed from the Floodway District Boundary for the Mississippi River at the confluence with the Mississippi River and then generally in a southerly direction to the southern corporate boundary.

3.2 Compliance: No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses follow, respectively, shall be prohibited. In addition, a caution is provided here that:

3.21 New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this ordinance and specifically Section 9.0;

3.22 Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 11.0; and

3.23 As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 10.0 of this Ordinance.

## SECTION 4.0 FLOODWAY DISTRICT (FW)

### 4.1 Permitted Uses:

- 4.11 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- 4.12 Industrial-commercial loading areas, parking areas, and airport landing strips.
- 4.13 Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- 4.14 Residential lawns, gardens, parking areas, and play areas.

### 4.2 Standards for Floodway Permitted Uses:

- 4.21 The use shall have a low flood damage potential.
- 4.22 The use shall be permissible in the underlying zoning district if one exists.
- 4.23 The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

### 4.3 Conditional Uses:

- 4.32 Structures accessory to the uses listed in 4.1 above and the uses listed in 4.32-4.38 below.
- 4.32 Extraction and storage of sand, gravel, and other materials.
- 4.33 Marinas, boat rentals, docks, piers, wharves, and water control structures.
- 4.43 Railroads, streets, bridges, utility transmission lines, and pipelines.
- 4.35 Storage yards for equipment, machinery, or materials.
- 4.36 Placement of fill.
- 4.37 Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 9.3 of this Ordinance.
- 4.38 Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect

agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4.4 Standards for Floodway Conditional Uses:

4.41 All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

4.42 All floodway Conditional Uses shall be subject to the procedures and standards contained in Section 10.4 of this Ordinance.

4.43 The Conditional Use shall be permissible in the underlying zoning district if one exists.

4.44 Fill:

(a) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(c) As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations any allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

4.45 Accessory Structures:

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters. (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and, (2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely



for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

- (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
- (2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

4.46 Storage of Materials and Equipment:

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

4.47 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, chapter 103G Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

4.48 A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

## SECTION 5.0 FLOOD FRINGE DISTRICT (FF)

5.1 Permitted Uses: Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" listed in Section 5.2 and the standards for all Flood Fringe "Permitted and Conditional Uses" listed in Section 5.5.

### 5.2 Standards for Flood Fringe Permitted Uses:

5.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (12) foot below the Regulatory Flood Protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

5.22 As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood

proofed in accordance with Section 4.45 (c).

- 5.23 The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional Use, unless said fill is specifically intended to elevate a structure in accordance with Section 5.21 of this ordinance.
- 5.24 The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
- 5.25 The provisions of Section 5.5 of this Ordinance shall apply.
- 5.3 Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section
- 5.4 Standards for Flood Fringe Conditional Uses:
- 5.41 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade on at least one side of the structure; 2) is designed to internally flood and is constructed with flood resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above - noted alternative elevation methods are subject to the following additional standards:
- (a) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
- (b) Specific Standards for Above-grade, Enclosed Areas - above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
- (1) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

- 5.42 Basements, as defined by Section 2.812 of this Ordinance, shall be subject to the following:
- (a) Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
  - (b) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Section 5.43 of this Ordinance.
- 5.43 All areas of non-residential structures including basements to be placed below the Regulatory flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
- 5.44 When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing state approved shoreland management ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.
- 5.45 Storage of Materials and Equipment:
- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
  - (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
- 5.46 The provisions of Section 5.5 of this Ordinance shall also apply.
- 5.5 Standards for all Flood Fringe Uses:
- 5.51 All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

- 5.52 Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than four feet per second upon occurrence of the regional flood.
- 5.53 Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land used such as yards and parking lots may be at lower elevations subject to requirements set out in Section 5.52 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
- 5.54 Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- 5.55 Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- 5.56 Standards for travel trailers and travel vehicles are contained in Section 9.3.
- 5.57 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

## SECTION 6.0 GENERAL FLOOD PLAIN DISTRICT

- 6.1 Permissible Uses:
- 6.11 The uses listed in Section 4.1 of this Ordinance shall be permitted uses.
- 6.12 All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 6.2 below. Section 4.0 shall apply if the proposed use is in the Floodway District and Section 5.0 shall apply if the proposed use is in the Flood Fringe District.
- 6.2 Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.
- 6.21 Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed

necessary by the zoning Administrator for the determination of the Regulatory Flood protection elevation and whether the proposed use is within the floodway or Flood Fringe District.

- (a) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
- (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
- (c) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

6.22 The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area hydrologist prior to commencing the analysis. The designated engineer or expert shall:

- (a) Estimate the peak discharge of the regional flood.
- (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- (c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

6.23 The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 4.0 and 5.0 of this Ordinance.

## SECTION 7.0 SUBDIVISIONS

- 7.1 Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- 7.2 Floodway/Flood Fringe Determinations in the General Flood Plain District: In the General Flood Plain District: In the General Flood Plain District, applicants shall provide the information required in Section 6.2 of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection elevation for the Subdivision site.
- 7.3 Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

## SECTION 8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

- 8.1 Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.
- 8.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 4.0 and 5.0 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- 8.3 On-site sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

SECTION 9.0 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.

- 9.1 New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7.0 of this Ordinance.
- 9.2 The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 5.0 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 5.51, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.
- 9.21 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- 9.3 Travel trailers and travel vehicles that do not meet the exemption criteria specified in Section 9.31 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 9.33 - 9.34 below.
- 9.31 Exemption - Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 9.32 below and further they meet the following criteria:
- (a) Have current licenses required for highway use.
  - (b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
  - (c) Existing condominium type associations.
- 9.33 Travel trailers and travel vehicles exempted in Section 9.31 lose this exemption when development occurs on the parcel exceeding \$500.00 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 4.0 and 5.0 of this ordinance.
- 9.34 New commercial travel trailer or travel vehicle parks or campgrounds and new residential typw subdivisions and condominium associations and the expansion of any existing similar use exceeding give (5) units or dwelling sites shall be subject to the following:
- (a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the

Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 5.51 of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

- (b) All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of 10.4 of the ordinance . The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8.3 of this Ordinance.

## SECTION 10.0 ADMINISTRATION

- 10.01 Zoning Administrator: A Zoning Administrator designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 12.0 of the Ordinance.
- 10.02 Permit Requirements:
  - 10.02 Permit Required. A permit issued by the Zoning Administrator in conformity with the provisions of this ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land ; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
  - 10.22 Application for Permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
  - 10.23 State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
  - 10.24 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
  - 10.25 Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates



of Zoning Compliance. Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 12.0 of this Ordinance.

- 10.26 Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
- 10.27 Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations record of the elevation to which structures or alterations and additions to structures are flood-proofed.
- 10.3 Board of Adjustment:
- 10.31 Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.
- 10.32 Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.
- 10.33 Variances. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.
- 10.34 Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
- 10.35 Decisions. The Board shall arrive at a decision on such appeal or Variance within 60 days. In

passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

- 10.36 Appeals. Appeals from any decision of the Board may be made, and as specified in this Community's Official controls and also Minnesota Statutes.
- 10.37 Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the national Flood Insurance Program.
- 10.4 Conditional Uses. The Board of Adjustment shall hear and decide applications for Conditional Uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Board of Adjustment for consideration.
- 10.41 Hearings. Upon filing with the Board of Adjustment an application for a Conditional Use Permit, The City of Wabasha shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in days notice of the hearing.
- 10.42 Decisions. The Board of Adjustment shall arrive at a decision on a Conditional Use within 60 days. In granting a Conditional Use Permit the Board of Adjustment shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- 10.43 Procedures to be followed by the Board of Adjustment in Passing on conditional Use Permit Applications Within all Flood Plain Districts.
- (a) Require the applicant to furnish such of the following information an additional information as deemed necessary by the Board of Adjustment for determining the suitability of the particular site

for the proposed use:

- (1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.
- (2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (b) Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
- (c) Based upon the technical evaluation of the designated engineer or expert, the Board of Adjustment shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

10.44 Factors Upon Which the Decision of the Board of Adjustment shall be based. In passing upon Conditional Use applications, the Board of Adjustment shall consider all relevant factors specified in other sections of this ordinance, and:

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (4) The importance of the services provided by the proposed facility to the community.
- (5) The requirements of the facility for a waterfront location.
- (6) The availability of alternative locations not subject to flooding for the proposed use.
- (7) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (1) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (1) Such other factors which are relevant to the purposes of this Ordinance.

10.45 Time for Acting on Application. The Board of Adjustment shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to 10.44 of this Ordinance. The Board of Adjustment shall render

a written decision within 60 days from the receipt of such additional information.

- 10.46 Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the Board of Adjustment shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
- (1) Modification of waste treatment and water supply facilities.
  - (2) Limitations on period of use, occupancy, and operation.
  - (3) Imposition of operational controls, sureties, and deed restrictions.
  - (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
  - (5) Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

#### SECTION 11.0 NONCONFORMING USES

- 11.1 A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:
- 11.11 No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- 11.12 Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in 11.13 below.
- 11.13 The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 4.0 or 5.0 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.
- 11.14 If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

- 11.15 If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 4.0, 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

## SECTION 12.0 PENALTIES FOR VIOLATION

- 12.1 Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.
- 12.2 Nothing herein contained shall prevent the City of Wabasha from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
- 12.21 In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party.  
The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- 12.22 When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.
- 12.23 The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.
- 12.24 If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

SECTION 13.0 AMENDMENTS

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

This Ordinance is hereby adopted and in force as of this 6<sup>th</sup> day of March, 1990

John M. Meisch  
\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Darlene Wallerich

This is the Amended Ordinance - May 16, 2000.