

**CHAPTER 1  
ZONING ORDINANCE  
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**1.01. ADMINISTRATION.**

**1.01(1) TITLE, AUTHORITY, PURPOSE, AND DEFINITIONS**

- (A) **TITLE.** This Chapter shall be known as and referred to as the City of Finlayson Zoning Ordinance.
- (B) **AUTHORITY.** These regulations are adopted under the authority granted by Minnesota Statute §462.354.
- (C) **PURPOSE.** The purpose of this Chapter is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of this community.
- (D) **INTENT.** It is the intent of this Chapter to preserve and protect the character, natural landscape, and natural and scenic beauty of the City; to provide for the compatibility of different land uses and the most appropriate use of land; to regulate and restrict the use of all structures, lands, and waters; lot coverage, size, and location of structures so as to: promote safety and efficiency of streets and highways; foster public safety and convenience in travel and transportation; secure safety from fire, flooding, and other dangers; provide adequate light, air, sanitation, and drainage; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; regulate alterations of natural vegetation and topography; prevent environmental pollution and protect surface and groundwaters from contamination; reduce construction site erosion; avoid construction problems resulting from high groundwater; facilitate the use of solar energy devices and other innovative development techniques; provide for orderly, economic, and safe removal and

processing of sand, gravel, rock, soil, and other material; and implement the community's Comprehensive Plan or Plan components. To this end, it is further intended to provide for the administration and enforcement of this Chapter and provide penalties for its violation.

- (E) **ABROGATION AND GREATER RESTRICTIONS.** This Chapter is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued. However, wherever this Chapter is more restrictive, the provisions of this Chapter shall apply.
- (F) **INTERPRETATION AND CONSTRUCTION.** In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City, and shall not be deemed a limitation or repeal of any other power granted by the Minnesota Statutes. Unless the context requires otherwise, the use of either past, present, or future tense shall include all other tenses. The rules of statutory construction established for the State of Minnesota by statute or case law shall apply in the construction of this Zoning Ordinance.
- (G) **SEVERABILITY.** If any chapter, section, subsection, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and holding such shall not affect the validity of the remaining portions thereof.
- (H) **REPEAL.** All ordinances or parts of ordinances inconsistent with or contrary hereto are hereby repealed, except nothing in this Ordinance shall be interpreted so as to conflict with state laws or orders, or any other ordinance of the City of Finlayson.
- (I) **DEFINITIONS.**
  - a. **GENERAL DEFINITIONS.** For purposes of this Chapter, certain words or phrases shall have their customary meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Words used in the present tense include the future. The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual. The word "he" includes the word "she". The word "shall" is mandatory, "should" is advisory, and "may" is permissive. Any words not defined in this Section shall be presumed to have their customary dictionary definitions.
  - b. **SPECIFIC WORDS AND PHRASES.**
    - 1. **ACCESSORY APARTMENT.** A secondary dwelling unit within an existing owner occupied single family dwelling unit for use as a complete independent living facility. A density unit is not attributed to this dwelling unit when calculating density.
    - 2. **ACCESSORY BUILDING.** A detached single-story building greater than 120 square feet in size used, or intended to be used, for the

<p>storage of personal property, or for agricultural purposes. Gazebos or playhouses greater than 120 square feet qualify as accessory buildings.</p> <p>3. ACCESSORY STRUCTURE OR USE. Any facility, structure, building, or use which is accessory or incidental to the principal use of a property, structure, or building.</p> <p>4. ADMINISTRATOR. See Zoning Administrator.</p> <p>5. AGRICULTURAL BUILDING. A structure on agricultural land designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee or sublessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.</p> <p>6. AGRICULTURAL BUSINESS, SEASONAL. A seasonal business not exceeding six months in any calendar year operated on a rural farm as defined, offering for sale to the general public, produce or any derivative thereof, grown or raised on the property.</p> <p>7. AGRICULTURAL USE. Land whose use is devoted to the production of horticulture and nursery stock, fruit of all kinds, vegetables, forage, grains, bees and apiary products, and raising domestic farm animals. This activity does not need to be the principal source of income.</p> <p>8. ANIMAL UNIT. A unit of measure used to compare differences in the production of animal wastes which has a standard as the amount of waste produced on a regular basis by a slaughter steer or heifer.</p> <p>9. ANIMALS, DOMESTIC FARM. Cattle, hogs, horses, bees, sheep, goats, chickens, and other animals commonly kept for commercial food producing purposes.</p> <p>10. ANIMALS, DOMESTIC PETS. Dogs, cats, birds, and similar animals commonly kept in a residence. Animals considered wild, exotic, or non-domestic, such as bears, lions, wolves, ocelots, and similar animals shall not be considered domestic pets.</p> <p>11. ANTENNA. That portion of any equipment used to radiate or receive radio frequency energy for transmitting or receiving radio or television waves. Antennas may consist of metal, carbon fiber, or other electromagnetically conductive rods or elements. Antennas are regulated to the extent the regulations are not preempted by the Federal Communication Commission.</p> <p>12. AREA, NET DEVELOPABLE. Those lands within a development parcel remaining after the deletion of flood plains, wetlands, slopes greater than twenty-five (25%), unbuildable easements or rights-of-way, and required building setbacks.</p>	<p>13. BASEMENT. That portion of a building that has the floor surface more than four feet below grade for more than 50% of the perimeter.</p> <p>14. BED AND BREAKFAST INN. An owner-occupied, private, home where accommodations are offered for one or more nights to transients; in addition, a breakfast meal is served on the premises to no more than ten (10) persons.</p> <p>15. BOARD OF APPEALS. A judicial type body appointed by the City Council consisting of five (5) members to hear appeals by any person aggrieved by any officer, department, or board of the City of Finlayson.</p> <p>16. BUILDABLE LAND. Land outside any required setbacks or easements, above any wetland, suitable for principle and accessory structures, a well site and two on-site sewer sites. Buildable land means buildable acres and/or buildable area.</p> <p>17. BUILDING. Any structure having a roof supported by columns or walls used, or intended to be used, for the shelter or enclosure of persons, animals, equipment, machinery, or materials. When any portion thereof is completely separated from every other part thereof by area separation, each portion of such building shall be deemed as a separate building.</p> <p>18. BUILDING CODE. The Minnesota State Building Code.</p> <p>19. BUILDING HEIGHT. The vertical distance above a reference datum measured to the highest point of the coping of a flat roof, parapet or to the peak of a mansard, pitched or hipped roof. The reference datum shall be defined as:</p> <p style="padding-left: 20px;">i) The elevation of more than 50% of the grade as measured at the wall line of the structure.</p> <p>20. BUILDING PERMIT. A permit required from the responsible governmental agency before any site work, construction, or alteration to structures can be started. For the purposes of this Ordinance, the terms land use permit and building permit shall have the same meaning.</p> <p>21. BUILDING SETBACK LINE. A line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluffline or a high water mark or line, behind which buildings or structures must be placed.</p> <p>22. BUILDING SETBACK. The minimum horizontal distance between the building and the lot line.</p> <p>23. BUSINESS. Any occupation, employment, or enterprise wherein merchandise is exhibited or sold, or where services are offered, for compensation.</p>
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- 24. CAR WASH. A building or area that provides hand or machine operated facilities for washing and cleaning motor vehicles.
- 25. CEMETERY. Land used, or intended to be used, for the burial of the dead and dedicated for cemetery purposes and including, but not limited to, columbariums, mausoleums and chapels when operated in conjunction with and within the boundaries of such cemetery.
- 26. CERTIFICATE OF COMPLIANCE. A Certificate granted for a particular use on a property within the City and not for a particular person or firm, issued according to Section 1.01(6) of this Ordinance by the Zoning Administrator. Certificates of compliance typically indicate that the proposed use is not contrary to the provisions of this Ordinance and a periodic review of the certificate and proposed use may be required. Certificate of Compliance shall include information on the use, location, and conditions imposed as part of the permit such as time limits, review dates and such other information as may be appropriate. No public hearing is required for certificates of compliance. See also Section 1.01(5).
- 27. CERTIFICATE OF OCCUPANCY. A certificate issued by the building official authorizing the use or occupancy of a building or structure.
- 28. COMMISSION. The City of Finlayson Planning Commission.
- 29. COMMON OPEN SPACE. Land held in common ownership used for agriculture, natural habitat, pedestrian corridors, and/or recreational purposes which is protected from future development.
- 30. COMPREHENSIVE PLAN. The policies, statements, goals, and interrelated plans for private and public land and water use, transportation and community facilities, including recommendations for planned execution, documented in texts, ordinance, and maps which constitute the guide for the future development of the City.
- 31. CONDITIONAL USES. Uses of a special nature which allow the Planning Commission to apply special conditions to approval of the use.
- 32. CONDOMINIUM. A form of individual ownership within a multi-family building, which entails joint ownership and responsibility for maintenance and repairs of the land and other common property of the building. In a condominium, each unit is owned by its occupant, along with an undistributed share of common buildings and land.
- 33. CONSERVATION USE. Environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance, or character. Conservation uses include lands containing

- wetlands, hydric soils, woodlands, floodplain, native prairie, wildlife corridors, shorelands, steep slopes, and their accessory uses, such as interpretive centers and management facilities.
- 34. CONTIGUOUS. Parcels of land which share a common lot line or boundary. Parcels which are separated by an easement, or railroad right-of-way are considered contiguous for purposes of this Zoning Ordinance.
- 35. COST OF RENOVATION, REPAIR, OR REPLACEMENT. The fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement.
- 36. CULTURAL RESOURCE. The historic and archeological characteristics of the land, including buildings and landscapes, which provide information regarding the history of City of Finlayson and its people.
- 37. CUTOFF ANGLE. The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted.
- 38. CUTOFF. The point at which all light rays emitted by the lamp, light source, or luminaire are completely eliminated at a specific angle above the ground.
- 39. CUTOFF TYPE LUMINAIRE. A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.
- 40. DAY CARE CENTER. An establishment providing care and supervision for persons, licensed by the State of Minnesota.
- 41. DECIBEL. The unit of sound measured on the "A" weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the "Standards on Sound Level Meters of the USA Standards Institute."
- 42. DENSITY. The number of dwelling units permitted per acre of land or other measures.
- 43. DEPTH OF LOT. The horizontal distance between the frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.
- 44. DEPTH OF REAR YARD. The horizontal distance between the rear building line and the rear lot line.
- 45. DEVELOPMENT. Any manmade change to improved or unimproved real estate, including but not limited to, construction of or addition to, or substantial improvements to buildings, other structures or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

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| <p>46. DEVELOPMENT AGREEMENT. An agreement with the owner of the whole parcel as charged on the tax lists of the County, specifying the number of density units allocated amongst the parcels being created, the Zoning District the particular parcels are located in, the fact that the use and development and further conveyance of the parcels is subject to the regulations contained in the Zoning Ordinance. Development Agreement may include utility improvements, street improvements, demolition or removal of old structures and all other matters deemed appropriate by the City.</p> <p>47. DISTRICT, ZONE. A part or parts of the City for which the regulations of this Chapter governing the use and location of land and buildings are uniform (such as Agricultural, Residential, or Commercial classifications).</p> <p>48. DREDGING. The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.</p> <p>49. DISTRICT, OVERLAY. Overlay Districts provide for the possibility of superimposing certain additional requirements upon a basic Zoning District without disturbing the requirements of the basic District. In the instance of conflicting requirements, the more strict requirements shall apply.</p> <p>50. DRIVE-THROUGH RESTAURANT. A freestanding establishment used for the sale, dispensing, or serving of food, refreshments, or beverages in or on disposable plates and cups, including those establishments where customers may serve themselves and may eat and drink on or off the premises. Contemporary drive-in or fast food restaurants often offer drive-through service. For the purpose of this Chapter, an eating establishment located in a shopping center with three (3) or more attached business/retail establishments, which does not provide drive-through service and which may serve food, refreshments, or beverages in or on disposable plates and cups is not considered to be a drive-through restaurant.</p> <p>51. DRIVEWAY ACCESS PERMIT. A permit required from the responsible governmental agency which allows access onto a public road.</p> <p>52. DWELLING A building of one (1) or more portions thereof occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, tents, cabins, or boarding houses.</p> <p>53. DWELLING, DUPLEX OR TWO-FAMILY. A residential building containing two (2) complete dwelling units and designed for occupancy by not more that two (2) families.</p> | <p>54. DWELLING UNIT. A residential building or portion thereof intended for occupancy by a single family but not including hotels, motels, boarding houses, or tourist homes.</p> <p>55. DWELLING, SINGLE-FAMILY. A detached building designed for or occupied exclusively by one family.</p> <p>56. ENVIRONMENTAL IMPACT WORKSHEET OR STATEMENT. That document that may be required under Minnesota Statute §Chapters 116C and D.</p> <p>57. EQUESTRIAN USES. Those uses commonly associated with the raising, maintaining, and training of horses for riding, racing, or breeding.</p> <p>58. ESSENTIAL SERVICES - GOVERNMENTAL USES, BUILDINGS, AND STORAGE. An area of land or structures used for public purposes, storage, or maintenance and which is owned or leased by a governmental unit.</p> <p>59. ESSENTIAL SERVICES - UTILITY SUBSTATION. A utility use which may include electric substations, telephone switching and relay facilities, water and sewage pumps, and lift stations. Business offices associated with these uses are not included as part of this definition.</p> <p>60. EXTERIOR STORAGE. The storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.</p> <p>61. FAMILY. An individual, or two (2) or more persons each related by blood, marriage, adoption, or foster care arrangement, living together as a single housekeeping unit, or a group of not more than six (6) persons not related, maintaining a common household, exclusive of servants.</p> <p>62. FAMILY DAY CARE HOME. A dwelling licensed as a day care center by the State of Minnesota where care is provided.</p> <p>63. FARM. Land whose use is devoted to agricultural uses or the raising and/or breeding of livestock.</p> <p>64. FARMSTEAD. A group of buildings and adjacent service areas which support the functions of a farm. Structures may include, but are not limited to, homes, barns, machinery sheds, granaries, pump houses, chicken coops, and garages.</p> <p>65. FEEDLOT. A lot or building, or combination of lots and buildings, intended for the confined breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate or where concentration of animals is such that a vegetative cover cannot be maintained. The enclosure of open lots used for feeding and rearing of poultry shall be considered feedlots. Pastures are not considered feedlots.</p> |
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- 66. FENCE. Adequate fencing shall be determined by its use for:
  - i) Screening. Shall be solid six (6) feet or more in height.
  - ii) Swimming Pool. Shall be five (5) feet or greater in height, with no opening greater than four (4) inches.
- 67. FENCE, OPEN. A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than 30% of their surface area open for free passage of light and air. Examples of such fences include barbed wire, chain link, picket, and rail fences.
- 68. FENCE, ORNAMENTAL. A fence intended to decorate, accent or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner or lot line or frame a driveway, walkway or planting bed. Ornamental fences are those with more than 80% of their surface area open for free passage of light and air. Ornamental fences are often of the rail or wrought iron type.
- 69. FENCE, SOLID. A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with 30% or less of their surface area open for free passage of light and air and designed to conceal from the activities conducted behind them. Examples of such fences are stockade, board-on-board, board and batten, basket weave, louvered, and chain link with screening inserts.
- 70. FILL. Any act by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, or transported and shall include the conditions resulting therefrom.
- 71. FINAL PLAT. A drawing or map of an approved subdivision, meeting all requirements of Subdivision Regulations and in such form as required by the City and County for purposes of recording.
- 72. FINISHED ROOM. A room created by covering the walls and ceiling with plaster, dry wall, paneling, or other similar building material, so as to block from view the structural members of the wall and ceiling; trimming the doors, windows, and built-in cabinets with molding; and preserving the walls and trim with paint, varnish, or other similar material.
- 73. FLASHING LIGHT. A light source which is not constant in intensity or color at all times while in use.
- 74. FLOODPLAIN. The river or lake beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by a regional flood.

- 75. FLOOR AREA. The gross area of the main floor of a residential building measured in square feet and not an attached garage, attic, breezeway, unenclosed porches, or similar attachment.
- 76. FLOOR AREA, GROSS. The sum or the gross area of the various floors of a building measured in square feet. The basement floor area shall not be included unless such area constitutes a story.
- 77. FLOOR AREA RATIO. The numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which such building or buildings are located.
- 78. FLOOR PLAN, GENERAL. A graphic representation of the anticipated use of the floor area within a building or structure.
- 79. FOOT PRINT. The length and width of the building's foundation.
- 80. FOOTCANDLE. A unit of illumination produced on surface, all points of which are one foot from a uniform point source of one candle.
- 81. FRONTAGE. The smallest dimension of a lot abutting a public street measured along the street right-of-way line. For lots abutting a lake or stream, the smallest dimension measured along the shoreline. Lots on water may have more than one frontage.
- 82. GARAGE, PRIVATE. A structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises. Carports are considered garages.
- 83. GARAGE SALE. See Rummage Sale.
- 84. GARAGE, STORAGE. Any premises, except those described as a private garage.
- 85. GOVERNING BODY. The City of Finlayson City Council.
- 86. GROUP ASSEMBLY. A company of persons gathered together for any purpose.
- 87. HARDWARE STORES. Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.
- 88. HAZARDOUS BUILDINGS OR HAZARDOUS PROPERTY. "Hazardous Buildings or Hazardous Property" means any building or property which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.
- 89. HAZARDOUS MATERIAL. Hazardous material means a chemical or substance, or a mixture of chemicals or substances, which:
  - i) Is regulated by the Federal Occupational Safety and Health Administration under Code of Federal Regulations, Title 29, Part 1910, Subpart Z; or

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| <p>ii) Is either toxic or highly toxic, an irritant, corrosive, a strong oxidizer, a strong sensitizer, combustible, either flammable or extremely flammable, dangerously reactive, pyrophoric, pressure-generating, a compressed gas, a carcinogen, a teratogen, a mutagen, a reproductive toxic agent, or that otherwise, according to generally accepted documented medical or scientific evidence, may cause substantial acute or chronic personal injury or illness during or as a direct result of any customary or reasonably foreseeable accidental or intentional exposure to the chemical or substance.</p> <p>90. HIGH POWER TRANSMISSION LINE. A 69 kV or greater electric transmission line with towers a minimum of 75 feet in height.</p> <p>91. HOME INDUSTRY. Any occupation for gain or support which may be of a more intense nature or exceeds the limitations as defined under Home Occupations in terms of storage of stock or inventory, use of equipment not customarily household in nature, display of product, etc. A Home Industry may include occupations or uses such as assembly, mass mailing, multi-tiered marketing, gunsmithing or licensed firearm sales, furniture and cabinetry woodworking, furniture upholstery and refinishing, route sales, schools or classes (not exceeding four students in one interval), studios, animal grooming (with no overnight boarding) and salons. Home industries are to be considered Conditional Uses.</p> <p>92. HOME OCCUPATION. Use of a property zoned residential or agricultural for gainful employment which is: a) clearly incidental and subordinate to the use of the property as residential; b) carried on solely within the main dwelling or an accessory building; c) does not alter or change the exterior character or appearance of the property; and d) created and operated by the occupant of the dwelling.</p> <p>93. HOMEOWNERS ASSOCIATION. A formally constituted non-profit association or corporation made up of the property owners and/or residents of the development for the purpose of owning, operating, and maintaining the common open space and facilities.</p> <p>94. HOMESTEADED DWELLING. A dwelling that is occupied and used for the purposes of a homestead by its owner pursuant to Minnesota Statute §273.124.</p> <p>95. HORSE TRAINING FACILITY - COMMERCIAL. An accessory building in which horses not owned by the property owner are kept for commercial use including boarding, breeding, hire, sale, show, and training.</p> <p>96. HORSE TRAINING FACILITY, PRIVATE. An accessory building incidental to the existing residential, principal use in which horses</p> | <p>owned by the property owner are kept for private use and training.</p> <p>97. INDIVIDUAL PARCEL. A parcel as a whole as charged on the tax lists, or two or more contiguous parcels under common ownership on the effective date of this Zoning Ordinance.</p> <p>98. IMPERVIOUS SURFACE. See Lot Coverage.</p> <p>99. LAND ALTERATION. The reclaiming of land by depositing or moving material so as to alter the grade or topography.</p> <p>100. LAND CLEARING. The removal of a contiguous group of trees and other woody plants in an area of 10,000 square feet or more.</p> <p>101. LIGHT FIXTURE, OUTDOOR. Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including, but not limited to, the hardware casing. Such devices shall include, but are not limited to, search, spot, and flood lights for a) buildings and structures, b) recreational areas, c) parking lot lighting, d) landscape lighting, e) billboards and other signs, f) street lighting, g) product display area lighting, and h) building overhangs and open canopies.</p> <p>102. LIGHT SOURCE. A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.</p> <p>103. LIGHTING, OUTDOOR. Any light source or collection of light sources, located outside a building, including but not limited to, light sources attached to any part of a structure, located on the surface of the ground or located on free standing poles.</p> <p>104. LIVESTOCK. Domestic farm animals including but not limited to cattle, hogs, horses, bees, sheep, goats, chickens, and other animals commonly kept for commercial food production purposes.</p> <p>105. LIVING AREA. The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.</p> <p>106. LOADING AREA. A completely off street space or berth on the same lot as the principal use it serves for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.</p> <p>107. LOT. A parcel of land designated by metes and bounds, registered land survey, plat or other means, and which description is either recorded in the Office of the County Recorder or Registrar of Titles or used by the County</p> |
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- Treasurer or County Assessor to separate such parcel from other lands for tax purposes.
- 108.LOT AREA. The area of a horizontal plane within the lot lines.
- 109.LOT AREA, MINIMUM PER DWELLING UNIT. The minimum number of square feet or acres of lot area required per dwelling unit.
- 110.LOT, BUILDABLE. A lot which meets or exceeds all requirements of the City of Finlayson Zoning Ordinance without the necessity of variances.
- 111.LOT, CORNER. A lot situated at the junction of and abutting two (2) or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed one hundred thirty-five degrees (135°).
- 112.LOT COVERAGE. That portion of a lot containing an artificial or natural surface through which water, air, or roots cannot penetrate. This definition includes, but is not limited to structures.
- 113.LOT, DEPTH. The mean horizontal distance between the front and rear lines of a lot.
- 114.LOT, INTERIOR. A lot other than a corner lot, including through lots.
- 115.LOT LINE. A lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.
- 116.LOT LINE, FRONT. That boundary of a lot which abuts a public street or a private road. In the case of a corner lot, the lot shall be deemed to have frontage on both streets.
- 117.LOT LINE, REAR. That boundary of a lot which is opposite to the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.
- 118.LOT LINE, SIDE. Any boundary of a lot which is not a front lot line or a rear lot line.
- 119.LOT WIDTH. The horizontal distance between the side lot lines of a lot measured at the setback line.
- 120.LUMINAIRE. A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.
- 121.MAJOR HIGHWAY. Those highways and/or roadways which are classified as principal in the City of Finlayson.
- 122.MANUFACTURED HOME. A structure of one or more sections, which in the traveling mode, is eight feet or more in width and 30 feet or more in length, which is built on a permanent chassis and is designed to be used as a dwelling. The section(s) when assembled shall

- be set and anchored to a structural slab or foundation designed for that purpose. Enclosure around a manufactured home shall be of wood suitable for exterior exposure, masonry, or concrete or have that appearance. A manufactured home must have a HUD label attached to its exterior.
- 123.MINING. The excavation, removal, storage, or processing of sand, gravel, rock, soil, clay, or other deposits. For the purposes of this Zoning Ordinance, mining shall not include excavation, removal, or storage of rock, sand, dirt, gravel, clay, or other material for the following purposes:
  - i) Excavation for the foundation, cellar, or basement of some pending structure for which a permit has been issued and which is to be erected immediately following the excavation, removal, or storage.
  - ii) On-site construction of approved roads, sewer lines, storm sewers, water mains, surface water drainage approved by the City of Finlayson, agriculture or conservation purposes, sod removal, or other public utilities.
  - iii) Landscaping purposes on a lot used or to be used as a building site.
  - iv) Grading/excavation of less than one acre of land in conjunction with improvement of a site for lot development, providing activities will be completed in one year.
  - v) The removal of excess materials in accordance with approved plats or highway construction.
- 124.MINOR STRUCTURES. Any small, movable accessory erection or construction such as birdhouses, tool houses, pethouses, play equipment, arbors, and fences.
- 125.MODULAR HOME. A dwelling of one or more sections that is transported from the assembly location and set on a permanent foundation. Sections are transported on removable carriers that can be reused to haul another structure.
- 126.MOTOR VEHICLE REPAIR, MAJOR. General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service including body, frame or fender straightening or repair; overall painting and upholstering; vehicle steam cleaning.
- 127.MOTOR VEHICLE REPAIR, MINOR. Repairs, incidental body and fender work, replacement of parts and motor services to passenger automobiles and trucks not exceeding 12,000 pounds gross weight, but not to include any operation specified under "Motor Vehicle Repair, Major".
- 128.MOTOR VEHICLE SERVICE STATION. A place for the dispensing, sale or offering for sale of motor fuel directly to users of motor

<p>vehicles, together with the sale of minor accessories and the servicing of, and minor repair of, motor vehicles.</p> <p>129. MOVING PERMIT. A permit required from the responsible governmental agency prior to the moving of any partially or wholly erected structure from one location to another.</p> <p>130. MULTIPLE USE COMMERCIAL CENTER (MUCC). Any grouping of two (2) or more principal retail uses whether on a single lot or on abutting lots under multiple or single ownership.</p> <p>131. NATURAL DRAINAGEWAY. A depression in the earth's surface, such as ravines, draws and hollows, that has definable beds and banks capable of conducting surface water runoff from adjacent lands.</p> <p>132. NEIGHBORHOOD. An area containing a contiguous group of residential lots distinguishable by some identifiable feature or point of reference, where people live in proximity to one another.</p> <p>133. NOISE, AMBIENT. The all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominant source.</p> <p>134. NONCONFORMING LOT. A separate parcel or lot of record on the effective date of this Zoning Ordinance, or any amendments thereto, which lot or parcel does not conform to the regulations, including dimensional standards, contained in this Zoning Ordinance or amendments thereto.</p> <p>135. NONCONFORMING USE. Any legal or lawful use of land, or any legal or lawful use of a structure existing on the effective date of this Zoning Ordinance, or any amendments thereto, which does not conform with the regulations for the District in which it is located after the effective date of this Zoning Ordinance or such amendment.</p> <p>136. NOXIOUS MATTER. Material which is capable of causing injury, or is in any way harmful to living organisms, or is capable of causing detrimental effect upon the physical or mental health of human beings.</p> <p>137. OFFICE. Those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired. Such activities include, but are not limited to banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting, and similar uses.</p> <p>138. OFFICIAL CONTROL. Legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county, or any part thereof, or</p>	<p>any detail thereof, and the means of translating into ordinances all or part of the general objectives of the Comprehensive Plan. Such official controls may include, but are not limited to ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps and have been adopted by the City of Finlayson.</p> <p>139. OPEN SPACE. Land used for agriculture, natural habitat, pedestrian corridors, and/or recreational purposes, that is undivided and permanently protected from future development.</p> <p>140. OPEN SPACE DESIGN DEVELOPMENT. A pattern of subdivision development which places residential dwelling units into compact groupings while providing a network of dedicated open space.</p> <p>141. OPEN STORAGE. Storage of any material outside a building.</p> <p>142. OVERLAY DISTRICT. A Zoning District shown as an overlay on the zoning map.</p> <p>143. OWNER. Includes all persons interested in a property as fee simple owner, life estate holder, encumbrancer.</p> <p>144. PANELIZED HOME. A dwelling made up of panels fabricated in an assembly plant and assembled on site on a permanent foundation.</p> <p>145. PARKING SPACE. A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) standard automobile.</p> <p>146. PEDESTRIAN WAY. A public or private right-of-way across or within a block or tract, to be used by pedestrians.</p> <p>147. PERFORMANCE STANDARDS. The minimum development standards, as adopted by the governing body, and on file in the office of the Zoning Administrator.</p> <p>148. PLANT NURSERY. A building or premises used primarily for the growing, wholesale and retail sale of trees, shrubs, flowers, other plants, and accessory products excluding power tools, tractors, decorative rock, tree bark, gravel, and compost. Accessory products are those products which are used in the culture, display, and decoration of lawns, gardens, and indoor plants.</p> <p>149. PLATTED LAND. Lands with legal descriptions described as lot, block, plat name.</p> <p>150. PRINCIPAL STRUCTURE OR USE. One which determines the predominant use as contrasted to accessory use or structure.</p> <p>151. PROTECTIVE OR RESTRICTIVE COVENANT. A contract entered into between private parties, which constitutes a restriction of the use of a particular parcel of property.</p>
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- 152. PUBLIC LAND. Land owned and/or operated by a governmental unit, including school districts.
- 153. PUBLIC RECREATION FACILITY. An outdoor recreation facility owned and operated by a non-profit organization in which athletic activities are permitted to be played by the general public. Examples of such a facility would be a softball complex, soccer fields, etc.
- 154. PUBLIC WATERS. All lakes, ponds, swamps, streams, drainageways, floodplains, floodways, natural water courses, underground water resources, and similar features involving, directly or indirectly, the use of water within the community.
- 155. REAR YARD. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard is opposite the street yard. On corner lots, sides opposite front yards shall be considered side yards.
- 156. RECREATION VEHICLE. Any vehicle or structure designed and used for temporary, seasonal, human living quarters which meets all of the following qualifications: a) is not used as the permanent residence of the owner or occupant; b) is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities; c) is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities; d) examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pick-up campers, camping buses, and self-contained, self-propelled truck chassis mounted vehicles providing living accommodations.
- 157. REFUSE. Putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.
- 158. 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 the average frequency in the magnitude of a 100 year recurrence interval. Regional flood is synonymous with the term "Base Flood" used in the Flood Insurance Study.
- 159. RESOURCE INVENTORY. A survey of the land's features including its natural resources, cultural resources, scenic views and viewsheds, and physical characteristics.
- 160. RESTAURANT. A business establishment whose principal business is the preparing and

- selling of unpackaged food to the customer in a ready-to-consume state.
- 161. RETAIL BUSINESS. Stores and shops selling personal services or goods over a counter.
- 162. RUMMAGE SALE. The occasional sale of personal property at a residence conducted by one or more families in a neighborhood. Rummage sales do not exceed four (4) consecutive days in length and are not conducted more often than three (3) times per year. Rummage sales do not involve the resale of merchandise acquired for that purpose. Rummage sales are also known as "garage sales". Flea markets are not rummage sales.
- 163. ROAD, APPROVED PRIVATE. A private road which has been approved by resolution of the City Council. Such resolution must specify the road, indicate the road is capable of supporting emergency vehicles and specify that provisions exist for the ongoing maintenance of the road.
- 164. ROAD, PUBLIC. A road owned and maintained by a government jurisdiction.
- 165. ROADSIDE SALES STAND. A structure used only for the display and sale of products with no space for customers within the structure, on a seasonal basis.
- 166. SCREENING. Screening includes earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers); used in combination or singularly, so as to block direct visual access to an object throughout the year.
- 167. SECURITY LIGHTING. Outdoor lighting fixtures installed exclusively as a measure to reduce the possible occurrence of a crime on the property.
- 168. SELF-SERVICE STORAGE. A structure or structures containing separate storage spaces of varying sizes which are leased or rented individually.
- 169. SEPTIC PERMIT. A permit required from the responsible governmental agency for the installation of any new or replacement on-site sewage treatment system.
- 170. SETBACK. The minimum horizontal distance between a structure and street right-of-way, lot line or other reference point as provided by Ordinance. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure, such as siding, siding corners, or batton strips.
- 171. SHIELDING. A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture.

- 172. SHORELANDS: Land located within the following distances from public water: 1,000 feet from the ordinary high level of a lake, pond or flowage; and 300 feet from a river or a stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Zoning Administrator.
- 173. SIDE YARD. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.
- 174. SIGN. A display, illustration, structure, or device which directs attention to an object, product, place, activity, person, institution, organization, or business.
- 175. SIGN, ADVERTISING. A sign that directs attention to a business or profession, or to a commodity, service, or entertainment not sold or offered upon the premises where such sign is located or to which it is attached.
- 176. SIGN AREA. The entire area within a continuous perimeter enclosing the extreme limits of such sign. Such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part or border of the sign.
- 177. SIGN, BUSINESS. A sign that directs attention to a business or profession or to the commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is attached.
- 178. SIGN, DEVELOPMENT IDENTIFICATION. A sign that identifies the name of a residential, commercial, or industrial development at a street entrance to the development.
- 179. SIGN, FLASHING. An illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use.
- 180. SIGN, IDENTIFICATION. A sign which identifies the inhabitant of the dwelling.
- 181. SIGN, MOTION. A sign that has revolving parts or signs which produce moving effects through the use of illumination, or a sign containing an electric reading board.
- 182. SIGN, NAMEPLATE. A sign which states the name and/or address of the business, industry, or occupant of the site and is attached to said building or site.
- 183. SIGN, PEDESTAL. A ground sign usually erected on one (1) central shaft or post which is solidly affixed to the ground.
- 184. SIGN, REAL ESTATE. A sign offering property (land and/or buildings) for sale, lease, or rent.

- 185. SIGN, ROOF. A sign erected upon or above a roof or parapet of a structure.
- 186. SIGN, SHOPPING CENTER OR INDUSTRIAL PARK. A business sign designating a group of shops or offices.
- 187. SIGN, WALL. A sign attached to or erected against the wall of a structure with the exposed face of the sign and parallel to the plane of said wall.
- 188. SPILLAGE. Any reflection, glare, or other artificial light emission onto any adjoining property or right-of-way above a defined maximum illumination
- 189. STREET. A public right-of-way which affords a primary means of access to abutting property
- 190. STREET, COLLECTOR. A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.
- 191. STREET, INTERMEDIATE, OR MINOR ARTERIAL. A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.
- 192. STREET, LOCAL. A street intended to serve primarily as an access to abutting properties.
- 193. STREET PAVEMENT. The wearing or exposed surface of the roadway used by vehicular traffic.
- 194. STREET WIDTH. The width of the road measured from curb to curb. In non-curbed areas, the distance which includes the road surface and shoulders.
- 195. STRUCTURAL ALTERATION. Any change, other than incidental repairs, which would affect the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.
- 196. STRUCTURE. Any erection or construction, such as buildings, pre-fabricated or pre-built buildings, towers, generators, and air conditioning units.
- 197. STRUCTURE, NONCONFORMING. Any structure lawfully or legally existing on the effective date of this Zoning Ordinance, or any amendment thereto, which does not conform to the regulations, including the dimensional standards, for the District in which it is located after the effective date of this Zoning Ordinance or amendments thereto.
- 198. SUBDIVISION. The process of dividing land into two (2) or more parcels for the purpose of transfer of ownership, building development, or tax assessment purposes by platting, replatting, registered land survey, conveyance sale, contract for sale, or other means by which a beneficial interest in land is transferred.

- 199. SUBDIVISION, MAJOR. All subdivisions not classified as minor subdivisions including, but not limited to, subdivisions of five (5) or more lots, or any size subdivision requiring any new street or extension of an existing street.
- 200. SUBDIVISION, MINOR. Any subdivision containing four (4) or less lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions or portion of the Comprehensive Plan or Zoning Ordinance.
- 201. SURETY. Whenever the terms "surety", "surety bond", or "bond" are used in this Ordinance, such term shall describe only an irrevocable letter of credit or a cash bond as approved by the City Attorney.
- 202. TEMPORARY DWELLING, CARE FACILITY. A manufactured home which temporarily serves as a residence for an infirm relative of the occupants residing in the primary single family residence on the property where such relative requires care by the family.
- 203. TEMPORARY DWELLING, DURING CONSTRUCTION. A manufactured home which temporarily serves as a residence for the present or potential occupant which the primary single family residence is being constructed, reconstructed, or altered.
- 204. TEMPORARY DWELLING, FARM. A manufactured home located in an agricultural district which is an accessory dwelling unit occupied by members of the family engaged in farming on the premises and meeting other criteria specified in the Development Code.
- 205. TOWER. Any pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, or to serve as an antenna.
- 206. TOWER ACCESSORY STRUCTURE. A structure located at the base of the tower housing base receiving/transmitting equipment.
- 207. TOWNHOUSE. A single-family building attached by party walls with other single family buildings, and orientated so that all exits open to the outside with private entries maintained to each individual unit.
- 208. TRUCK STOP. A motor fuel station devoted principally to the needs of tractor trailer units and trucks, and which may include eating and/or sleeping facilities.
- 209. TWIN HOME. Two single-family dwelling units connected by a common wall and located on adjacent, contiguous, and individually owned lots or parcels.

- 210. USE, ACCESSORY. A use subordinate to and serving the principal use or structure on the same lot and customarily incidental to such principal use.
- 211. USE, OPEN SPACE. The use of land without a structure or including a structure incidental to the open space use.
- 212. USE, PRIMARY. That use which is the normal use for property within a District.
- 213. UTILITIES. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.
- 214. VARIANCE. The modification or variation of the Zoning Regulations where it is determined that, by reason of exceptional circumstances, the strict enforcement of the Zoning Ordinance would cause unnecessary hardship. See also Section 1.01(9).
- 215. WAREHOUSING. The storage, packing and crating of materials or equipment within an enclosed building or structure.
- 216. WAREHOUSING AND DISTRIBUTION. A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions.
- 217. WETLAND. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface of the land or is covered by shallow water. For purposes of the Zoning Ordinance, wetlands must a) have a predominance of hydric soils; b) be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and c) under normal circumstances, support a prevalence of hydrophytic vegetation. Wetlands generally include swamps, marshes, bogs, and similar areas.
- 218. WIND ENERGY CONVERSION SYSTEM. One (1) tower with rotors and motors with one conversion generator.
- 219. YARD. The open space on an occupied lot which is not covered by any structure.
- 220. YARD, FRONT. A yard extending across the front of the lot between the front line of the lot and the nearest building line.

- 221. YARD, REAR. A yard extending across the rear of the lot lying between the rear line of the lot and the nearest building line.
- 222. YARD, REQUIRED. A yard area which may not be built on or covered by structures because of the dimensional setbacks for said structures within the Zoning District.
- 223. YARD, SIDE. A yard extending from the front yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and the nearest building.
- 224. ZONING ADMINISTRATOR. A person(s) appointed or authorized by the City Council to enforce the Zoning and Subdivision Ordinances.
- 225. ZONING DISTRICT. An area or areas within the City in which the regulations and requirements of this Zoning Ordinance are applied.

**1.01(2) ZONING ADMINISTRATOR.**

- (A) The City Zoning Administrator is designated as the administrative and enforcement officer for the provisions of this Ordinance. The duties of the Zoning Administrator shall be assigned by the City Council to one person or shared between more than one person. The duties of the Zoning Administrator shall be to interpret all permits required by this Ordinance and to issue, after on-site inspections, all permits required by this Ordinance. The Zoning Administrator shall further:
  - a. Review all matters pertaining to applications and enforcement of this Zoning Ordinance.
  - b. Conduct inspections of structures and use of land to determine compliance with the terms of this Zoning Ordinance.
  - c. Review all subdivisions created in this City.
  - d. Maintain permanent and current records as required by this Ordinance, including but not limited to all maps, amendments, conditional uses, variances, appeals, and applications.
  - e. Receive, file, and forward all applications for appeals, variances, conditional uses, or other matters to the designated official bodies.
  - f. Notify in writing, persons responsible for violations, indicating the nature of the violation and the action necessary to correct it.
  - g. Initiate, with the advice and consent of the City Attorney and the City Council, any appropriate legal actions or proceedings against a violator as provided for in this Zoning Ordinance.

- h. Recommend to the City Council appropriate fees for applications, permits, or other matters processed under this Zoning Ordinance.
- i. Collect fees, as set by the City Council, for all applications, permits, or other matters covered under the provisions of this Zoning Ordinance.
- j. Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him or her to ensure compliance with this Ordinance.
- k. Attend all meetings of the City Planning Commission, Board of Appeals, and City Council, when requested.

**1.01(3) PLANNING COMMISSION.**

- (A) The City Planning Commission shall have the duties of making reports and recommendations related to the planning and development of the City to public officials, agencies, public utility companies, civic, educational, professional, and other organizations, and citizens. The Commission and its members, in the performance of its functions, in relation to CUP's, PUD's, variances, rezoning, and other amendment requests, may enter upon any land and make examinations and surveys. In general, the Planning Commission shall have such powers as may be necessary to enable it to perform its function and promote municipal planning.

The Planning Commission shall conduct public hearings for all conditional use permits, variances, planned unit developments, rezoning, and other amendment requests. The Commission shall present their recommendation to the City Council for final action.

The Planning Commission shall have five (5) members. One member shall be from the City Council and shall serve a one-year term. The remaining four (4) members shall either reside within the City limits or own/operate a business within the City limits. The City Council shall appoint these members for three-year terms. If a member is unable to complete their three-year term, the Council shall appoint another person to complete the term.

- (B) **MEETINGS AND QUORUM.** The meeting of the Planning Commission shall be held on a regular monthly basis or special meetings at the call of the Zoning Administrator. A majority of the Board shall constitute a quorum and a majority vote of that quorum is sufficient to conduct business and take action.

**1.01(4) BOARD OF APPEALS.** There is hereby created the City of Finlayson Board of Appeals, which shall have the following powers with respect to the City of Finlayson Zoning Ordinance.

**(A) BOARD MEMBERSHIP AND MEETINGS.**

- a. The Board of Appeals shall consist of two Council Members, two Planning Commission members, and the individual serving on both. The Board of Appeals shall have all the powers and duties in 1.01.(4)
- b. Meetings and Quorum. The meeting of the Board of Appeals shall be held at the call of the Zoning Administrator. A majority of the Board shall constitute a quorum and a majority vote of that

quorum is sufficient to conduct business and take action.

**(B) ADMINISTRATIVE APPEALS.** The Board shall have the exclusive authority to hear and decide appeals from and review any order, requirement decision, or determination made by the Zoning Administrator with respect to the administration of the duties of the Zoning Administrator.

- a. An appeal from any decision by the Zoning Administrator may be taken by any aggrieved party within ten (10) days from the date of such decision by filing with the Zoning Administrator a written notice of appeal. The notice shall state:
  - 1. The particular order, requirement, decision or determination from which the appeal is taken;
  - 2. The name and address of the appellant;
  - 3. The grounds for appeal; and
  - 4. The relief requested by the appellant.
- b. The Zoning Administrator shall set a date for the Board of Appeals to review the appeal of the aggrieved party. The Board of Appeals shall make a decision within 45 days of the date the appeal was filed.
- c. In all cases, written notice shall also be given to the members of the City Council prior to the Hearing.
- d. The Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and to that extent, shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit.
- e. Defects in the notice shall not invalidate any proceedings provided a bonafide attempt to comply with this section has been made.

**(C) BOARD FINDINGS.**

- a. The Board of Appeals shall make written findings in any case of an appeal and shall state therein the reasons for its decision; the order issued by the Board of Appeals shall include the legal description of the land involved. Any such order shall be filed with the Zoning Administrator who shall immediately mail a copy thereof, bearing the notation of the filing date, to the appellant or applicant.

**(D) JUDICIAL APPEALS.** All decisions by the Board of Appeals shall be final, except that anyone aggrieved by a decision shall have the right to appeal within thirty (30) days after receipt of notice of the decision to the Pine County District Court on questions of law and fact. In order to preserve their right to appeal, the aggrieved party must notify the Zoning Administrator within seven (7) days of the date of the hearing at which the decision was made of their desire to obtain a copy of the decision in order to preserve their right to appeal or it is deemed waived.

**1.01(5) CONDITIONAL USE PERMITS.**

**(A) APPLICATION.**

- a. Whenever this Zoning Ordinance requires a Conditional Use Permit, an application therefore in writing shall be filed with the Zoning Administrator.
- b. The application shall be accompanied by development plans of the proposed use showing such information as may be deemed necessary by the Zoning Administrator.
  - 1. The scale of maps submitted shall be at least 1" to 200'. Maps for sites less than fifty (50) acres shall be at least 1" to 100'. The number of maps and reports to be submitted shall be specified by the Planning Commission, but shall not exceed twelve (12). All maps shall be reduced and included in the applicable reports.
  - 2. Certificate of Survey.
  - 3. Site plan drawn to scale showing the following information:
    - i) Existing Conditions. Property lines and dimensions, building location and setbacks, dimensions of building, curb cuts, driveways, access roads, parking, off-street loading areas, septic system, and well.
    - ii) Proposed Conditions. Property lines and dimensions, building location and setbacks, building dimensions, curb cuts, driveways, access roads, parking, off-street loading areas, and any other proposed improvements.
  - 4. Landscape Plan with the following information:
    - i) Existing vegetation, proposed plantings, and ground cover.
  - 5. Grading and Drainage Plan
  - 6. Soil Conditions
  - 7. Building Floor Plan
  - 8. Building Elevations
  - 9. General Location Map
  - 10. Principal land uses within 200 feet of the property.
  - 11. Proof of ownership in the form of Abstract of Title, Certificate of Title, Attorney's Title Opinion, unrecorded documents where petitioner will acquire legal or equitable ownership or signed Purchase Agreement.
  - 12. Type of business or activity and proposed number of employees.
  - 13. Sanitary sewer, septic, and water plan (areas without public sewer or water).
- c. the Zoning administrator shall have the authority to collect fees in addition to the application fee to cover the estimated costs of the involvement of the City Attorney, City Engineer, Pine County Soil and Water Conservation Officer or other bonafide costs incurred in reviewing the CUP Application.

**(B) NOTICE AND HEARING PROCEDURE.**

- a. Upon receipt of an application that contains all required information, the Zoning Administrator shall refer the matter to the City Planning Commission and establish a time for hearing on the application. From the date the Zoning Administrator receives the application containing all required information, the Planning Commission and City Council has sixty (60) days to take action on the request or the request shall be deemed approved, provided, however, that the Planning Commission or City Council may extend this time by providing written notice of the extension to the applicant before the end of the initial sixty (60) day period. This notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days. The deadline may also be extended as indicated in Minnesota Statute §15.99, Subd. 3.
- b. Notice of the time, place, and purpose of all public hearings shall be given by publication in a newspaper of general circulation in the City at least 10 days before the hearing.
- c. Notice shall also be mailed to each of the owners of all property located within 350 feet.
- d. Defects in the notice shall not invalidate the proceedings provided a bona fide attempt to comply with the provisions of this Section has been made. A copy of the notice and a list of property owners and addresses to which the notice was sent shall be made a part of the record.

**(C) CRITERIA FOR GRANTING CONDITIONAL USE PERMIT.**

- a. The City Council may grant a Conditional Use Permit in any District, provided the proposed use is listed as a conditional use for the District and upon a showing that the standards and criteria stated in this Zoning Ordinance will be satisfied and that the use is in harmony with the general purposes and intent of this Zoning Ordinance and the Comprehensive Plan. In determining whether the proposed use is in harmony with the general purpose and intent of this Zoning Ordinance and the Comprehensive Plan, the Planning Commission and City Council shall consider:
  - 1. The impact of the proposed use on the health, safety, and general welfare of the occupants of the surrounding lands.
  - 2. Existing and anticipated traffic conditions, including parking facilities on adjacent streets and lands.
  - 3. The effect of the proposed use on utility and school capacities.
  - 4. The effect of the proposed use on property values and scenic views in the surrounding area.
  - 5. Consistency of the proposed use with the Comprehensive Plan.
  - 6. The ability of the proposed use to meet the standards of the Zoning Ordinance.

- 7. The results of a market feasibility study, if requested by the Zoning Administrator, when the purpose for which the conditional use is being requested relies on a business market for its success.
- 8. The effects of the proposed use on groundwater, surface water, and air quality.
- 9. That the proposed use is allowed with a Conditional Use Permit in the designated Zoning District in which it is proposed.
- b. In connection with the issuance of Conditional Use Permits to nonconforming situations, the City Council may require nonconformities to conform to the regulations contained in the Zoning Ordinance and may impose such additional restrictions or conditions as it deems necessary to protect the public interest. When appropriate, restrictive covenants may be entered into regarding such matters.
- c. The City Council may impose and the applicant shall pay costs incurred by the Zoning Administrator for monitoring compliance with the conditions of the Conditional Use Permit.
- d. Performance Bond. The Planning Commission and City Council shall have the authority to require a performance bond or other security when it is deemed necessary and appropriate
  - 1. Except in the case of non-income producing residential property, upon approval of conditional use permit the City may be provided with a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the City.
  - 2. The security may be in the amount of the City Council's estimated costs of labor and materials for the proposed improvements of development. Said project can be handled in stages upon the discretion of the City Council.

**(D) COMPLIANCE.** The use shall conform with the applicable sections of this Zoning Ordinance.

**(E) LENGTH OF CONDITIONAL USE.** Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity to the terms of such permit and of any conditions designated in connection therewith. Conditional Use Permits shall remain in effect for so long as the conditions agreed upon are observed, provided that nothing in this Section shall prevent the City Council from acting or amending the Zoning Ordinance to change the status of conditional uses.

**(F) EXPIRATION OF CONDITIONAL USE PERMIT.** A Conditional Use Permit shall expire and be considered null and void one (1) year after it has been issued if no construction has begun or if use has not been established. If a conditional use is discontinued for a

period of one year, the Conditional Use Permit will be considered null and void.

**(G) REVOCATION.**

- a. A violation of any condition set forth in a Conditional Use Permit shall be a violation of this Zoning Ordinance. Failure to correct said violation within thirty (30) days of written notice from the Zoning Administrator shall terminate the permit.
- b. Notice to the permittee shall be served personally or by registered or certified mail at the address designated in the permit application. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis of the revocation, the facts which support the conclusions that a violation or violations have occurred and a statement that if the permittee desires to appeal, he must, within ten (10) working days, exclusive of the day of service, file a request for a hearing.
- c. The hearing request shall be in writing, stating the grounds for appeal, and served personally or by registered or certified mail, to the City Zoning Administrator or the City Clerk by midnight of the tenth working day following service.
- d. Following the receipt of a request for hearing, the City Zoning Administrator shall set a time and place for the hearing, which hearing shall be conducted in accordance with the procedures set forth in this Zoning Ordinance.

**(H) RECORDS OF CONDITIONAL USES.**

- a. A certified copy of any conditional use shall be filed with the County Recorder or Registrar of Titles.
- b. The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, conditions imposed by the City, time limits, review dates, and such other information as may be appropriate.
- c. A copy of the filed permit, bearing a notation of the filing date shall be mailed to the applicant.

**(I) AMENDED CONDITIONAL USE PERMITS.** Amended Conditional Use Permits shall be requests for changes in conditions of the existing permit. An amended Conditional Use Permit Application shall be administered in the same manner as that required for a new Conditional Use Permit.

**(J) PHASED DEVELOPMENTS.** In order to preserve an appropriate flexibility in the development plans for a large project which is to be developed over a number of years, a preliminary plan may be approved after a public hearing. The developer would then seek approval of the final plan in stages as he progresses with development. No additional public hearings need be held unless the developer proposes to make a substantial change from the plans or conditions included in the Conditional Use Permit when it was granted approving the preliminary plan. Enlargement, intensification of use, or similar changes not specifically permitted by the Conditional Use Permit issued, shall be considered substantial changes.

**(K) EXISTING USES.** All uses existing at the time of adoption of this Zoning Ordinance that now require a Conditional Use Permit may continue in the same manner of operation as the use did upon the effective date of this Zoning Ordinance. The Zoning Administrator may require a Certificate of Compliance for the use. Any enlargement, structural alteration, or intensification of use shall require a Conditional Use Permit as provided for above. The City Council may impose additional, reasonable conditions for the continuation of such use in accordance with the hearing provisions as set forth in Section 1.01(5)(B).

**1.01(6) CERTIFICATES OF COMPLIANCE.** The Zoning Administrator shall issue a Certificate of Compliance in any District for the proposed use listed in Chapter Two, if the proposed use will not be contrary to the provisions of this Zoning Ordinance. The certificate shall be granted for a particular use and not for a particular person or firm.

**(A) APPLICATION.** Whenever this Zoning Ordinance requires a Certificate of Compliance, a written application shall be filed with the Zoning Administrator. The application shall be accompanied by development plans of the proposed use showing such information as may be reasonably required by the Zoning Administrator. These plans shall contain adequate information upon which the Zoning Administrator can determine the proposed development will meet all development standards if the project proceeds in accordance with such plans.

**(B) COMPLIANCE.** The use shall conform with the regulations specified in this Zoning Ordinance.

**(C) ISSUANCE AND CONDITIONS.** If the Zoning Administrator determines that the use is in compliance with the conditions contained in this Zoning Ordinance, then the Zoning Administrator shall issue the certificate. Conditions required by this Zoning Ordinance shall be applied to the issuance of the Certificate of Compliance and a periodic review of the certificate and proposed use may be required.

**(D) RECORD OF CERTIFICATES OF COMPLIANCE.**

- a. A certified copy of any Certificate of Compliance shall be filed with the County Recorder or Registrar of Titles.
- b. The Zoning Administrator shall maintain a record of all certificates of compliance issued including information on the use, location, and conditions imposed as part of the permit such as time limits, review dates, and such other information as may be appropriate.

**(E) APPEALS TO DENIAL OF CERTIFICATES OF COMPLIANCE.** If the request for a Certificate of Compliance is denied, if conditions are imposed, or if revoked, the applicant may appeal the decision to the Board of Appeals. The procedures to be followed in this case shall be the same as those followed for an appeal of any administrative decision made by the Zoning Administrator.

**(F) EXPIRATION OF CERTIFICATES OF COMPLIANCE.** A Certificate of Compliance shall expire and be

considered null and void one (1) year after it has been issued if the use has not been established.

**(G) REVOCATION.** A violation of any condition set forth in a Certificate of Compliance shall be a violation of this Zoning Ordinance and failure to correct said violation within thirty (30) days of written notice from the Zoning Administrator shall terminate the Certificate of Compliance. The hearing procedure for said revocation shall be the same procedure as that set forth under Section 1.01(4)(D) of this Chapter.

**(H) EXISTING USES.** All uses existing at the time of adoption of this Zoning Ordinance that now require a Certificate of Compliance may continue in the same manner of operation as the use did upon the effective date of this Zoning Ordinance. The Zoning Administrator may require a Certificate of Compliance for the use. Any enlargement, structural alteration, or intensification of use shall require a Certificate of Compliance as provided for above. The Zoning Administrator may impose additional, reasonable conditions for the continuation of such use in accordance with the regulations as set forth in the Zoning Ordinance.

**1.01(7) ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENTS.**

**(A)** No use shall be approved prior to review by the Zoning Administrator to determine compliance with Minnesota Statute §Chapter 116C and D and the regulation promulgated thereunder. The following are common projects which would require a mandatory Environmental Assessment Worksheet (EAW). This list is intended as informational only and is not all inclusive:

- a. Development of facility for the extraction or mining of sand, gravel, stone, or other non-metallic minerals which will excavate more than 40 acres of land to a mean depth of 10 feet or more during its excavation;
- b. Residential development consisting of 50 or more unattached units in an unsewered area or 100 unattached units in a sewerred area; and
- c. Construction of a new or expansion of an existing industrial, commercial, or institutional facility of 100,000 square feet in an area.

**1.01(8) NONCONFORMING USES, STRUCTURES, AND LOTS.**

**(A) NONCONFORMING SITUATIONS.** Within the Districts established by this Zoning Ordinance or amendments that may later be adopted, situations may occur where as a result of the regulations contained in this Zoning Ordinance, an existing lot or structure, or use of an existing lot or structure, does not conform to one or more of the regulations contained in this Zoning Ordinance. It is the intent of this Zoning Ordinance to regulate such nonconforming situations in such a way that they can continue, but will ultimately be phased out by prohibiting their enlargement, expansion, or alteration, re-establishment after discontinuance or abandonment, or restoration after damage or destruction.

**(B) NONCONFORMING USE.**

a. Any use legally existing on the effective date of this Zoning Ordinance which is not in conformity with the regulations contained in this Zoning Ordinance shall be allowed to continue, subject to the following conditions:

- 1. No such use shall be expanded, enlarged, or altered, including any increase in the volume, intensity, frequency, or use of property where a nonconforming use exists. A change from one nonconforming use to another nonconforming use is not permitted.
  - 2. A nonconforming use of a parcel of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that use involving the removal of natural materials, such as sand or gravel. This one use may be expanded within the boundaries of the parcel where the use was established at the time it became nonconforming, subject to any other standards contained in any ordinances of Pine County.
  - 3. A nonconforming use which has been discontinued for a period of twelve (12) consecutive months shall not be re-established and any further use shall be in conformity with the regulations of this Zoning Ordinance.
  - 4. If a structure used for a nonconforming use is damaged to the extent that the cost of repair or replacement would exceed fifty percent (50%) of the appraised valuation of the damaged structure, then the damaged structure shall not be restored, repaired or replaced, except in conformity with this Zoning Ordinance. "Appraised Value" shall mean the market value of the property as determined by the current records of the County Assessor for the year in which damage was done.
- b. All nonconforming projects on which a building permit has been issued may be completed in accordance with the terms of their permit as long as the permit is valid.
- c. The City Council may require that a Conditional Use Permit be issued for the nonconforming use.

**(C) NONCONFORMING STRUCTURE.**

a. Any structure existing on the effective date of this Zoning Ordinance which is not in conformity with the regulations contained in this Zoning Ordinance shall be allowed to continue, subject to the following conditions:

- 1. No such structure shall be expanded, enlarged, or altered, without first obtaining a variance, provided however, that a nonconforming structure may be enlarged, altered, or expanded without the necessity of obtaining a variance as long as each of the following conditions can be met for the District in which the structure is located:
  - i) This enlargement, alteration, or expansion itself does not violate any other provisions of this Zoning Ordinance, other than the



provision that made the structure nonconforming in the first place.

ii) Long-term sewage disposal needs can be met.

- 2. A nonconforming structure except a nonconforming dwelling unit used as the primary residence, which is destroyed or damaged by any means to the extent that the cost of repair or replacement would exceed fifty percent (50%) of the appraised value of the original structure shall not be restored, repaired, or replaced, except in conformity with this Zoning Ordinance. If a structure cannot be placed on the lot meeting all current standards, the variance procedure must be followed. For the purposes of this Zoning Ordinance the term "Appraised Value" shall mean the market value of the property as determined by the current records of the County Assessor for the year in which damage was done.
- 3. Nothing in this Zoning Ordinance shall prevent repair of a structure when said structure is declared unsafe by a certified Building Inspector, providing the cost of the repairs shall not constitute more than fifty percent (50%) of the appraised value of the original structure.
- 4. All construction projects for which a valid building permit was granted before the effective date of this Zoning Ordinance may be completed although the structure would not meet newly established standards of this Zoning Ordinance.

**(D) NONCONFORMING LOTS.**

- a. Any separate lot or parcel created in accordance with the City of Finlayson Subdivision Regulations and of record in the Pine County Recorder's Office on or before the effective date of this Zoning Ordinance may be used for the legal use for which it is zoned, provided:
  - 1. It has a minimum of eighty (80) percent of the required frontage on an improved public road or on a private road approved by the City; to be considered an approved private road, the City Council must, by resolution, specify the road, indicate the road is capable of supporting emergency vehicles, and specify that provisions exist for on-going maintenance of the road; and
  - 2. An on-site waste disposal system can be installed in accordance with Pine County Individual Sewage Treatment System Regulations; and
  - 3. All other requirements of this Zoning Ordinance can be met.
- b. If in the case of two (2) or more contiguous lots or parcels of land under a single ownership, any individual lot or parcel does not meet the minimum requirements of this Zoning Ordinance, such individual lot or parcel cannot be considered as a

separate parcel of land for purposes of sale or development but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land meeting the full requirements of this Zoning Ordinance.

- c. A conforming lot shall not be reduced in size so that it would become nonconforming in any aspect of this Zoning Ordinance. A nonconforming parcel shall not be reduced in size.
- d. Where a nonconforming lot of record contains a conforming principal structure, said principal structure may be enlarged, altered, or expanded without a variance provided:
  - 1. The enlargement, alteration, or expansion meets all other standards of this Zoning Ordinance.
  - 2. Long term sewage disposal needs can be met.

**1.01(9) VARIANCES.** A variance is the modification or variation of the Zoning Regulations where it is determined that, by reason of exceptional circumstances, the strict enforcement of the Zoning Ordinance would cause unnecessary hardship.

- a. No variance may be granted that would allow any use that is prohibited in the Zoning District in which the subject property is located.
- b. An application for a variance shall be filed with the Zoning Administrator; the application shall be accompanied by development plans showing such information as the Zoning Administrator may require for purposes of this Zoning Ordinance. If the application does not contain all required information, the Zoning Administrator shall send notice within ten (10) days of receipt of the request, telling the applicant what information is missing.
- c. Variances shall only be permitted when they are in harmony with the general purpose and intent of the Zoning Ordinance in cases when there are practical difficulties or particular hardships in the way of carrying out the strict letter of any official control and when the terms of the variance are consistent with the Comprehensive Plan.
- d. Hardship as used in connection with the granting of a variance means:
  - 1. The property in question cannot be put to a reasonable use if used under conditions allowed by the Zoning Ordinance; and
  - 2. The plight of the landowner is due to circumstances unique to the property, not created by the landowner; and
  - 3. The variance, if granted, will not alter the essential character of the locality.
  - 4. Economic conditions alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Zoning Ordinance.
  - 5. The Planning Commission may consider the inability to use solar energy systems a "hardship" in the granting of a variance.

- e. Variances shall be granted for earth sheltered construction as defined in Minnesota Statute §216C.06, Subd. 14, when in harmony with this Zoning Ordinance.
- f. Where, in the opinion of the Planning Commission, a variance may result in a material adverse effect on the environment, the applicant may be requested by the Planning Commission to demonstrate the nature and extent of that effect.
- g. The Planning Commission may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties and the public interest.
- h. No application for the same variance as ruled upon by the Planning Commission shall be resubmitted for a period of twelve (12) months from the date of denial of the previous application unless there has been a substantial change in circumstances as it relates to the request.

**1.01(10) CHANGES AND AMENDMENTS.**

- (A) An amendment to this Zoning Ordinance may be initiated by the City Council, the City Planning Commission, or by petition of the affected property owners. An amendment not initiated by the City Planning Commission shall be referred to the City Planning Commission for their study, report, and recommendation, and may not be acted upon by the City Council until it has received the recommendation of the City Planning Commission or sixty (60) days have elapsed from the date of the first meeting of the City Planning Commission following reference of the amendment without a report by the City Planning Commission.
- (B) In connection with the adoption by ordinance of any amendment of this Zoning Ordinance, or any other Official Control, in addition to any notice required by this Zoning Ordinance notice of the time, place and purpose of the hearing shall be given in the manner provided by Minnesota Statutes §394.26 and §375.51.
- (C) No application for an amendment to the City Zoning Ordinance or amendment of any other Official Controls shall be resubmitted for a period of twelve (12) months from the date of denial of a previous application, unless conditions have substantially changed.

**1.01(11) ENFORCEMENT.**

- (A) **VIOLATIONS.** The violation of any provision of this Zoning Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Zoning Ordinance shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to the fine, imprisonment, or both; plus in either case, the cost of prosecution.
- (B) **PENALTIES.** Unless otherwise provided, each act of violation and every day on which such violation occurs or continues, constitutes a separate offense.
- (C) **APPLICATION TO CITY'S PERSONNEL.** The failures of any officer or employee of the City to perform any official duty imposed by this Zoning Ordinance shall not subject the officer or employee to a penalty imposed for

violation unless a penalty is specifically provided for such failure.

- (D) **EQUITABLE RELIEF.** In the event of a violation or the threatened violation of any provision of this Zoning Ordinance or any provision or condition of a permit issued pursuant to this Zoning Ordinance, the City, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.

**1.01(12) SEPARABILITY.**

- (A) It is hereby declared to be the intent that the several provisions of this regulation are separable in accordance with the following:
  - a. If any court of competent jurisdiction shall adjudge any provision of this regulation to be invalid, such judgment shall not affect any other provisions of this regulation not specifically included in said judgment.
  - b. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this regulation to a particular property, building, or structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

**1.01(13) FEES AND PENALTIES.**

- (A) **PERMIT FEES.** All persons, firms, or corporations performing work which is by this Ordinance required the issuance of a permit shall pay a fee for such permit to the City Clerk to help defray the cost of administration, investigation, advertising and processing of permits and variances. The permits, for which a fee is required, are available from the City Clerk or Zoning Administrator. A fee shall also be required for a zoning text or map amendment, and a zoning appeal or variance. Any action requiring a public hearing shall require a fee to cover the cost of the public hearing and attendant publication costs. All fees shall be established by resolution by the City Council from time to time as deemed appropriate.
- (B) **DOUBLE FEE.** A double fee shall be charged by the Zoning Administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.
- (C) **VIOLATIONS.** It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this Ordinance. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In case of any violation, the City Council, Zoning Administrator, the City Planning Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Ordinance.
- (D) **CIVIL REMEDIES.** In addition to or as an alternative remedy to the penalties set forth in 1.01(13)(E), the City may elect to pursue civil action against landowners, persons in possession of property, and/or occupants

who are in violation of this Ordinance upon the following provisions:

- a. If the Zoning Administrator finds that any landowner, person in possession of property, and/or occupant subject to the provisions of this Ordinance is in violation of the provisions of this Ordinance, the landowner, person in possession including any occupant shall be notified of the violation in writing.
- b. If the landowner, person in possession and/or occupant fails to comply with this ordinance within twenty (20) days after notification, the Zoning Administrator shall advise the City Council. If the Council determines that the landowner, person in possession and/or occupant is in violation it shall order compliance with the Ordinance. If the landowner fails to take action to fully and finally bring the property into compliance with the Ordinance within the time allowed by the City, the matter shall be referred to legal counsel who shall initiate a District Court proceeding setting forth the violation, a demand for remediation, corrections, abatement or such other and further relief as will end the violation and for legal fees, administrative fees, costs and expenses and such actual costs as will be incurred by the City in undertaking the corrective work, remediation, abatement, or other required work.
  - 1. Recovery of Costs. The owner of the land shall be personally liable for the costs incurred by the City for remediation, correction, abatement, or other action necessitated by the violation including legal and administrative fees and costs. Upon completion of work performed or directed by the City, the City shall prepare an invoice for the fees, costs, and expenses and mail it to the owner of the land. The amount invoiced shall be immediately due and payable at the City hall.
  - 2. Assessment. If the City is not fully reimbursed for all its reasonable costs incurred in the remediation, correction, abatement or other relief required to terminate a violation hereunder, said cost may be assessed in the manner of a special assessment under Minnesota Statutes Chapter 429 against the lot or property to which the costs, charges, and fees are attributed. The City Council shall certify the assessment to the County Auditor for collection along with the real estate taxes for the following year or in annual installments, not exceeding three (3) years, as the City Council may determine in each case.

**(E) PENALTIES.** Any person, firm, or corporation that fails to comply with the provisions of this Ordinance shall, be subject to penalties as provided by state statute. Each day a violation exists or continues shall constitute a separate offense, except that in order for the defendant to be charged with a second offense it shall be a separate and distinct violation as opposed to a continuing daily violation on the same provision.

**1.01(14) EFFECTIVE DATE.**

**(A)** The regulations contained in this Chapter shall become effective from and after passage and publication according to law.

**CHAPTER 2  
ZONING REGULATIONS  
ZONING MAPS, DISTRICTS AND USES**

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**2.01. ZONING REGULATIONS.**

**2.01(1) ZONING MAPS, DISTRICTS AND USES.** For the purpose of this Zoning Ordinance, the regulations contained in this Chapter shall become effective from and after passage and publication according to law. If any court of competent jurisdiction shall adjudge any provision of this regulation to be invalid, such judgment shall not affect any other provisions of this regulation not specifically included in said judgment. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this regulation to a particular property, building or structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

The City is divided into Districts. Each District has: a) primary uses; b) uses allowed with a Certificate of Compliance; and c) uses allowed with a Conditional Use Permit as herein defined. Unless a use is specifically defined as a primary use or allowed with a Certificate of Compliance or a Conditional Use Permit, it is a prohibited use.

**(A) ZONING MAPS.** The boundaries of the Districts are as shown on the map published and made part hereof. This map is designated as the Official Zoning Map of the City, and shall be maintained by the Zoning Administrator. The District boundary lines on this map are intended to follow street right-of-way lines, street centerlines, or lot lines unless such boundary is

indicated otherwise on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the District boundary lines shall be determined by use of dimensions or the scale appearing on the map. All of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and are made a part of this Part by reference and incorporated herein fully as if set forth herein at length. Whenever any street or public way is vacated, any Zoning District line following such centerline of said vacated street or way shall not be affected by such vacation.

**(B)** Where a District boundary line divides a parcel which is in single ownership, the extension of the regulations for either portion of the parcel may be interpreted for the whole parcel by the Zoning Administrator upon request by the owner.

**(C)** When uses in a District are listed as both primary, permitted with a Certificate of Compliance, or Conditional Use Permit, or when any other conflict appears in the Zoning Ordinance with respect to uses within a District, the more restrictive provisions shall be applied.

**2.01(2) "A-1", AGRICULTURAL DISTRICT AND USES.**

**(A) PURPOSE AND SCOPE.**

a. "A-1", Agricultural District. The "A-1" District, as shown on the Zoning District map, is established to preserve agriculture as a viable long term land use and significant economic activity.

**(B) LAND USES IN AGRICULTURAL DISTRICTS.**

- a. Permitted Uses.
  - 1. Agriculture
  - 2. Single Family Residential
- b. Uses with a Certificate of Compliance. The following uses are permitted in the "A-1" District after the issuance of a Certificate of Compliance:
  - 1. Accessory Apartments
  - 2. Agricultural Business - Seasonal
  - 3. Essential Services - Government Uses, Buildings, and Storage
  - 4. Essential Services - Utility Substation
  - 5. Home Occupation
  - 6. Horse Training Facility, Commercial (10 horses or less)
  - 7. Horse Training Facility, Private (10 horses or less)
  - 8. Livestock and Livestock Operations (up to 49 animal units)
  - 9. Plant Nursery
  - 10. Temporary Care Facility
  - 11. Temporary Dwelling Unit - Construction
  - 12. Temporary Farm Dwelling
- c. Uses with a Conditional Use Permit. The following uses are permitted in the "A-1" District after the issuance of a Conditional Use Permit:

1. Bed and Breakfast Inn
2. Cemeteries
3. Commercial Kennel
4. Golf Course
5. Golf Driving Range
6. Horse Training Facility, Commercial (More than 10 horses)
7. Livestock and Livestock Operations (50 or more animal units)
8. Mining Operations
9. Place of Worship
10. Public Recreation Facility
11. Recreational Use, Passive
12. Schools
13. Travel Trailer/ Recreational Vehicle Campground
14. Wireless Communication Facility
15. Yard Waste Facility
16. Other uses determined by the Planning Commission to be of the same general character as the uses listed above and found not to be detrimental to the general public health and welfare.

**2.01(3) "R-R" RURAL RESIDENTIAL DISTRICT AND USES. (2.5-ACRE MINIMUM)**

**(A) PURPOSE AND SCOPE.** The Rural Residential District provides residential areas in developing rural areas. The purpose of this District is to provide lots large enough to maintain a semi-rural setting.

**(B) LAND USES IN RURAL RESIDENTIAL DISTRICTS.**

- a. Permitted Uses. The following are permitted uses in the "R-R" District:
  1. Agriculture
  2. Single Family Residential
- b. There are no uses with a Certificate of Compliance in this District.
- c. Uses with a Conditional Use Permit. The following uses are permitted in the "R-R" District after the issuance of a Conditional Use Permit:
  1. Agricultural Business - Seasonal
  2. Essential Services - Government Uses, Building, and Storage
  3. Essential Services - Utility Substation
  4. Home Occupation
  5. Cemeteries
  6. Day Care Facility
  7. Golf Course
  8. Place of Worship
  9. Public Recreation Facility
  10. Schools
  11. Temporary Dwelling Unit - Construction
  12. Temporary Farm Dwelling
  13. Horse Training Facility, Private (10 horses or less)

14. Livestock and Livestock Operations (over 10 animal units). Operations existing at the date of record of this Ordinance do not require a Conditional Use Permit.
15. Mining and Gravel Extraction
16. Other uses determined by the Planning Commission to be of the same general character as the uses listed above and found not to be detrimental to the general public health and welfare.

**2.01(4) "R-C" RESIDENTIAL/COMMERCIAL DISTRICT AND USES. (2.5-ACRE MINIMUM).**

**(A) PURPOSE AND SCOPE.** The Residential/Commercial District provides for areas that have been developed or could be developed with a commercial business either as a stand-alone business or as a part of the residential use.

**(B) LAND USES IN RESIDENTIAL/COMMERCIAL DISTRICTS.**

- a. Permitted Uses. The following are permitted uses in the R-C District:
  1. Agriculture
  2. Single Family residential
- b. There are no uses with a Certificate of Compliance.
- c. Uses with a Conditional Use Permit. The following are permitted in the R-C District after the issuance of a Conditional Use Permit:
  1. Agricultural Business - Seasonal
  2. Essential Services - Government Uses, Building, and Storage
  3. Essential Services - Utility Substation
  4. Home Occupation
  5. Cemeteries
  6. Day Care Facility
  7. Golf Course
  8. Place of Worship
  9. Public Recreation Facility
  10. Schools
  11. Temporary Dwelling Unit - Construction
  12. Temporary Farm Dwelling
  13. Horse Training Facility, Private (10 horses or less)
  14. Livestock and Livestock Operations (over 10 animal units). Operations existing at the date of record of this Ordinance do not require a Conditional Use Permit.
  15. Mining and Gravel Extraction
  16. Automotive Sales and Service
  17. Body Shop
  18. Cabinet Shop
  19. Craft (Creating and Sales)
  20. Detail Shop
  21. Equipment Rental
  22. Farm Equipment (Sales and Service)

- 23. Flea Market
- 24. Metal Fabricating and Welding
- 25. Self-Storage
- 26. Other uses determined by the Planning Commission to be of the same general character as the uses listed above and found not to be detrimental to the general public health and welfare.

**2.01(5) OPEN SPACE DESIGN (RURAL CLUSTER) DISTRICT AND USES.**

**(A) PURPOSE AND SCOPE.** The Open Space Design District is intended to:

- a. Allow development that permanently preserves the open space, agricultural lands, woodlands, wetlands, critical views and other natural features;
- b. Allow limited development in rural areas that do not contain natural resources;
- c. Allow limited development in areas outside the City where urban services will not be extended;
- d. Allow flexibility in the placement and type of dwelling units within the subdivision;
- e. Promote the use of shared septic, drinking water and stormwater systems that prevent the degradation of water quality;
- f. Reduce the amount of new roads and to allow flexibility in road specifications for roads serving residences in the District; and
- g. Reduce the amount of impervious surfaces in subdivisions, including driveways.

**(B) DEFINITIONS.** For the purpose of this Ordinance, certain words and phrases are defined as follows:

- a. **AGRICULTURAL LAND.** Land whose use is devoted to the production of livestock, dairy animals, dairy products, poultry, poultry products, nursery plants; Christmas trees; forages and sod crops; grains and feed crops; and other similar uses and activities, including equestrian activities.
- b. **CONSERVATION EASEMENT.** As defined in Minnesota Statute §Chapter 84C.01(1): A nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.
- c. **DESIGNATED OPEN SPACE.** Open space that is designated within a conservation subdivision to be placed under a conservation easement permanently restricting future development.
- d. **GROSS DENSITY.** A density standard establishing the number of dwelling units allowed to be built in a conservation subdivision.
- e. **PRIMARY CONSERVATION AREA.** Lands identified in the resource inventory and subdivision

application as having important natural values that should be permanently protected such as wetlands, floodplains, steep slopes, unique habitat, productive agricultural soils, and forested land.

- f. **SECONDARY CONSERVATION AREA.** Lands identified in the resource inventory and subdivision application as lands that complement or provide a buffer to the primary conservation areas, or provide additional open space or recreational lands.
- g. **UNDEVELOPABLE AREA.** Those lands in a proposed subdivision that are restricted from development due to environmental conditions such as steep slopes, the presence of wetlands or waterways, or are restricted from development under other ordinances adopted by the City.

**(C) PERFORMANCE STANDARDS.**

- a. The minimum size of subdivision in the Open Space District is 20 acres.
- b. A subdivision of over 10 but less than 20 acres may apply for subdivision approval under this ordinance if the subdivision meets all the requirements for an Open Space Subdivision, plus the following additional requirements:
  - 1. The visual impact of the subdivision from adjacent roadways, residences, and agricultural fields is mitigated through additional landscaping which complements the prevailing landscape.

**(D) MAXIMUM GROSS DENSITY.**

- a. The maximum gross density in Open Space Subdivisions shall not exceed 50% of the total area.
- b. Gross density for all subdivisions allowed under this Ordinance shall be calculated using the following method:  

$$\frac{\text{Total Acres}}{1 \text{ Unit/Acre}} \times 0.50 = \text{Maximum Density}$$

Example:  $\frac{35 \text{ Acres}}{1 \text{ Unit /Acre}} \times 0.50 = 17.5 \text{ units}$  (Rounded down to 17)

 Calculations resulting in 0.50 or less are rounded down.
- c. The most restrictive of the calculations of a. and b. shall apply.

**(E) OPEN SPACE REQUIREMENT.**

- a. Open Space Subdivisions shall identify a conservation theme. Conservation themes may include, but are not limited to: forest preservation, water quality preservation, farmland preservation, or viewshed preservation. The conservation theme should guide the location and use of the designated open space.
- b. Fifty percent (50%) of the total acreage in the application, including developable and undevelopable land, shall be designated as open space for natural habitat, active or passive recreation, and/or conservation or preservation, including conservation for agricultural and forestry uses.

- c. Where possible, designated open space shall be contiguous with open space uses on adjacent parcels in order to provide large expanses of open space.
- d. Open space in Open Space Subdivisions shall be physically connected whenever possible. Designated public trail systems which abut an Open Space Subdivision shall be connected through the subdivision.
- e. Access shall be provided to designated active or passive recreation areas or open space or natural areas from one or more streets in the subdivision.
- f. Access will not be required if the open space is to remain in active agriculture or forestry or if the natural areas contain habitat where public access should be limited.
- g. No more than fifty percent (50%) of the designated open space shall be wetlands and/or floodplains.
- h. Primary on-site sewer site(s) and alternate on-site sewer site(s) are to be provided in the open space. All sites shall qualify for standard on-site systems.

**(F) OPEN SPACE OWNERSHIP AND MANAGEMENT.** All lands and improvements in designated open space shall be established, managed and maintained in accordance with the following guidelines:

- a. Designated open space shall be surveyed and subdivided as a separate parcel or parcels.
- b. Designated open space must be restricted from further development by a permanent conservation easement (in accordance with Minnesota Statute §Chapter 84C.01 - 05) running with the land. The permanent conservation easement must be submitted with the preliminary site plan and approved by the Zoning Administrator, City Attorney, and Governing Body.
  - 1. The permanent conservation easement may be held by the following entities, but in no case may the holder of the conservation easement be the same as the owner of the underlying fee:
    - i) City, County, or other governmental agency; and/or
    - ii) A private, nonprofit organization that has been designated by the Internal Revenue Service as qualifying under Section 501(c)(3) of the Internal Revenue Code.
  - 2. The permanent conservation easement must specify:
    - i) what entity will maintain the designated open space;
    - ii) the purposes of the conservation easement and the conservation values of the property;
    - iii) the legal description of the land under the easement;
    - iv) the restrictions on the use of the land;
    - v) the restriction from future development of the land;

- vi) to what standards the open space will be maintained; and
- vii) who will have access to the open space.
- c. Ownership of the underlying fee of each designated open space parcel, subject to the terms of the permanent conservation easement, may be held by:
  - 1. A common ownership association which owns non-open space land within the subdivision and in which membership in the association by all property owners in the subdivision shall be mandatory;
  - 2. An individual who will use the land in accordance with the permanent conservation easement;
  - 3. The City, or other governmental agency;
  - 4. A private, nonprofit organization that has been designated by the Internal Revenue Service as qualifying under Section 501(c)(3) of the Internal Revenue Code; or
  - 5. A combination of the entities in subsection 1.-4. above.
- d. The owner of the underlying fee shall be responsible for the payment of taxes and assessments on any designated open space, parcel.

**(G) UTILITIES.** Individual well and septic systems are allowed in Open Space Subdivisions; however, common utilities (shared water and/or sewer or septic systems) are encouraged. Common utilities must meet Minnesota Pollution Control Agency standards for sewage treatment systems and be approved by Pine County, if appropriate.

- a. Communal drainfields for shared septic systems shall be completely located in designated open space, provided that:
  - 1. The dedicated open space parcel containing the communal drainfield is owned in fee by a common ownership association which owns non-open space land within the subdivision and in which membership in the association by all property owners in the subdivision is mandatory;
  - 2. The common ownership association is responsible for maintenance and repair of the communal drainfield;
  - 3. The ground cover is restored to its natural condition after installation;
  - 4. Recreational uses are prohibited above or within fifty feet of communal drainfields; and
  - 5. The conservation easement for the dedicated open space parcel describes the location of the communal drainfield.
- b. To ensure protection of ground and surface waters in the Conservation area, Open Space Subdivisions that do not use common utilities must provide for, in an ownership association, joint maintenance of individual wastewater systems through a Responsible Management Entity.

- (H) LOT AND BUILDING SITE DESIGN.** Lots and building sites must be designed to achieve the following objectives listed in order of priority:
- a. Locating individual and communal septic systems on the most suitable soils for sub-surface septic disposal.
  - b. Locating lots and building sites on the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural use.
  - c. Locating building sites to minimize the impact of blocks of forest land and to maximize the continuity of forest lands.
  - d. Locating building sites within any non-production forest land contained in the lot, or along the edges of open fields adjacent to woodlands only as a means to reduce the impact on agriculture, to provide summer shade and shelter from winter wind, and/or to enable buildings to be visually absorbed by natural landscape features.
  - e. Locating building sites in areas least likely to block or interrupt scenic vistas as viewed from roads.
- (I) BUFFER ZONES.** Buffer zones of at least one hundred (100) feet are required between residential structures and agricultural uses. The buffer zone must be included in the area to be subdivided and not within any designated open space. The buffer areas must be appropriately planted with native grasses, forbs, shrubs and trees, and/or permanent agroforestry features such as fruit or nut trees, and/or a windbreak. Roads may be substituted for the buffer if the road creates an effective barrier separating yards from agricultural uses as determined by the Zoning Administrator.
- (J) STREETS.** Streets within the Open Space Subdivision must be developed according to the following standards that promote road safety, minimize visual impacts, and minimize impervious surfaces:
- a. Streets must be designed to minimize the visual size and scale of the development and discourage excessive speeds.
  - b. Street widths and construction must conform to the width and standards contained in the City's street cross section without curb and gutters as adopted by the City's Subdivision Ordinance.
  - c. Street surface for local streets within the subdivision may be gravel, or other surface with high permeability, unless the streets are an extension of existing paved roads.
  - d. The number of local street intersections with collector and arterial roads should be minimized; however, the applicant must demonstrate that such intersections are adequate, have the capacity to handle traffic generated by the proposed project, and will not endanger the safety of the general public.
  - e. If Open Space Subdivisions abut one another or existing development, direct links should be made to emphasize the connection between existing and new development.

- (K) SUBDIVISION PROCESS.** The subdivision process for an Open Space Subdivision must comply with the City of Finlayson Subdivision Ordinance and at a minimum must include the following:
- a. A pre-application meeting with the Zoning Administrator to discuss:
    1. The application process;
    2. The conservation theme;
    3. Any proposed common ownership plans for land and structures; and
    4. Management and ownership of designated open space.
  - b. Submission of a Concept Plan that contains:
    1. Base mapping at a scale of 1" = 100' (one inch equals 100 feet);
    2. A mapped resource inventory that includes:
      - i) topographic contours at 10-foot intervals;
      - ii) soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock, and suitability for wastewater disposal systems;
      - iii) hydrologic characteristics, including surface water bodies, floodplains, wetlands, natural swales and drainageways;
      - iv) vegetation present on the site according to cover type (pasture, woodland, etc.) and vegetative type (classified as generally deciduous, coniferous or mixed), and described by plant community (such as the Minnesota Department of Natural Resources Natural Heritage Community types), relative age and condition, also noting trees with a caliper of more than 18 inches; and
      - v) current land use including all buildings and structures.
    3. A site analysis that identifies, precisely locates, and for i. and ii. calculates the acreage of:
      - i) primary conservation areas, including protected wetlands, floodplains, natural resource protection zones, steep slopes;
      - ii) secondary conservation areas;
      - iii) special views;
    4. Net developable acreage and allowed gross density as defined in 2.01(5)(B).
    5. Street and open space concept;
    6. Street sections;
    7. Building setbacks;
    8. Parcel lines and building placement concepts for residential and accessory buildings;
    9. Natural resource and tree protection plan;
    10. Landscape plan;
    11. Utility easements; and
    12. If applicable, statement of intent to establish a homeowners association.



- c. A meeting with the Zoning Administrator to review the Concept Plan.
- d. Submission of a Preliminary Site Plan and review by the Planning Commission and City Council.
- e. Submission of a Final Site Plan and review by the Planning Commission and City Council.

**(L) PERMITTED USES.** The following are permitted uses in the Open Space Subdivision District:

- a. In Open Space Subdivisions served by individual well and septic systems:
  - 1. Agriculture, including farm dwellings and agricultural related buildings and structures subject to Minnesota Pollution Control Standards, but not including animal feedlots or other commercial operations;
  - 2. Commercial and non-commercial forestry;
  - 3. Public parks, recreational areas, wildlife areas and game refuges;
  - 4. Conservation easements;
  - 5. Single family detached dwellings;
  - 6. Boarding (house) home - foster children. Restricted to serving six (6) or fewer persons.
  - 7. Day care home - Restricted to a family dwelling in which foster care, supervision, and training for children of school or pre-school age, out of their own home is provided during part of a day (less than 24 hours) with no overnight accommodations or facilities and children are delivered and removed daily. All such uses shall be licensed in accordance with state law and Minnesota Department of Public Welfare Regulations and such facilities are restricted to serving ten (10) or fewer persons.
- b. In Open Space Subdivisions served by approved common utilities;
  - 1. Agriculture, including farm dwellings and agricultural related buildings and structures subject to Minnesota Pollution Control Standards, but not including animal feedlots or other commercial operations;
  - 2. Commercial or non-commercial forestry;
  - 3. Public parks, recreational areas, wildlife areas and game refuges;
  - 4. Conservation easements;
  - 5. Single-family detached dwellings;
  - 6. Two-family dwellings;
  - 7. Townhouses;
  - 8. Boarding (house) home - foster children. Restricted to serving six (6) or fewer persons.
  - 9. Day Care Home. Restricted to a family dwelling in which foster care, supervision and training for children of school or pre-school age and/or adult care out of their own home is provided during part of a day (less than twenty-four hours) with no overnight accommodations or facilities and persons are delivered and removed daily. All such uses

shall be licensed in accordance with state law and Minnesota Department of Public Welfare Regulations, and such facilities are restricted to serving ten (10) or fewer persons.

**(M) ACCESSORY USES.** The following are permitted accessory uses in the Open Space Subdivision District:

- a. Private garages, parking spaces and car ports for licensed and operable passenger cars and trucks not to exceed a gross capacity of twelve thousand pounds. Private garages are intended for use to store the private passenger vehicles of the family or families resident upon the premises, and in which no business, service or industry is carried on. Such space can be rented to nonresidents of the property for private passenger vehicles and/or noncommercial vehicles, trailers or equipment if sufficient off-street parking in full compliance with this title is provided elsewhere on the property. Such garage shall not be used for the storage of more than one commercial vehicle owned or operated by a resident per dwelling unit;
- b. Parking of recreational vehicles and equipment;
- c. Accessory uses in side yards shall be limited to garages and carports only;
- d. Accessory buildings are permitted in any rear yard.
- e. Home occupations in accordance with other regulations of this ordinance.
- f. Noncommercial greenhouses and conservatories;
- g. Swimming pool, tennis courts and other recreational facilities which are operated for the enjoyment and convenience of the residents of the principal use and their guests;
- h. Tool houses, sheds and similar buildings for storage of domestic supplies and noncommercial recreational equipment;
- i. Boarding or renting of rooms to not more than one person;
- j. Fencing, screening and landscaping as permitted and regulated by other City Ordinances;
- k. Boat houses, piers and docks;
- l. Signs in compliance with this ordinance.

**(N) CONDITIONAL USES.** The following are conditional uses in the Open Space Subdivision District that require a conditional use permit based upon procedures, factors and conditions set forth in this ordinance:

- a. Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutions, limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues;
- b. Governmental and public utility buildings and structures necessary for the health, safety and general welfare of the community;

**(O) DESIGN STANDARDS.** The following are minimum design standards for the Open Space Subdivision District.

- a. Dwelling units in this zoning district must meet the following minimum structural design standards.
  - 1. Minimum square footage:
    - i) Single-family detached dwelling: Minimum ground floor area shall be 900 finished square feet.
    - ii) Two-family dwelling units: Minimum ground floor area shall be 900 finished square feet and each dwelling unit shall have a minimum of 900 finished square feet.
    - iii) Townhouses: Each dwelling unit shall have a minimum of 900 finished square feet.
  - 2. Permanent full perimeter frost footings with foundation walls of concrete, concrete block, or wood.
  - 3. Compliance with the requirements of the State Building Code.
- b. Garages in this zoning district must meet the following minimum structural design standards.
  - 1. A minimum of one garage stall shall be built for each dwelling unit. Provisions for an additional parking space must be provided on original plans.
- c. Accessory buildings in this zoning district must meet the following minimum structural design standards.
  - 1. Shall not be erected within five feet of any lot boundary or alley.
  - 2. The total area of all accessory buildings to be erected on any lot shall not cover more than twenty percent of the rear yard area.
- d. Driveways in this zoning district must meet the following minimum design standards.
  - 1. Minimum width of driveways - 10 feet.
  - 2. Shall be completed within the same time frame as that of the building permit.

**(P) YARD, AREA AND BUILDING SIZE REQUIREMENTS.** The following are yard, area and building size regulations for permitted dwellings units in the Open Space Subdivision District.

- a. Area and bulk requirements in an Open Space Subdivision served by individual well and septic systems are as follows:
  - 1. Lot area: ..... a minimum of 2 acres.
  - 2. Lot width at front yard setback line: ..... minimum of 100 feet
  - 3. Yard dimensions:
    - i) Front yard: ..... minimum 30 feet
    - ii) Side yard (each side): ..... minimum 20 feet or 10% of lot width, whichever is greater
    - ii) Maximum building height: ..... 45 feet
  - 4. Maximum building coverage, including primary and accessory structures: .....10 percent
  - 5. Maximum impervious area: .....15 percent
- b. Area and bulk requirements in Open Space Subdivisions served by approved common utilities

for single-family, two-family and townhouse units shall be the same as those requirements for a. above, except as follows:

- 1. The minimum lot size for single-family dwelling units shall be one-half acre.
- 2. The minimum lot size for two-family and townhouse units shall be 12,000 square feet per unit.
- 3. Maximum building coverage, including primary and accessory structures: ..... 20 percent
- 4. Maximum non-impervious area: ..... 25 percent

**(Q) LANDSCAPING REQUIREMENTS.** A landscape plan for the entire subdivision is required for final site plan approval, and at a minimum must include the following:

- a. All ground cover areas disturbed in the construction process shall be seeded or sodded with low-water usage species or site appropriate native species.
- b. The developer of any dwelling unit shall plant native shade trees. At a minimum, one tree shall be planted for every thirty feet of frontage along each road unless the Planning Commission shall grant a waiver. Such waiver shall be granted only if there are trees growing along such right-of-way or on the abutting property which in the opinion of the Planning Commission comply with these regulations.
- c. Additional landscaping may be required to satisfy buffering requirements.

**(R) OFF-STREET PARKING AND LOADING.** For permitted single-family, two-family, townhouse and apartment dwellings, two (2) free off-street parking and loading spaces per unit shall be provided and maintained.

**2.01(6) R-1 RESIDENTIAL DISTRICT AND USES.**

**(A) PURPOSE AND SCOPE.** The purpose of this district is to provide higher density residential uses on lots where a full range of public utilities and services including sewer and water are available.

**(B) LAND USES IN THE R-1 RESIDENTIAL DISTRICT.**

- a. Permitted Uses. The following are permitted uses in the R-1 Residential District:
  - 1. Agriculture
  - 2. Single Family Residential
- b. Uses with a Certificate of Compliance. The following uses are permitted in the R-1 Residential District after the issuance of a Certificate of Compliance:
  - 1. Accessory Apartment
  - 2. Community Residence (0-6 people)
  - 3. Essential Services - Government Buildings, Storage and Uses
  - 4. Essential Services - Utility Substation
  - 5. Home Occupation
  - 6. Temporary Care Facility - Assisted Living
  - 7. Townhomes

c. Uses with a Conditional Use Permit. The following are permitted in the R-1 Residential District after the issuance of a Conditional Use Permit:

1. Cemeteries
2. Community Residence serving 7-16 people
3. Golf Course
4. Places of Worship
5. Public Recreation Facility
6. Schools
7. Other uses determined by the Planning Commission to be of the same general character as the uses listed above and found not to be detrimental to the general public health and welfare.

**2.01(7) R-2 RESIDENTIAL DISTRICT AND USES.**

**(A) PURPOSE AND SCOPE.** The purpose of this district is to provide higher density residential uses on lots where a full range of public utilities and services including sewer and water are available.

**(B) LAND USES IN THE R-2 RESIDENTIAL DISTRICT.**

a. Permitted Uses. The following are primary uses in the R-2 Residential District:

1. Agriculture
2. Single Family Residential
3. Two Family up through 8 units of Multi-Family Residential

b. Uses with a Certificate of Compliance. The following uses are permitted in the R-2 Residential District after the issuance of a Certificate of Compliance:

1. Accessory Apartment
2. Community Residence
3. Essential Services - Government Buildings, Storage and Uses
4. Essential Services - Utility Substation
5. Home Occupation
6. Temporary Care Facility
7. Temporary Dwelling Unit - Construction

c. Uses with a Conditional Use Permit. The following are permitted in the R-2 Residential District after the issuance of a Conditional Use Permit:

1. Cemeteries
2. Golf Course
3. Places of Worship
4. Public Recreation Facility
5. Schools
6. Townhomes - when 9 units or more
7. Twin Homes - when 9 units or more
8. Condominiums
9. Multi-Family - when 9 units or more
10. Other uses determined by the Planning Commission to be of the same general character as the uses listed above and found

not to be detrimental to the general public health and welfare.

**2.01(8) "MH" MANUFACTURED HOUSING DISTRICT AND USES.**

**(A) PURPOSE AND SCOPE.** The intent of the Manufactured Housing District is to promote health, safety, order, convenience, and general welfare by enforcing minimum standards for manufactured home parks, the location and use of manufactured home parks, and the design, construction, alteration, and arrangement of homes on said lots, authorizing the inspection of manufactured home parks, the licensing of operators, and fixing penalties for violations. No building or land shall be used and no building shall be erected, converted, or structurally altered, unless otherwise provided herein.

**(B) LAND USES IN THE "MH" MANUFACTURED HOUSING DISTRICT.**

a. Permitted Uses. The following are permitted uses in the "MH" Manufactured Housing District:

1. Manufactured homes in manufactured home parks with a maximum age at the time of application not to exceed 10 years as listed on the title.
2. Public parks and playgrounds
3. Essential Services
4. Storm Shelters

b. Permitted Accessory Uses. The following are permitted accessory uses in the MH District:

1. Detached accessory building (120 square foot maximum), 288 square feet for garages.
2. Deck
3. Patio
4. Room Addition up to 200 square feet
5. Entryway airlock up to 50 square feet

c. Uses with a Certificate of Compliance. There are no uses with a Certificate of Compliance in this District.

d. Conditional Uses. The following are conditional uses in the MH District (requires a conditional use permit based upon procedures set forth in and regulated by this Chapter):

1. Improved, enlargement, extension or alteration of an existing manufactured home park.
2. Essential Services - Government buildings, storage and uses.

e. Application. The following procedure must be followed to establish an MH District:

1. In order to obtain approval for a manufactured home park, the property owner shall first apply in writing to the Zoning Administrator on such form as he/she may from time to time designate. Such application shall include a development plan and a plat plan prepared by and bearing the seal of a Minnesota Registered Surveyor or Engineer, and in accordance with platting procedures as set

- forth in the City of Finlayson Subdivision Ordinance.
- f. Design Standards. All manufactured home park site plans shall conform to the following standards:
1. Park Site.
    - i) Shall be drained and properly graded and meet criteria required in shoreland and/or floodplain areas, meet City engineering and building inspection requirements, and requirements stipulated by the local Board of Soil and Water Conservation District.
    - ii) Shall have at least two points of ingress and egress for vehicles and these access points must get written approval from the appropriate entity such as County, City, or Township for the proposed access. The access points must meet their specific design requirements.
  2. Individual Lots.
    - i) Each lot for a manufactured home shall contain at least 5,000 square feet of land area for the exclusive use of the occupant.
      - Width ..... No less than 50 feet
      - Depth ..... No less than 100 feet
      - For single wides, provide a 14 foot by 70 foot raised gravel base. Sod to be removed from base area.
      - For double wides, provide a 28 foot by 56 foot raised gravel base. Sod to be removed from base area.
    - ii) Each manufactured home lot shall have frontage on an approved roadway and the corner of each manufactured home lot shall be marked and each site shall be numbered.
  3. Setbacks.
    - i) A manufactured home or manufactured home park site shall have a minimum setback from adjacent properties of at least 30 feet and this area shall be landscaped. Where a street is adjacent to a property line, a 12 foot landscape area shall be required. Screening and buffer zones shall be established on the perimeter of the manufactured home park in compliance with the provisions of this Chapter.
    - ii) An accessory structure such as an awning, cabana, storage cabinet, carport, windbreak, or porch which has an opaque top or roof shall, for purposes of all separation requirements, be considered to be part of the manufactured home.
    - iii) There shall be an unused area not less than 10 feet in depth along each street or roadway and this area shall be sodded or landscaped, except for required walkways, driveways, or utilities.

- iv) No manufactured home shall be parked closer than 10 feet to the side lot lines nor closer than 30 feet to the front lot line, or within 10 feet of the rear lot line.
  - v) There shall be an open space of at least 20 feet between adjacent manufactured homes, and 10 feet between accessory structure and adjacent manufactured home.
  - vi) Off-street automobile parking spaces shall not be nearer than five feet from any lot line, except in cases of shared driveways and-or shared garages on the lot line.
4. Off Street Automobile Parking.
- i) Each lot shall have off-street parking space for two automobiles.
  - ii) Access drives from roadways and all parking spaces and sites shall be hard surfaced.
  - iii) Parking on-street shall be discouraged and if allowed, restricted to only one side of the street. All on-street parking plans to be approved by the City.
5. Utilities.
- i) All manufactured homes shall be connected to a public water and sanitary sewer system approved by the State Department of Health, the City Engineer, and the City Council. Common systems for septic/water will be allowed as long as they meet all State requirements.
  - ii) Disposal of surface storm water shall conform to City storm water management plans and shall be approved by the City Engineer and City Council.
  - iii) All utilities shall be underground including those for street and exterior lighting purposes. There shall be no overhead wires or supporting poles.
6. Internal Roadways, Streets, and Sidewalks.
- i) Roadways shall be hard surfaces to meet the standards for at least a seven ton street, unless the applicant can demonstrate that a lesser roadway will be feasible, along with plans to keep heavy service type trucks from entering the park. All roadway surface plans to be approved by the City Staff and/or City Engineer.
  - ii) All roads shall have concrete, mountable, roll type curbs and gutters.
  - iii) All streets shall have a roadbed of not less than 24 feet in width. No parking shall be permitted on the street unless the roadbed shall be at least 32 feet in width, and in this case will still be limited to one side for street parking purposes.
  - iv) All streets and ways are hereby declared public only to the extent that they shall be under the supervision and control of the

- police enforcement powers of the City with respect to traffic laws and such other laws as shall be applicable to public ways and places.
7. Landscaping.
    - i) Each individual lot shall be properly landscaped with grass or sod.
    - ii) A compact hedge, privacy fence, or landscaped area shall be installed around each manufactured home park and be maintained at times.
    - iii) All areas shall be landscaped in accordance with a plan approved by the City Council.
  - g. General Regulations. The owner of a manufactured home park shall be responsible for assuring that the following regulations are complied with by the park and its occupants:
    1. All areas of the park shall be properly drained, kept free from dust and maintained clean and free from refuse and debris.
    2. All individual manufactured homes shall be owner occupied except that each owner may lease his or her manufactured home to a lessee for a period not to exceed five months in any calendar year. The park owner shall maintain a record of all such leases.
    3. The placement of more than one manufactured home on any single lot unit shall not be permitted.
    4. Manufactured homes shall not be used for residential purposes if they:
      - i) Do not conform to the requirements of the Manufactured Home Code of the State of Minnesota (Minnesota Rules, Chapter 1350).
      - ii) Have not been issued a permit by the Building Official. This includes additions, decks, and accessory structures over 120 square feet in area.
    5. The operator of every manufactured home park shall maintain a registry of the park showing:
      - i) The name and address of each resident manufactured home owner.
      - ii) The make, type, and license number of each manufactured home.
      - iii) Forwarding address of all manufactured homes leaving park.
      - iv) Date of arrival and departure of each manufactured home.
    6. A map of the park shall be displayed near the entrance to the park and be illuminated during all hours of darkness.
    7. No persons shall be allowed to reside in a park except those occupying manufactured homes on established individual sites or a central office or caretaker building.

8. No manufactured home may be inhabited by a greater number of occupants than that for which it was developed.
9. Each manufactured home shall be installed in accordance with the manufacturer's specific installation instructions, State building code requirements, and such installation plans and foundation plans prepared by a Minnesota certified engineer. All manufactured homes shall be permanently anchored to prevent uplifting due to wind.
10. The area beneath each manufactured home shall be enclosed with appropriate skirting material that is of compatible color and material of the manufactured home, shall not be in disrepair, and the enclosed skirting shall have access for inspection. Vinyl or aluminum that has been painted is acceptable.
11. Laundry and clothing shall be hung out to dry on lines located in areas established and maintained exclusively for that purpose.
12. No boats, hauling trailers, junk cars, or other equipment shall be stored upon the streets of the park or upon the patios or open spaces of any individual lot. The manufactured home park shall provide a secured area for this type of storage on-site, in compliance with the specifications of this Chapter.
13. The installation or construction of any structures or improvements within a park shall require a building permit as required by the City. All plans for such installation or construction shall meet the requirements of the state Department of Health and the City's zoning and building code.
- h. Location.
  1. It shall be unlawful within this Zoning District of the City for any person to park any mobile or manufactured home on any street or highway, or other public place or on any tract of land owned by any person, occupied within the City, except as provided for in this Chapter.
  2. Emergency or temporary stopping or parking is permitted on any street or highway for not longer than three hours subject to any other and further prohibitions, and parking regulations or ordinances for that street or highway.
  3. No person shall park or occupy any mobile home which is situated outside of an approved manufactured home park.
- i. Inspection of Manufactured Home Parks.
  1. Compliance with this Chapter. The Building Official is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Chapter, including the power to enter at reasonable times upon any private or public property for such purposes.

- 2. Registration Record. The Building Official, the Chief of Police or County Sheriff, to their duly authorized representatives, shall have the power to inspect the register containing a record of all residents of the manufactured home park.
  - 3. Access. It shall be the duty of the park management to give the Building Official free access to all lots at reasonable times for the purpose of inspection.
- j. Walkways.
- 1. General Requirements. All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable, and convenient to maintain, between individual manufactured homes, the park streets, and all community facilities provided for park residents. Sudden changes in alignment and gradients shall be avoided.
  - 2. Common Walk System. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall be a minimum of 48 inches wide and shall be constructed adjacent to the concrete curb of one side of all streets.
  - 3. Individual Walks. All manufactured homes shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street.
- k. Service Buildings and other Community Service Buildings.
- 1. General. The requirements of this section shall apply to service buildings, recreation buildings, and other community service facilities, indoor recreation areas, and commercial areas supplying essential goods or services for the exclusive use of park occupants.
  - 2. Structural Requirements of Buildings. All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, insects, and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.
- l. Refuse Handling. The storage, collection and disposal of refuse in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding, accident or fire hazards, or air pollution.
- m. Miscellaneous Requirements. The following are responsibilities of the manufactured home park owners:
- 1. The person to whom a license for a manufactured home park is issued shall operate the park in compliance with this Chapter and shall provide adequate supervision to maintain the park, its facilities,

- and equipment in good repair and in a clean and sanitary condition.
- 2. The park management shall notify park occupants of all applicable provisions of this Chapter and inform them of their duties and responsibilities under this Chapter.
- 3. It shall be the duty of the operator of the manufactured home park to keep a register containing a record of all manufactured home owners and occupants within the park. The register shall contain the date of arrival and departure of each manufactured home. The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duty necessitates acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three years following the date of departure of the registrant from the park.

**2.01(9) "C-B", COMMERCIAL/BUSINESS DISTRICT AND USES.**

**(A) PURPOSE AND SCOPE.** The purpose of this District is to provide for individual and small groups of retail and customer service establishments serving the convenience of the City. The character, appearance, and operation of a commercial/business area should be compatible with surrounding areas.

**(B) LAND USES IN THE COMMERCIAL/BUSINESS DISTRICT.**

- a. Permitted Uses.
  - 1. Agriculture
- b. Uses with a Certificate of Compliance.
  - 1. Bakeries
  - 2. Banks, Savings and Loan Associations and other Financial Institutions
  - 3. Barber Shops/Beauty Shops
  - 4. Business Offices
  - 5. Coffee Shops/Restaurants
  - 6. Convenience Stores
  - 7. Day Care Centers
  - 8. Drug Stores
  - 9. Essential Services - Government Buildings, Storage, and Uses
  - 10. Essential Services - Utility Substations
  - 11. Florists
  - 12. Insurance Sales Offices
  - 13. Optical Stores
  - 14. Park and Ride, Transit Stops/Shelters
  - 15. Public Recreation Facility
  - 16. Real Estate Sales
  - 17. Schools (i.e. Dance, Karate)
  - 18. Soda Fountain and Ice Cream Stores

- 19. Small Arts and Crafts stores providing specialty products for sale.
- 20. Grocery Stores
- 21. Mercantile
- 22. Other substantially similar uses.
- c. Uses with a Conditional Use Permit. The following uses are permitted in the "C/B" District after the issuance of a Conditional Use Permit.
  - 1. Service Stations
  - 2. Feed Mills
  - 3. Creameries
  - 4. Auto Dealers and Repair
  - 5. Farm Machinery Dealers and Repair
  - 6. Places of Worship
  - 7. Liquor Establishment
  - 8. Lumber Yards
  - 9. Other uses determined by the Planning Commission to be of the same general character as the uses listed above and found not to be detrimental to the general public health and welfare.

**2.01(10) "IND" INDUSTRIAL DISTRICT AND USES.**

- (A) **PURPOSE AND SCOPE.** The purpose of this District is to provide an area for a general mix of light industrial businesses that are non-threatening to the environment. Uses may use either public sanitary sewers or septic systems, subject to all other City and County ordinances.
- (B) **LAND USES IN THE "IND" INDUSTRIAL DISTRICT.**
  - a. Permitted Uses. There are no primary uses in the "IND" Industrial District.
  - b. Uses with a Certificate of Compliance. The following are permitted in the "IND" District after the issuance of a Certificate of Compliance:
    - 1. Essential Services - Government Buildings, Storage and Uses
    - 2. Essential Services - Utility Substations
    - 3. Light Manufacturing
    - 4. Office
    - 5. Plant Nursery
    - 6. Self-Storage Facility'
    - 7. Veterinary Clinic
    - 8. Warehousing and Distribution
    - 9. Wholesale
  - c. Uses with a Conditional Use Permit. The following uses are permitted in the "IND" District after the issuance of a Conditional Use Permit:
    - 1. Mining
    - 2. Motor Vehicle Repair
    - 3. Motor Vehicle Service Station
    - 4. Plant Nursery, Commercial
    - 5. Recycling Center
    - 6. Storage Facility

- 7. Transportation/Motor Freight Terminal
- 8. Wireless Communications Facility
- 9. Yard Waste Facility
- 10. Other uses determined by the Planning Commission to be of the same general character as the uses listed above and found not to be detrimental to the general public health and welfare.

**2.01(11) "PUD" PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT AND USES.**

- (A) **PURPOSE AND SCOPE.** The intent of the PUD is to permit great flexibility, and consequently, more creative and imaginative design of the development of residential, commercial or industrial areas than are generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land, while providing a harmonious variety of housing choices, a height level of urban amenities, and preservation of natural scenic qualities of open space.
- (B) **LAND USES IN THE "PUD" PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT.** Any use, permitted in the existing district where a PUD is proposed, is also permitted in a PUD; subject to the criteria established in this Ordinance. Additional or accessory uses may be allowed upon conditions adopted by the City. However, no use shall be permitted, except in conformity with a specific and precise final development plan, pursuant to the procedural and regulatory provisions hereinafter set forth.
- (C) **PROCEDURES FOR APPLICATION AND REVIEW.**
  - a. Pre-Application Conference. It is the responsibility of each applicant to confer with the Zoning Administrator in connection with the preparation of the planned unit development application. The general outlines of the proposal, evidenced schematically by sketch plans, are to be considered before submission of the planned unit development application. Thereafter, the Zoning Administrator shall furnish the applicant with his/her written comments regarding such conference, including appropriate recommendations to inform and assist the applicant prior to his/her preparing the components of the planned development application.
  - b. Preliminary Development Plan. The developer shall be required to submit ten (10) copies of the following exhibits, written information, maps and plans to the City:
    - 1. A Legal description of the total site proposed for development, including a statement of present and proposed ownership and present and proposed zoning.
    - 2. A Statement of planning objectives to be achieved by the PUD through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and

- the rationale behind the assumptions and choices made by the applicant.
3. A development schedule indicating the approximate date when construction of the planned unit development, or stages thereof, can be expected to begin and be completed.
  4. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned unit development, such as land areas, dwelling units, etc.
  5. Quantitative data for the following: Total number and type of dwelling units; parcel size; proposed lot coverage of buildings and structures; approximate gross and net residential densities; total amount of open space (including a separate figure for usable open space); total amount of non-residential construction (including a separate figure for commercial or institutional facilities); economic and feasibility studies or market analysis where necessary; and other studies as required by the review authority.
  6. The existing site conditions including contours at two (2) foot intervals, water course, floodplains, unique natural features, forest cover, and all trees over eight (8) inch caliper measured one foot above the ground.
  7. Proposed lot lines and plot designs.
  8. The approximate location and floor area size of all existing and proposed buildings, structures, and other improvements including maximum heights, types of dwelling units, density per type, and non-residential structures, including commercial facilities. Architectural renderings of typical structures and improvements sufficient to relay the basic architectural intent of the proposed improvements.
  9. The approximate location and size, in acres or square feet, of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public use.
  10. The existing and proposed circulation system or arterial collector, and local streets including off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way (including major points of ingress and egress to the development). Notations of proposed ownership - public or private - should be included where appropriate.
  11. The existing and proposed pedestrian circulation system, including its interrelationship with the vehicular circulation system, indicating proposed treatments of points of conflict.
  12. The existing and proposed pedestrian circulation system.

13. A general landscape, lighting, and drainage plan including general site improvements and plans (in schematic form).
  14. Enough information on land areas adjacent to the proposed PUD to indicate the relationships between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities, and unique natural features of the landscape.
  15. The proposed treatment of the perimeter of the PUD including materials and techniques used; such as screens, fences, and walls.
  16. Proposed homeowners association agreement and restrictive covenants to cover maintenance of buildings, grounds, parking areas, non-public streets and other facilities, as well as standards by which to review.
  17. Any additional information as required by the review authority, necessary to evaluate the character and impact of the proposed PUD.
- c. Application Submission. The request shall be considered officially submitted and the application approval time commences when all the informational requirements are complied with.
  - d. Public Hearing. The public hearing for concept approval will be placed on the agenda of the first possible Planning Commission meeting occurring thirty (30) days from the date of submission of the application. All property owners within three hundred fifty (350) feet of the subject property shall be notified of this hearing, as listed in the records of the City Assessor, although the failure of any property owner to receive such notification shall not invalidate the proceedings. Notification shall be by mail to all such property owners, shall be given at least ten (10) days in advance of the hearing, and may include a larger geographic area if deemed advisable by the Zoning Administrator.
  - e. City Council Action. Pursuant to Minnesota Statute §15.99, as may be amended, an application for the general plan of development shall be approved or denied within sixty (60) days from the date of its official and complete submission unless notice of extension is provided by the City or a time waiver is granted by the applicant. If applicable, processing of the application through required state and federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant.
  - f. Final Development Plan.
    1. This stage finalizes the design specifications of the preliminary development plan and allows review of any additional items. The plan should be submitted for final review before the Planning Commission through the Zoning Administrator who has reviewed the plan to ensure that it conforms with the ordinance and to confirm it does not vary significantly from the preliminary development plan. The



Planning Commission will take formal action on the plan and send it onto the City Council.

2. Following approval of the preliminary development plan, if given, the applicant shall submit ten (10) copies of the final development plan consisting of the following:
  - i) Proposed name of development (which shall not duplicate nor be similar in pronunciation to any name of any plan theretofore recorded in the County.)
  - ii) The precise location, size, use, and arrangement including height in stories and feet, and total square feet of ground area coverage, and floor area of proposed buildings, including existing buildings, which will remain, if any.
  - iii) Precise location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.
  - iv) Location, designation, and total area of all common open space.
  - v) Proposed lots and blocks, if any, and numbering system.
  - vi) Detailed sketches and provisions of proposed landscaping.
  - vii) Grading and drainage plans for the developed PUD.
  - viii) Any other information that may have been required by the Planning Commission or City Council in conjunction with the approval of the general concept plan.
  - ix) A final tabulation indicating the number of residential dwelling units and expected population.
  - x) A tabulation indicating the gross square footage, if any, of commercial and industrial floor space, by type of activity (e.g., drug store, dry cleaning, supermarket).
  - xi) Preliminary architectural "typical" plans indicating use, floor plan, elevations, and exterior wall finishes of proposed buildings.
  - xii) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights-of-way, utility lines and facilities, lots, block, public and common open space, general landscaping plan; structure, including manufactured homes; and uses.
  - xiii) A soil erosion control plan acceptable to the Watershed District, Department of Natural Resources, or any other agency with review authority, clearly illustrating erosion control measures to be used

during construction, and as permanent measures.

- g. Processing Fees. At the time of formal application for a PUD, the developer must pay a filing fee to help defray the cost of review. The amount of such fee shall be determined by the City Council resolution.
- h. Ownership. A tract of land to be developed as a planned development shall be under the control of:
  1. A single owner; or
  2. A group of landowners, acting through a corporation, where each owner agrees in advance to be bound by the conditions and regulations which will be effective within the district, and to record such covenants, easements, and other provisions with the County Registrar of Deeds.
- i. Enforcement. If no construction has begun in the PUD within twelve (12) months from the approval of the PUD and recording of documents, said approval shall lapse and be of no further effect. The Planning Commission, upon showing of good cause by the developer, may extend for period(s) of twelve (12) months, the time for beginning construction.

**(D) SUBSTANTIVE CRITERIA FOR REVIEW AND APPROVAL**

- a. Density. The average density of the PUD shall not be greater than that which applies to the existing zone where the PUD is proposed as established in this Ordinance.
- b. Minimum Open Space. Ten (10) percent of total parcel area.
  1. A minimum of thirty-five (35) percent of the total project area shall be reserved as open space (green area). (Active recreational areas may be used in meeting open space requirements.)
  2. All Common Open Space. At the election of the City, all common open space shall be provided for by one of the following:
    - i) Conveyed to the City or conveyed to a non-profit corporation or entity established for the purpose of benefiting the owners.
    - ii) Guaranteed by a restrictive covenant describing the open space and its maintenance and improvement, running with the land for the benefit of residents of the planned development of adjoining property owners and/or both.
- c. Height, Setback, and Lot Coverage Regulations. All such restrictions may be waived in development of a PUD, except along the perimeter of the development, as long as the project is in compliance with average density and open space provisions of this Ordinance. PUD perimeters can be established by applying the setback requirements of the surrounding district or can be

related to the height of the buildings within the PUD.

convenience of the residents of the development.

d. Environmental Design.

1. Environmental design considerations shall be incorporated into the PUD process by requiring existing natural amenities and landscaping, and a proposed landscaping plan to be submitted during the review process.
2. The general landscaping plan submitted during the preliminary development plan phase shall be followed by a detailed landscaping plan, showing the spacing, size, and specific types of landscaping material.

e. Traffic Circulation.

1. Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Minor streets within the PUD must not be connected to streets outside the development in such a way as to encourage their use by through traffic.
2. The proposed PUD Overlay District shall be located with regard to major thoroughfares and uses outside the district so that traffic congestion will not be created by the proposed development or will be obviated by presently projected improvements, and that uses adjacent to such thoroughfares will not be adversely affected.

f. Parking Standards. Parking standards for the PUD are the same as for other similar uses as provided in the off-street parking section of this Ordinance. Variances may be applied where combined land uses warrant a deviation from established requirements.

g. Public Services.

1. A PUD must not create a demand for public services, which exceed that which is normally provided in the zoning district of the proposed PUD.
2. Public facilities and improvements, including water, sewer, and street facilities, made necessary as a result of the planned development shall be provided by the developer of the PUD. These improvements must be constructed in advance of the approval of the final plan, or at the election of the City, escrow deposits, irrevocable letters of credit in a form approved by the City, or performance bonds, shall be delivered to guarantee construction of the required improvements.

- i) Non-Residential Structures. Non-residential uses, limited to those specifically approved by the Planning Commission, are permitted in a planned unit development provided that such uses primarily are for the service and

**CHAPTER 3  
DENSITY AND LOT REQUIREMENTS**

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**3.01. DENSITY AND LOT REQUIREMENTS.**

This Part regulates the development of land located in the "A-1", Agricultural, "RR" Rural Residential, and "RC" Residential/Commercial Districts.

This Chapter does not apply to land located in the Shoreland Overlay District and Shoreland Management District. The development of land within these Districts shall be determined in accordance with Shoreland Management Regulations and Shoreland Management Regulations of Pine County Regulations, which are hereby adopted by reference.

**3.01(1) DENSITY.**

**(A) DENSITY IN DISTRICTS.**

- a. In the "A-1" District, the density of residential dwelling units shall not exceed one (1) dwelling unit per 40 acres or quarter-quarter section.
- b. In the "RR" Rural Residential District and "RC" Residential Commercial District, the density of residential dwelling units shall not exceed 16 dwelling units per 40 acres or quarter-quarter section with a minimum lot size of 2.5 acres.

**(B) DEVELOPMENT AGREEMENT.**

From and after the effective date of this Zoning Ordinance, parcels subdivided shall be restricted by a development agreement specifying that further subdivision of parcels being created is subject to the regulations contained in the City of Finlayson Zoning Ordinance. The development agreement must be executed by the City of Finlayson City Council and may not be amended without the approval of the Finlayson City Council.

**(C) CONVEYANCE OF LAND.**

Prior to recording a conveyance of land which is less than the whole as charged on the tax lists and found to be in violation of this Section by the City of Finlayson Zoning Administrator, it will be returned to the draftsman and notice by mail of the potential violation will be given to the parties to the conveyance pursuant to Minnesota Statute §394.37, Subd. 1.

**3.01(2) LOT REQUIREMENTS.**

**(A)** In the "A-1" Agricultural, "RR" Rural Residential, and "RC" Residential/Commercial Districts, the following lot requirements must be met:

- a. Conventional Subdivision

- 1. Minimum Lot Size
    - A-1..... 40 Acres
    - RR .....2.5 Acres (with 1.5 Buildable Acres)
    - RC .....2.5 Acres (with 1.5 Buildable Acres)
  - 2. Minimum Frontage on a Public Road
    - A-1..... 300 Feet
    - RR on collector or arterial streets ..... 300 Feet
    - RR on local streets ..... 160 Feet
    - RC on collector or arterial streets ..... 300 Feet
    - RC on local streets ..... 160 Feet
  - 3. Minimum Building Setbacks
    - Front ..... 50 Feet
    - Side ..... 25 Feet
    - Rear ..... 35 Feet
  - 4. Maximum Building Height..... 45 Feet
- (B)** In the Open Space Design (Rural Cluster) Development the following lot requirements must be met:
- a. Building Lots
    - 1. Minimum Lot Size .....0.5 Acre
    - 2. Minimum Frontage on a Street ..... 75 feet
    - 3. Minimum Lot Width at Required Building Setback Line ..... 100 feet
    - 4. Minimum Building Setbacks
      - Front ..... 30 feet
      - Side ..... 20 feet
      - Rear ..... 35 feet
    - 5. Maximum Building Height..... 45 Feet
  - (C)** In the "R-1" Residential District, the following lot requirements must be met:
    - a. Conventional Subdivision
      - 1. Minimum Lot Size ..... 10,500 square feet
      - 2. Minimum Lot Width at Required Building Setback Line ..... 75 feet
      - 3. Minimum Building Setbacks
        - Front ..... 30 feet
        - Secondary Front/Corner Lots ..... 20 feet
        - Side ..... 10 feet
        - Rear ..... 25 feet
      - 4. Maximum Building Height..... 45 feet
    - (D)** In the "R-2" Residential District, the following lot requirements must be met:
      - a. Conventional Subdivision
        - 1. Minimum Lot Size
          - Two Family ..... 15,000 square feet
          - Multi-Family ..... 8 units/acre (maximum)
        - 2. Minimum Frontage on a Public Road
          - Two Family ..... 100 feet
          - Multi-Family ..... 175 feet
        - 3. Minimum Building Setbacks
          - Front ..... 30 feet

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Secondary Front/Corner Lots.....	20 feet
Side.....	15 feet
Rear .....	25 feet
4. Maximum Building Height .....	45 feet

- (E) In the "MH" Manufactured Housing District, the following lot requirements must be met:
  - a. Conventional Subdivision
    - 1. Minimum Parcel Size .....10 Acres
    - 2. Minimum Lot Width .....50 feet
    - 3. Minimum Building Setbacks
      - Front .....30 feet
      - Side.....10 feet
      - Side Adjacent to Residential District .....30 feet
      - Rear .....10 feet
    - 4. Maximum Building Height .....45 feet
    - 5. Maximum Age Not to Exceed 10 years old as per the Manufacturer's Date on the Title at the time of permit application.
- (F) In the "C-B" Commercial/Business the following lot requirements must be met:
  - a. Minimum Lot Size .....7,500 square feet
  - b. Minimum Frontage on all Public Roads .....50 Feet
  - c. Minimum Building Setbacks
    - Front .....0 Feet
    - Side.....0 Feet
    - Front (Highway 18) .....20 feet
    - Side (Highway 18).....10 feet
    - Side Adjacent to Residential District .....10 feet
    - Rear .....25 Feet
  - d. Maximum Building Height .....45 Feet
- (G) In the "IND" Industrial District, the following lot requirements must be met:
  - a. Industrial Subdivision
    - 1. Minimum Lot Size .....40,000 square feet
    - 2. Minimum Frontage - Public Road .....100 feet
    - 3. Minimum Building Setbacks
      - Front .....50 feet
      - Side.....20 feet
      - Side Adjacent to Residential District .....30 feet
      - Rear .....25 feet
    - 4. Maximum Building Height .....45 feet

**CHAPTER 4  
PERFORMANCE STANDARDS**

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**4.01. PERFORMANCE STANDARDS.**

The performance standards established in this Chapter are designed to encourage a high standard of development. The standards are designed to prevent and eliminate those conditions that cause blight and to assure that neighboring land uses are compatible. All future development in all Districts shall be required to meet these standards and the standards shall also apply to existing development where so stated.

**4.01(1) DEVELOPMENT STANDARDS.**

**(A) GENERAL STANDARDS.**

- a. All lots or uses will be subject to these general standards as well as other specific regulations which apply to the lot or the proposed use.
- b. All agricultural and livestock operations being conducted in compliance with the terms of this Zoning Ordinance shall not be deemed a violation of this Zoning Ordinance notwithstanding the fact that there may have been changes in the surrounding character of the area. All such operations existing upon the effective date of this Ordinance will be grandfathered in.
- c. All applicants for a Certificate of Compliance or Conditional Use Permit in the Commercial/Business District must explain their business and any manufacturing processes involved. Any business/use storing or using hazardous substances as defined in Title 49 CFR, the Clean Water Act, Hazardous Waste Rules or Department of Transportation Rules must meet all applicable Environmental Standards.
- d. All applicants for a Certificate of Compliance or Conditional Use Permit in the Commercial/Business Districts not connected to the City collection system must demonstrate that an on-site sewage treatment system can be installed in accordance with the Pine County Individual Sewage Treatment System Regulations. Water usage of any proposed use must conform with the long term sewage treatment capacities of each individual lot. The system, or systems, shall be designed to receive all sewage from the dwelling, building, or other establishment served. Footing or roof drainage shall not enter any part of the system. Products containing hazardous materials must not be discharged to the system other than a normal amount of household products and cleaners designed for household use. Substances not used for household cleaning, including but not limited to, solvents, pesticides, flammables, photo finishing chemicals, or dry cleaning chemicals, must not be discharged to the system.
- e. Sloping or Erodible Building Sites. No structure shall be constructed on sites with slopes of greater than twenty five percent (25%) or on easily erodible soils as defined on the community soils maps and compiled by the Pine County Soil and Water Conservation District.
- f. Permitted Encroachments into Required Setbacks. The following shall be permitted encroachments into setback requirements:
  - 1. flues, eaves, and awnings up to three (3) feet in width;
  - 2. steps, chimneys, sidewalks, and stoops up to four (4) feet in width;
  - 3. exposed wheelchair ramps, bay windows, and doors up to four (4) feet in width.
- g. Corner Lots. In all districts except the Commercial/Business District, nothing shall be

placed or allowed to grow, with the exception of seasonal crops, in such a manner as to materially impede vision between a height of one and one half (1-1/2) and ten (10) feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting street from a distance of 20 feet from the intersection of the right of way lines.

- h. Minimum Width and Foundations. In all Districts where single family dwellings are permitted, the following standards shall apply for single family dwellings:
  1. The minimum width of the main portion of the structure shall be not less than twenty (20) feet, as measured across the narrowest portion.
  2. All dwellings shall be placed on a permanent foundation and anchored to resist overturning, uplift, and sliding in compliance with the Minnesota State Building Code.
- i. Code Compliance. All principal buildings shall meet or exceed the minimum standards of the Minnesota Building Code, the Minnesota State Fire Code, the Minnesota Department of Health, the Minnesota Pollution Control Agency, and the Pine County Individual Sewage Treatment System Regulations, except that manufactured homes shall meet or exceed the requirements of HUD or of the State of Minnesota Manufactured Home Building Code.
- j. Buildable Land. All new parcels created, which are not served by public sanitary sewer, must have at least one (1) contiguous acre of accessible buildable land. Buildable land is defined as:
  1. Land with a slope less than 25 percent; and
  2. Outside of any required setbacks, except that on a natural environment lake where a 200 foot structure setback is required, the buildable area calculation would be measured from a 150 foot setback rather than the required 200 foot setback; and
  3. Above any 100 year floodplain, drainageway, or drainage easement.
  4. Have a total area for two on-site sewers which shall be a minimum of 10,000 square feet.
  5. Exception: Lots in Open Space Design (Rural Cluster) are allowed to have a minimum of 1/2 acre, following items 1, 2, and 3 above, when the on-site sewer(s) are cluster system(s) located on dedicated open space.
- k. Number of Structures. There shall be no more than one (1) principal structure on any one (1) parcel of land, unless otherwise authorized by the Zoning Ordinance.
- l. Certain Dwelling Units Prohibited. No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior above, accessory building, or manufactured home older than 10 years at the date of application shall be used at any time as a dwelling unit.

- m. Traffic Control. The traffic generated by any use shall be controlled so as to prevent congestion of the public streets, traffic hazards and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be regulated so as to ensure its safe and orderly flow. Traffic into and out of commercial, business, and industrial areas in all cases shall be forward moving with no backing into streets.
- n. Vacated Streets. Whenever any street, alley, easement, or public way is vacated by official action, the Zoning District abutting the centerline of the said vacated area shall not be affected by such proceedings.
- o. Access Drives, Access, and Service Roads. Access drives onto County roads shall require an access permit from the Pine County Public Works Department. This permit shall be issued prior to the issuance of any building permits. The County Engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- p. Private Roads. Private roads are not allowed in any new subdivisions created after the effective date of this Zoning Ordinance.
- q. No structure shall exceed the maximum height permitted for the Zoning District in which it is located, except for church spires, chimneys, flag poles, and home - use antennas. Any other structures greater than the maximum height permitted shall be subject to Conditional Use Permits in all Districts. Wireless Communication Facilities are regulated in accordance to Chapter 4.02(14) of this Zoning Ordinance.
- r. Structures must be set back a minimum of 50' from a major underground pipeline easement.
- s. Unclassified Water Bodies. All lots having frontage on or containing an unclassified water body as defined in the Pine County Shoreland Management Regulations shall be subject to the setback regulations in those regulations.

**4.01(2) ACCESSORY STRUCTURES.**

- (A) **REQUIRED PERMITS.** A land use permit is required for all accessory structures except agricultural buildings on a farm as defined in Minnesota Statute §16B.60, Subd. 5. A Certificate of Compliance is required for all agricultural buildings and accessory structures over 1,000 square feet in size.
- (B) **"A-1" AGRICULTURAL AND "RR" RESIDENTIAL DISTRICTS.** The following additional standards apply to all land within these Districts:
  - a. All detached accessory structures are to be used for personal use or agricultural use only. No commercial use or commercial related storage is allowed in these structures.
  - b. If any existing accessory buildings become "Hazardous Buildings", they shall be repaired or removed by the owner.

c. Domestic Farm Animals. The following conditions apply:

1. All feedlots, and manure storage sites shall be setback as follows:

Natural/Man-Made Features	Horizontal Setbacks
(a) Any property line	100 feet
(b) Any existing well or residential structure on the same parcel	50 feet
(c) Any existing well or residential structure on adjacent or nearby parcel	200 feet
(d) Any body of seasonal or year-round surface water	200 feet

2. Said feedlot, or manure storage shall not be placed on slopes which exceed thirteen percent (13%).

3. Evidence of seasonally high ground water level or mottled soil shall not be closer than one foot (1') to the natural surface ground grade in any area within one hundred (100) feet of the proposed structure and/or feedlot.

4. No marsh or wetland (as established by the predominant wetland vegetation and/or soils) shall be utilized for placement of the proposed structure, feedlot, or grazing area.

**4.01(3) ENVIRONMENTAL REGULATIONS.**

**(A) HAZARDOUS MATERIALS.**

a. All uses associated with the bulk storage of over two thousand (2,000) gallons of oil or motor oil, shall require a Conditional Use Permit. Storage of any other regulated material in other than consumer quantities for personal use shall require a Conditional Use Permit.

b. All existing, above ground liquid storage tanks having a capacity in excess of two thousand (2,000) gallons shall secure a Conditional Use Permit within twelve (12) months following enactment of this Zoning Ordinance, unless the tank(s) is/are located on agricultural property. A Certificate of Compliance is required for all above ground storage tanks having a capacity of 2,000 gallons that are located on agricultural properties.

c. Secondary containment shall be provided for hazardous materials which are stored above ground and for all areas where hazardous materials are loaded or unloaded. Above ground liquid storage tanks must have secondary containment, suitably sealed to hold a leakage capacity equal to one hundred ten percent (110%) of the tank's capacity.

d. Any area used for the storage of hazardous materials shall not contain interior floor drains. If floor drains are essential to business operation, then the facility shall:

1. Connect the floor drain to a closed holding tank; or

2. Obtain a groundwater discharge permit from the Minnesota Department of Natural Resources.

e. The storage and/or preparation area for hazardous materials with more than 25 gallons or 100 pounds dry weight must be set back a minimum of 150' from a water supply well.

f. Hazardous materials stored in an above ground storage tank with containment must be set back a minimum of 100' from a water supply well.

g. Dry commercial fertilizers must not be located in areas where stormwater runoff from stockpiles could enter storm sewers, sanitary sewer, or other surface or ground water.

h. Dry bulk pesticides with a dry weight of 100 pounds or more shall be stored under a roof or tarpaulin that excludes precipitation from reaching the pesticide.

i. Closed holding tanks shall be used for the collection of washwater from vehicle maintenance and other related operations. Closed holding tanks for on-site sewer sites and flammable waste traps where sewage collection systems are available.

j. Primary containment of hazardous materials shall be product-tight and all hazardous materials shall be stored in compliance with the rules and regulations of Federal, State, County, and Local agencies.

k. The Minnesota Pollution Control Agency and Federal agency requirements for storage leak detection, record keeping, spill prevention, emergency response, transport, and disposal shall be met.

l. Underground storage tanks shall comply with the requirements of the Minnesota Pollution Control Agency and Federal agencies.

**(B) EXPLOSIVES.** Uses involving the commercial storage, use, or manufacture of materials or products which could detonate by decomposition are not permitted.

**(C) RADIATION AND ELECTRICAL INTERFERENCE.** No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation of ordinary business or household equipment and appliances. Any such omissions are hereby declared to be a nuisance.

**(D) NUISANCES.** No noise, odors, vibration, smoke, air pollution, liquid, or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any District that will have an objectionable effect upon adjacent or nearby property owners and residents. Minimum standards shall be as follows:

a. Noise, Air, and Water Pollution. Notwithstanding anything contained herein to the contrary, the standards of the Minnesota Pollution Control Agency for noise, air, and water pollution shall be the standards applied in those areas.

b. Vibration. The following vibrations are prohibited:



- 1. Any vibration discernible (beyond the property line) to the human sense of feeling for three (3) minutes or more duration in any one (1) hour.
- 2. Any vibration resulting in any combination of amplitudes and frequencies beyond the "safe" range of the most current standards of the United States Bureau of Mines on any structure. These standards shall not apply to vibrations created during the process of construction.
- c. Public Health. The following are declared to be nuisances endangering public health and are prohibited:
  - 1. Causing or allowing the effluent from any cesspool, septic tank, drainfield, or human sewage disposal system to discharge upon the surface of the ground, or dumping the contents thereof at any place except as authorized by the Minnesota Pollution Control Agency.
  - 2. Causing or allowing the pollution of any public well or cistern, stream or lake, canal, or body of water by sewage, industrial waste, or other substances.
  - 3. Failing to dispose of carcasses of animals within twenty four (24) hours after death.
  - 4. Any use shall be so operated as not to discharge across the boundaries of the lot or through evaporation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, or welfare, or cause injury or damage to property or business.
  - 5. The ownership, possession, or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, and which is exposed and accessible to the public, without removing the doors, lids, hinges or latches, or providing locks to prevent access by the public.
- d. Refuse. In all Districts, (with the exception of agricultural uses and crop residue) all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.
- e. Inoperable Vehicles. Passenger vehicles and trucks in an inoperable state shall not be parked in any District, except in a location authorized as a vehicle reduction yard or enclosed building, for a period exceeding seven consecutive days.

**(E) HAZARDOUS WASTE.** Any use which generates, processes or disposes of hazardous waste shall comply with the standards and regulations of the Pine County Hazardous Waste Management Ordinance, Minnesota Pollution Control Agency, and any other federal, state, and local agencies.

**4.01(4) EXTERIOR STORAGE ALONG MAJOR HIGHWAYS AND COUNTY ROADS.**

**(A) APPLICABILITY.** These standards are applicable in the Shoreland Overlay District, and in all Districts to all property with frontage on a major highway or county road or within 1/4 mile of the major highway or county road.

**(B) PERFORMANCE STANDARDS.**

- a. In all Districts, all useable personal property shall be stored within a building or fully screened so as not to be visible from major highways and county roads, except for the following: recreational equipment, construction, and landscaping materials and equipment currently (within a period of twelve (12) months) being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off street parking of licensed and operable passenger automobiles and pickup trucks.
- b. In Neighborhood Commercial/Business and Highway Commercial/Business Districts, exterior storage of useable personal property along county roads may be permitted by Conditional Use Permit provided any such property is so stored for purposes relating to a use of the property permitted by this Zoning Ordinance and will not be contrary to the intent and purpose of this Zoning Ordinance.

**4.01(5) FENCES.**

**(A) APPLICABILITY.** These standards shall apply in all districts.

**(B) GENERAL PERFORMANCE STANDARDS.**

- a. Fences are permitted in accordance with the following regulations:
  - 1. That side of the fence considered to be the face (finished side as opposed to the structural supports) shall face the abutting property.
  - 2. No fence shall be constructed on public rights-of-way.
  - 3. Fences shall not impede the vision of the roadway from a driveway providing access to the road.
  - 4. Where a property line is not clearly defined, a certificate of survey may be required by the Zoning Administrator to establish the location of the property line.
  - 5. Fences which exceed six (6) feet in height are permitted provided a building permit is received.
  - 6. Fences may be placed along a property line provided no physical damage of any kind results to abutting property. Fences on or within three (3) feet of the property line shall require a Certificate of Compliance.
  - 7. Signatures of Approval from all adjacent property owners must be obtained and recorded with the Zoning Administrator if a fence is going to be constructed within 1-foot of a surveyed property line or 2 feet from an assumed property line.

- b. On properties located in the Shoreland Overlay District that either have lake or river frontage, fences must comply with the following standards:
  - 1. A Certificate of Compliance is required prior to the construction of any fence on these properties.
- c. Fences are permitted along a property line abutting a road right-of-way in accordance with the following:
  - 1. On properties that are being used for agriculture, a fence may be constructed up to six (6) feet in height provided the fence is a wire strand or wood rail fence.
  - 2. On properties where the primary use is residential, commercial, or industrial, fences shall not exceed six (6) feet in height. Fences within the non-buildable setback area and less than twenty (20) feet from the front property line shall not exceed four (4) feet in height.
  - 3. Fences on all other parts of the property shall be subject to the regulations of the local unit of government.

**4.01(6) LAND ALTERATION AND GRADING.**

**(A) PERMIT REQUIRED.** Land alteration and grading of two hundred (200) cubic yards or more and/or the disturbance of land area of 1,000 square feet or more shall be permitted with a grading permit. A permit is not required for the following: agricultural activities, grading activities associated with a construction project provided a building permit is issued and there is a minimal amount of land disturbance, subdivisions that have received final plat approval and driveways permitted in conjunction with a building permit.

- a. The application for a grading permit shall include an existing and a finished grade plan. The finished grade plan shall show no adverse affects on adjacent land. The Zoning Administrator may require information in addition to this plan, including but not limited to, a plan for fire control, general maintenance of site, control of vehicle ingress and egress, drainage and control of material disbursed from wind or hauling of material to or from the site.
- b. Grading permit applications will be reviewed by the Zoning Administrator. When deemed necessary, they shall also be reviewed by the Pine County Soil and Water Conservation District, the City Engineer and/or the Minnesota Department of Natural Resources. Costs incurred from this additional review shall be paid by the applicant prior to the review unless billing arrangements are agreed upon in advance.
- c. A grading, drainage, and erosion control plan may be required if, in the judgment of the Zoning Administrator, significant soil erosion, vegetation destruction or drainage damage may occur during the land alteration process. This plan shall be prepared by the Soil and Water Conservation District and shall contain specific recommendations regarding soil protection, preservation of vegetation

and drainage patterns during the land alteration process.

- d. The Zoning Administrator may recommend/require the applicant to post a bond or other financial guarantee to ensure compliance with the grading permit. Costs incurred by outside agencies are the responsibility of the applicant.
- e. The Minnesota Pollution Control Agency requires a Storm Water Control Permit when over 1 acre of land is going to be disturbed. When required, this permit must be part of the grading permit application.

**(B) GENERAL STANDARDS.** The following general standards shall apply for grading, drainage, and erosion control:

- a. All development shall conform to the natural limitations presented by the topography and soil as to create the best potential for preventing soil erosion.
- b. Slopes over twenty five percent (25%) (4:1) shall not be altered.
- c. Development on slopes with a grade between thirteen (13%) (8:1) and twenty five (25%) (4:1) percent shall be carefully reviewed to ensure adequate measures have been taken to prevent soil erosion, sedimentation, vegetative, and structural damage.
- d. Erosion and siltation measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
- e. The drainage system shall be constructed and operational as quickly as possible during construction.
- f. Whenever possible, natural vegetation shall be retained and protected.
- g. Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the disturbed area. The soil shall be restored to a depth of three (3) inches and shall be of quality at least equal to the soil quality prior to development.
- h. When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed sixty (60) days. Said time period may be extended with approval of the Zoning Administrator provided measures have been established for erosion and sedimentation control.
- i. The natural drainage system shall be used as far as feasible for the storage and flow of runoff. Storm water drainage shall be discharged to sediment, detention or retention basins or other treatment facilities. Prior to discharge to wetlands, diversion of stormwater to marshlands or swamps shall be considered for existing and planned surface drainage. Wetlands used for stormwater shall provide for natural or artificial water level control. Storage areas or retention basins scattered throughout developed areas shall be encouraged

to reduce peak flow, erosion damage, and construction cost.

**(C) EROSION CONTROL.** The following measures shall be taken to control erosion during the construction process:

- a. Exposed slopes shall not be steeper in grade than four (4) feet horizontal to one (1) foot vertical (25%).
- b. Exposed slopes shall be protected by whatever means effective to prevent erosion considering the degree of the slope, soil material, and expected length of exposure. Slope protection may consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses, or temporary seedings of annual grasses.
- c. Control measures, other than those stated above may be used in place of the above measures to control if it can be demonstrated that they will as effectively protect exposed slopes.

**(D) SEDIMENT CONTROL.** The following measures shall be taken to control sediment from leaving the construction site:

- a. Temporary barriers shall be constructed to prevent sediment from leaving the site. These barriers may consist of silt fences or straw bale sediment traps, or rock dams.
- b. Temporary sediment basins or traps may be required to remove medium and large sized sediment particles from runoff and reduce discharge velocity.
- c. The Zoning Administrator may require a temporary rock driveway at the site entrance to prevent sediment from leaving the site on the tires of vehicles.
- d. The Zoning Administrator may require that mud, concrete, and debris be removed from the road surface.

**(E) RESTORATION.** All permits shall contain a restoration plan providing for the use of land after project completion. The following are minimum standards for restoration.

- a. All disturbed areas shall be restored at the completion of the project.
- b. All restoration shall include the application of a minimum of four (4) inches of a mineral topsoil or similar material that will support plant growth.
- c. Final grades shall be in conformity with the permit and topography of the surrounding land.
- d. If the land is to be restored to crop production, no slope shall exceed five (5) feet horizontal to one (1) foot vertical (20%).
- e. If the restoration is not for crop production, no grade shall exceed four (4) feet horizontal to one (1) foot vertical (25%).
- f. All restored areas shall be seeded with a mixture recommended by the Soil and Water Conservation District or returned to crop production.

g. The standards in b, c, d, and e above may be raised or modified to accommodate a specific restoration plan.

**(F) FLOODPLAINS.** Land alteration in floodplains shall also be in accordance with floodplain regulations.

**(G) PUBLIC WATERS.** No public water area shall be filled, partially filled, dredged, altered by grading, mining or disturbed in any manner without first securing a permit from the Minnesota Department of Natural Resources, the United States Army Corp of Engineers and a grading permit from the Zoning Administrator.

**(H) DRAINAGE.**

- a. No land shall be developed or altered and no use shall be permitted that results in surface water runoff causing unreasonable flooding, erosion, or deposit of materials on adjacent properties or waterbodies. Such runoff shall be properly channeled into a storm drain, a natural watercourse or drainageway, a ponding area or other public facility.
- b. Upon inspection of any site which has created drainage problems or could create a drainage problem with proposed new development, the owner of said site or contractor may be required to complete a grading plan and apply for a grading permit.
- c. The owner or contractor of any natural drainage improvement or alteration may be required to obtain a grading permit.
- d. On any slope in excess of thirteen percent (13%) (8:1) where the natural drainage pattern may be disturbed or altered, the owner or contractor may be required to obtain a grading permit.

**(I) WETLAND PRESERVATION.** The alteration of wetlands shall comply with the rules and regulations of federal, state, and local agencies.

**(J) PRESERVATION OF NATURAL DRAINAGEWAYS/ WATERWAYS.** The regulation of this subsection shall be administered by the Zoning Administrator unless the Watershed Management Organization has permitting authority. In that event, the regulations of the Watershed Management Organization shall take precedence.

- a. Storm sewers may be used where it can be demonstrated that the use of the above-ground natural drainage system will inadequately dispose of runoff. Surface water drainage systems may be constructed to augment the natural drainage system.
- b. The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten (10) year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- c. No fences or structures shall be constructed across the water way that will reduce or restrict the flow of water.
- d. The banks of the waterway shall be protected with permanent turf vegetation.

- e. The banks of the waterway should not exceed five (5) feet horizontal to one (1) foot vertical.
- f. The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks and waterway.
- g. The bed of the waterway should be protected with turf or sod. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone or field stone (if random rip rap is used). The rip rap shall be no smaller than two (2) inches square nor larger than two (2) feet square.
- h. The flow velocity of runoff waterways shall be controlled to a velocity that will not cause erosion of the waterway. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Rip rap would be allowed to prevent erosion at these points.
- i. Flow velocity should be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structures.
- j. To prevent sedimentation of waterways, pervious, and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
- k. Temporary pervious sediment traps could consist of a construction of hay bales with a low spillway embankment section of sand and gravel that permits slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction state of the development. Development of housing and other structures shall be restricted from the area on either side of the waterway to channel a twenty five (25) year storm.
- l. Permanent impervious sediment control structures consist of sediment basins (debris basins, desiltation basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.
- m. The erosion and velocity control structures shall be maintained in a condition that will ensure continuous functioning according to the provisions of this Zoning Ordinance.
- n. Sediment basins shall be maintained as the need occurs to ensure continuous desilting action.
- o. The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basin shall be landscaped.
- p. Prior to the approval of a plat for development, the developer shall make provisions for continued maintenance on the erosion and sediment control system.

Zoning Ordinance is replaced by a new outdoor light fixture, the new fixture must meet the standards of this Zoning Ordinance.

**(B) PERFORMANCE STANDARDS.**

- a. In all Districts, any lighting used to illuminate an off-street parking area or other structure or area shall be arranged as to deflect light away from the adjoining residential property or from the public street.
  - 1. Shielding. The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity defined in Section 4.01(7)(B)a.2. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way except when enclosed in decorative light fixtures.
  - 2. Intensity. No light source or combination thereof which cast light on a public street shall exceed one (1) footcandle meter reading as measured from the centerline of said street nor shall any light source or combination thereof which cast light on adjacent property exceed four tenths (0.4) footcandles as measured at the property line.
- b. Commercial/Business District. Any lighting used to illuminate an off-street parking area or other structure or area shall be arranged as to deflect light away from any adjoining property or from the public street.
  - 1. Shielding. The luminaire shall contain a cutoff which directs and cuts off the light at an angle of 90 degrees or less. In order to achieve a total cutoff at ninety (90) degrees, such a luminaire will emit maximum (peak) candle power at an angle not exceeding seventy-five (75) degrees.
  - 2. Intensity. No light source or combination thereof which cast light on a public street shall produce more than one (1) footcandle at the centerline of said street nor shall any light source or combination thereof which cast light on adjacent property produce more than four tenths (0.4) footcandles as measured at the property line.
  - 3. Height. The maximum height above the ground grade permitted for light sources mounted on a pole is 20' except by Conditional Use Permit. A light source mounted on a building shall not exceed the height of the building and no light sources shall be located on the roof unless said light enhances the architectural features of the building and is approved by the Zoning Administrator.
  - 4. Location. The light source of an outdoor light fixture shall be setback a minimum of 10' from a street right-of-way.
  - 5. Hours. The use of outdoor lighting for parking lots serving Commercial/Business businesses is restricted according to the following. Outdoor lighting which serves businesses that

**4.01(7) LIGHTING.**

**(A) NONCONFORMING USES.** Whenever an outdoor light fixture that was existing on the effective date of this

do not operate after dark must be turned off one (1) hour after closing except for approved security lighting. For those businesses which offer services after dark, outdoor lighting may be utilized during the night time hours provided the business is open for service. Once the business closes, the outdoor lighting must be turned off one (1) hour after closing except for security lighting.

- c. Outdoor Recreation. Outdoor recreational uses such as, but not limited to, baseball fields, football fields, tennis courts, and soccer fields, have special requirements for night time lighting. Due to these unique circumstances, a Conditional Use Permit shall be required for all new outdoor lighting fixtures which do not meet the regulations stated above.
  - 1. No outdoor recreation facility whether public or private shall be illuminated after 11:00 PM, unless the lighting fixtures conform to this Zoning Ordinance.
  - 2. Off-street parking areas for outdoor recreation uses which are illuminated shall meet the requirements stated in Section 4.01(7)(B)a.2.

**(C) PROHIBITIONS.** The following outdoor light fixtures are prohibited within the City of Finlayson.

- a. Search lights shall not be used.
- b. Flashing lights.
- c. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding shall be directed into any adjoining property.

**4.01(8) PARKING.**

**(A) SURFACING AND DRAINAGE.** Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. Durable and dustless surface may include crushed rock, recycled concrete and/or asphalt, class 5 gravel, asphalt, concrete, or other materials approved by the City Engineer. All surfacing must be completed prior to occupancy of the structure unless other arrangements have been made with the City.

**(B) LOCATION.** All accessory off-street parking facilities required herein shall be located as follows:

- a. Spaces accessory to dwellings shall be on the same parcel as the principal use served.
- b. Spaces accessory to uses located in Commercial/Business District shall be on the same lot as the principal building or an adjacent lot. Parking as required by the Americans with Disabilities Act (ADA) for the handicapped shall be provided.
- c. Spaces accessory to commercial/industrial use shall be setback five (5) feet from any street right-of-way or any property line.

**(C) GENERAL PROVISIONS.**

- a. Existing off-street parking spaces and loading spaces upon the effective date of this Zoning

Ordinance shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar use.

- b. No motor vehicle over three (3) tons capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored on residential properties or agricultural properties (with the exception of trucks/tractors directly associated with the agricultural use) except when loading, unloading, or rendering service.
- c. A parking space shall no be less than ten (10) feet wide. Parking spaces for the handicapped shall be in accordance with the Americans with Disabilities Act (ADA).

	Stall Length	Drive Width Behind
Parallel	22'	N/A
45°	22'	13'
60°	21'	18'
90°	19'	24'

- d. Off-street parking facilities accessory to residential uses shall be utilized solely for the parking of passenger automobiles and trucks none which exceed three (3) tons. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to employees, owners, tenants, or customers of nearby businesses or manufacturing establishments.
- e. Off-street parking facilities for a combination of mixed buildings, structures, or uses may be provided collectively in any "District" (except residential Districts) in which separate parking facilities for each separate building, structure, or use would be required, provided that the total number of spaces provided shall equal the sum of the separate requirements of each use during any peak hour parking period.
- f. When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with Pine County requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.
- g. Required off-street parking space in any District shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale or for rent.
- h. Off-street parking spaces recommended shall be as follows for:

Place of Worship and Other Places of Assembly	One (1) space for each three (3) seats or for each five (5) feet of pew length. Based upon maximum design capacity.
Offices	One (1) space for each two

	hundred (200) square feet of gross floor space.
Hotel, Motel	One (1) space per unit, plus one (1) space per employee.
Schools, Elementary & Junior High	Three spaces for each classroom
Schools, High School through College	One (1) space for each four (4) students based on design capacity plus three (3) additional spaces for each classroom.
Community Residence	One (1) space for each bed plus one (1) space for each three (3) employees other than doctors.
Health Club	One (1) space for each 200 square feet of floor area.
Motor Vehicle Service Station	Two (2) spaces plus three (3) spaces for each service stall.
Retail Store	Four (4) spaces for each one thousand (1,000) square feet of gross floor area.
Medical or Dental Clinic	Six (6) spaces per doctor or dentist.
Restaurants, Cafes, Bars, Taverns, or Night Clubs	One (1) space for each two and one half (2-1/2) seats, based on capacity design.
Funeral Homes	Eight (8) spaces for each one thousand (1,000) square feet of gross floor area.
Furniture Store, Wholesale, Auto Sales, Repair Shops	Three (3) spaces for each one thousand (1,000) square feet of gross floor area. Open sales lots shall provide two (2) spaces for each five thousand (5,000) square feet of lot area, but not less than three (3) spaces.
Uses Not Specifically Noted	As determined by the Zoning Administrator.

Parking spaces for uses outlined above may be reduced if a detailed parking analysis is provided and approved by the Zoning Administrator or City Council.

**(D) DESIGN AND MAINTENANCE OF OFF-STREET PARKING AREAS IN COMMERCIAL/BUSINESS DISTRICT.**

- a. Parking areas shall be designed so as to provide adequate means of access to a public street. Such driveway access widths shall be in accordance with the State of Minnesota Highway Department Standards, but in no case shall they exceed thirty-two (32) feet in width or less than twenty-four (24) feet in width. Driveway access shall be so located so as to cause the least interference with traffic movement.
- b. When the calculation of the number of off-street parking spaces required results in a fraction, such fraction shall require a full space.
- c. Any lighting used to illuminate an off-street parking area shall be in accordance with Section 4.01(7) of this Zoning Ordinance.
- d. All open off-street parking areas designed to have head-in parking along the property line shall

- provide a bumper curb not less than five (5) feet from the side property line.
- e. It shall be the joint responsibility of the operator and owner of the principal use or building to reasonably maintain the parking space, accessways, landscaping and required fencing.
- f. All off-street parking spaces shall have access from driveways and not directly from the public street.
- g. No parking space shall be closer than five (5) feet to any building.
- h. Fire access lanes shall be provided as required by the building or fire code.

**4.01(9) SCREENING.**

- (A) APPLICABILITY.** These standards apply to Commercial/Business uses and other non-residential uses.
  - a. Prior to a commercial/business use or any other non-residential use, receiving a permit to build or add to an existing structure, a proposal for screening must be presented and approved.
  - b. The screening installed shall be maintained by the property owner.

**4.01(10) DRIVEWAYS, DAMAGE TO PUBLIC ROADS AND EROSION CONTROL.**

- (A) EROSION CONTROL MEASURES.** Prior to commencement of any excavation or construction activity, the property owner shall cause silt fence or a substitute material approved by the City Zoning Administrator to be placed on all areas of the property where runoff will occur onto City roads or easements, wetlands or adjoining property. The silt fence or substitute material shall be placed in a manner to prohibit discharge of soil or sediment from the excavation or construction site onto City roads, easements, wetlands, or adjoining property.
- (B) PERMITS.** No driveway shall be constructed, moved or widened in the City unless a permit for such construction has been obtained from the City Clerk unless the driveway is being constructed to serve as the sole entrance to a structure for which a building permit has been obtained. Any driveway which connects to the street in more than one location shall require a permit. Prior to issuance of a permit the applicant may be required to provide information requested by the City to ensure that the proposed driveway will not create a traffic safety hazard, will meet the setback provisions of the City Code and will not create an undue burden on neighboring property in terms of noise, dust or drainage. Compliance with this Section will not relieve the property owner from the obligation to obtain a permit from Pine County to construct a driveway accessing a county road. The applicant shall pay a fee as established by the Council for the permit or such other amount as may be determined from time to time by Resolution of the City Council.
  - a. A variance may be applied for through the Planning Commission. The City Council has the final action as is with any other variance.

**(C) DRIVEWAY SETBACK.** Driveways shall be set back 10 feet as measured from the nearest edge of the driveway to the property line. On 2.5 acre and larger parcels, driveways must be set back at least 20 feet. Setbacks must be 40 feet from a property corner at an intersection in residential districts and 60 feet in commercial districts. The City Council may, upon application from a property owner, vary this requirement in accordance with the standards set forth in Section 4.01(10) of the Performance Standards.

**(D) SAFETY SPECIFICATIONS.** All driveways within the City which provide access to residences or other structures shall be constructed and maintained to a minimum width of 10' and shall be free from overhanging obstructions, including but not limited to tree limbs, to a minimum height of 14' above the driveway surface.

**(E) ENFORCEMENT OF SAFETY SPECIFICATIONS.** The City Official shall not issue a Certificate of Compliance for any structure unless it is served by a driveway meeting the safety specifications set forth in Section 4.01(12)(D).

**4.01(11) SIGNS. RESERVED FOR FUTURE USE.**

**4.02. STANDARDS FOR USES.**

**4.02(1) ACCESSORY APARTMENTS.**

**(A) REQUIRED PERMITS.** Accessory apartments are allowed in the "A-1" Agricultural District, "RR" Rural Residential, "RC" Rural Commercial, R-1, and R-2 Districts.

**(B) OTHER REQUIREMENTS.** The accessory apartment must comply with the State Building Code.

**(C) PERFORMANCE STANDARDS.** An accessory apartment must comply with all of the following standards:

- a. There shall be no more than one accessory apartment within the single family dwelling unit.
- b. The structure in which an accessory apartment is located shall be owner occupied.
- c. No separate curb cut shall be permitted for the accessory apartment unit.
- d. The Certificate of Compliance will be reviewed annually. The owner shall obtain a Certificate of Compliance once a year in the month of January for the duration of the use, presenting at the time of such renewal, proof in the form of an affidavit that the circumstances for which the Certificate of Compliance was issued have not changed.

**4.02(2) AGRICULTURAL BUSINESS - SEASONAL.**

**(A) REQUIRED PERMITS.** Agricultural Business - Seasonal is allowed in the Agricultural District and Rural Residential District.

**(B) OTHER REQUIREMENTS.** The business must comply with all rules and regulations of federal, state, county, and local agencies.

**(C) PERFORMANCE STANDARDS.** Seasonal agricultural businesses must comply with all of the following standards:

- a. The majority of product sold on the property shall be grown or raised on the property. No sale of product shall take place on any County road or City road right-of-way.
- b. Any temporary structure placed on the property for such sales must be removed at the end of the selling season. The size of the temporary structure shall not exceed 100 square feet.
- c. If deemed necessary by the Zoning Administrator, off-street parking may be required.
- d. All structures, including temporary structures shall meet the minimum setback requirements of the zone in which it is located.
- e. The Certificate of Compliance shall be reviewed annually.

**4.02(3) CAR WASH.**

**(A) REQUIRED PERMITS.** A car wash is permitted in the Commercial/Business District with a Conditional Use Permit.

**(B) OTHER REQUIREMENTS.** The car wash must comply with all Rules and Regulations of Federal, State, County, and City agencies.

**(C) PERFORMANCE STANDARDS.** A car wash must comply with all of the following requirements:

- a. The site shall be designed to provide additional parking or car stacking space to accommodate that number of vehicles which can be washed during a 15 minute period.
- b. The car wash shall be serviced with a public sanitary sewer system or with an on-site recycling water system that meets or exceeds State requirements and that assures protection of the surface water and groundwater in the City and its environs.

**4.02(4) ESSENTIAL SERVICES - GOVERNMENT USES, BUILDINGS AND STORAGE.**

**(A) REQUIRED PERMITS.** Essential services - government uses, buildings, and storage are allowed in all Zoning Districts with a Certificate of Compliance.

**(B) OTHER REQUIREMENTS.** The essential service must comply with all rules and regulations of federal, state, county and City agencies.

**(C) PERFORMANCE STANDARDS.** The essential service must comply with all of the following standards:

- a. Structures must be set back in accordance with the required setbacks of the Zoning District.
- b. The site shall be landscaped to screen the facility from view from property lines and road.

**4.02(5) ESSENTIAL SERVICES - UTILITY SUBSTATION.**

- (A) **REQUIRED PERMITS.** Essential services - utility substations are allowed in all Zoning Districts with a Certificate of Compliance.
- (B) **OTHER REQUIREMENTS.** The essential service must comply with all rules and regulations of federal, state, county and City agencies.
- (C) **PERFORMANCE STANDARDS.** The essential service must comply with all of the following standards:
- Notwithstanding the prohibition against two or more uses on an individual parcel, the lot area for essential service-utility substation can be acquired by lease provided; however, the lot shall be large enough so all structures/facilities comply with the required setbacks for the Zoning District.
  - The approved lot, if no longer needed or used by the utility, the applicant shall return the property to its original state. The Zoning Administrator may require a bond to ensure compliance with this standard.
  - A Certificate of Compliance shall be recorded with the County Recorder.
  - Utility substations to any other essential service as defined above containing antennas and towers greater than 45' in height must comply with Chapter 4.02(14) of this Zoning Ordinance.

**4.02(6) HOME OCCUPATIONS.**

- (A) **REQUIRED PERMITS.** Home occupations are allowed in Agricultural and all residential Districts.
- (B) **PURPOSE.** The City Council of the City of Finlayson finds that there is a need in the City for a process to allow certain limited business uses in Agricultural and "RR" zoned property and in R-1 and R-2 Districts where such use is accessory to the primary residential use of the property. The City Council finds that home occupation uses should be allowed by Conditional Use Permit subject to annual review and renewal.
- (C) **HOME OCCUPATION USE DEFINED.** A home occupation use for purposes of this Chapter shall mean a business or commercial use of a residential property where the residential use is the primary use and the following conditions are met:
- The home occupation use is operated by persons who reside full time on the property for which the home occupation permit is issued, except that the home occupation use may include one person who is not a resident of the property.
  - The home occupation use shall be carried on wholly within the principal and accessory structure on the property except not more than a total of two vehicles, pieces of heavy equipment, or trailers may be stored outside.
  - No stock in trade, business inventory, equipment or vehicles used primarily for business purposes shall be stored or kept outside.
  - The home occupation use shall not include any retail or over the counter sales.
  - The home occupation use shall not generate noise, vibration, smoke, dust, electrical disturbance,

odors, heat or glare which creates a public nuisance or interferes with the reasonable use of surrounding properties.

- The home occupation use, including, but not limited to vehicles, equipment or trailers shall be screened from adjoining property. Adjoining property shall include property separated only by a public road. Screened shall mean that the stored property cannot be seen from adjoining lots. Screening materials shall include trees, shrubbery, or other vegetation which screens the use from adjoining property as approved prior to issuance of a permit.
- Hours and intensity of the operations may be limited by the CUP so as not to unreasonably impact neighboring property and shall be set forth in the Conditional Use Permit.
- On-site storage of significant quantities of hazardous, bio-hazardous or flammable material for use by or as a by-product of the home occupation shall not be permitted.
- No home occupation shall be permitted that creates the need for more than three (3) parking spaces at any given time in addition to the parking spaces required by the occupants of the building. All parking spaces must be off-street. No parking associated with the use will be allowed on public roads or right-of-way. No street access shall be allowed for a home occupation use which would not be allowed for a purely residential use of the same property.
- On-site signage will be prohibited except as follows:
  - One sign per dwelling, exclusive of mail box identification.
  - Maximum size of 18 x 24 inches (432 square inches)
  - Professional in appearance and installation
  - Non-illuminated
  - Adequately maintained
  - The purpose of a sign shall be to identify the location of the business. Direct advertising is not a permitted purpose of the sign. Temporary signs, roof signs, non-conforming signs, banners, and pennants will not be allowed.
- CUP is needed for any home occupation. If the home occupation requires a license from any other civil authority, the conditions imposed in the CUP shall become a part of such license. The nature and conduct of the home occupation shall at times be legal within the laws of the Federal, State or local government in order to maintain the CUP. Violations of either the license or requirements of the CUP shall cause the City to terminate the CUP.
- The home occupation must comply with all stipulations of the approved CUP. Failure to do so will result in a revocation of the permit. Additionally, any change in the use may result in permit



revocation. The City must be notified of any changes in use.

**(D) PROCEDURE.** A CUP permit is a permit granted by the Finlayson City Council allowing a "conditional" use to occur on a specified parcel of land subject to compliance with certain enumerated conditions. The granting of the CUP is the responsibility of the Finlayson City Council. A public hearing for the CUP must be held by the Planning Commission and a recommendation from this forwarded to the City Council. Fee schedules for the CUP shall be set by the City Council.

**(E) CERTAIN USES EXCEPTED.**

- a. Traditional agricultural activities are excluded from the CUP permit requirements in agricultural or residential zones. A rural farm (agricultural activity) is a commercial food producing use on twenty (20) or more contiguous acres. Real property shall be considered to be in agricultural use provided that annually it is devoted to the production for sale of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursing stock, fruit of all kinds, vegetables, forage, grain, bees and apiary products. All agricultural production to be sold must be produced on the farm in question.
- b. Occasional business activity conducted by individuals at their homes or non-profit organizations (i.e. churches, schools) at their building sites within the City are exempt from the provision of this ordinance so long as the business activity is closely limited in time (15 days per year) or extent (on-street parking). Examples of these activities include:
  - 1. Garage or yard sales
  - 2. Craft sales
  - 3. Sale of individual vehicles or equipment
  - 4. Dinners
  - 5. Pot-luck meals

**(F) EXAMPLES OF HOME OCCUPATION USES.**

- a. Professional Office
  - 1. Hair dressing
  - 2. Teaching - limited to five students at any one time
  - 3. Franchise sales of home and beauty products delivered to the customer
  - 4. Limited day care
  - 5. Pet care and grooming
  - 6. Lawn mower or small engine repair
  - 7. Self-employed contractor
  - 8. Snow-plowing
  - 9. Lawn maintenance service
  - 10. Hobby and craft

**(G) EXAMPLES OF ACTIVITIES NOT CONSIDERED HOME OCCUPATION USES.**

- a. Retail store front shops
- b. Restaurants or similar uses
- c. Bed and breakfast
- d. Public storage

**4.02(7) KENNELS - COMMERCIAL.**

**(A) REQUIRED PERMITS.** In the Agricultural Districts, a Conditional Use Permit is required for commercial kennels. Commercial kennels are not allowed in any other District.

**(B) OTHER REQUIREMENTS.** Commercial kennels must comply with all rules and regulations of federal, state, county, and City agencies.

**(C) PERFORMANCE STANDARDS.** Commercial kennels must comply with all of the following standards.

- a. The minimum lot area required for commercial kennels is five (5) acres.
- b. Any outdoor structures used for the confinement, care, or breeding of animals shall be setback a minimum of one hundred (100) feet from any property line and fifty (50) feet from any water supply well.
- c. An individual sewage treatment system shall be installed with the capacity to handle waste and hosing from the kennel and kennel runs.

**4.02(8) LIVESTOCK AND LIVESTOCK OPERATIONS.**

**(A) REQUIRED PERMITS.**

- a. Refer to Chapter 2 ZONING REGULATIONS for the number of livestock allowed in A-1, RR, and RC Districts.

**(B) OTHER REQUIREMENTS.** Livestock and livestock operations must comply with all rules and regulations of federal, state, county, and City agencies.

**4.02(9) MOTOR VEHICLE REPAIR.**

**(A) REQUIRED PERMITS.** A Conditional Use Permit is required for motor vehicle repair establishments in the Commercial/Business District and Residential/Commercial District.

**(B) OTHER REQUIREMENTS.** Motor vehicle repair establishments must comply with all rules and regulations of federal, state, county, and City agencies.

**(C) PERFORMANCE STANDARDS.** Motor vehicle repair establishments must comply with all of the following standards:

- a. Lots and structures utilized for motor vehicle repair must meet the minimum standards of the Zoning District in which the use is located.
- b. A drainage system for collection of any hazardous material run-off must be installed. Such system shall be subject to approval by the Zoning Administrator.
- c. The entire site, other than that devoted to structures and landscaped areas, shall be an impervious surface and maintained for control of dust, erosion, and drainage.

- d. Location and number of access driveways shall be approved by the County Engineer if such establishment is located along a county road and by the local City Engineer, if located along a City road.
- e. No vehicles shall be parked on the premises other than those utilized by employees, customers awaiting service, or as allowed through a Conditional Use Permit. Storage of salvage vehicles shall be prohibited.
- f. All areas utilized for the storage and disposal of trash, debris, discarded parts, and similar items shall be fully screened. All structures and ground shall be maintained in an orderly, clean and safe manner.
- g. Landscaping shall be planted to buffer the use from adjacent residential land uses. A landscape plan shall be submitted to the Zoning Administrator at the time of application for a Conditional Use Permit.

**4.02(10) MOTOR VEHICLE SERVICE STATION.**

- (A) REQUIRED PERMITS.** A Conditional Use Permit is required for motor vehicle service stations in the Commercial/Business District.
- (B) OTHER REQUIREMENTS.** Motor vehicle service stations must comply with all rules and regulations of federal, state, and county agencies.
- (C) PERFORMANCE STANDARDS.** Service stations must comply with all of the following standards:
  - a. A minimum lot width of 150 feet is required.
  - b. The setbacks of all buildings, canopies, and pump islands shall be in compliance with the standards of the Commercial/Business District.
  - c. A drainage system for collection of hazardous materials must be installed. Such installation is subject to approval by the Zoning Administrator.
  - d. The entire site other than that devoted to structures and landscaped areas, shall be an impervious surface and maintained for control of dust, erosion, and drainage.
  - e. Wherever fuel pumps are installed, pump islands shall be installed. Pump islands shall not be placed in the required yards.
  - f. Interior concrete or asphalt curbs shall be constructed within the property to separate driving and parking surfaces from landscaped areas. Interior curb shall be six inches in height, except at approved entrances and exits.
  - g. Access drives onto a county road must be approved by the County Engineer. Access drives onto a City road must be approved by the City of Finlayson Engineer.
  - h. No vehicles shall be parked on the premises other than those utilized by employees, customers awaiting service, or as allowed through a Conditional Use Permit. Storage of salvage vehicles shall be prohibited.
  - i. Exterior storage shall be limited to vehicles, service equipment, and items offered for sale on pump islands; exterior storage of items offered for sale

- shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise, or as indicated by the Conditional Use Permit.
- j. All areas utilized for the storage and disposal of trash, debris, discarded parts, and similar items shall be fully screened. All structures and ground shall be maintained in an orderly, clean, and safe manner.
- k. Landscaping shall be planted to buffer the use from adjacent residential land uses. A landscape plan shall be submitted to the Zoning Administrator at the time of application for a Conditional Use Permit.

**4.02(11) PUBLIC RECREATION FACILITY.**

- (A) REQUIRED PERMITS.** A Conditional Use Permit is required for public recreational facilities in all Zoning Districts.
- (B) OTHER REQUIREMENTS.** Public recreational facilities must comply with all rules and regulations of federal, state, and county agencies.
- (C) PERFORMANCE STANDARDS.**
  - a. All structures (including backstops, goalposts, etc.) shall meet the required setbacks for the District in which it is located.
  - b. There shall be no overnight accommodations provided for the guests or visitors of the recreation area.
  - c. A concession or temporary food stand may be permitted on the property provided it only serves food and refreshments to guests and visitors of the facility.
  - d. Information shall be provided regarding the recreational activities provided, number of members, and participants in the recreation programs, sanitary facilities and waste disposal, security, lighting, and hours of operation. As deemed necessary, the City Council may restrict the operation of the facility.
  - e. Exterior lighting will be designed in compliance with City of Finlayson ordinances. Any lighting shall not exceed one-half foot candle at the nearest existing residential home.
  - f. The noise levels on the sight shall not exceed the levels allowed by the Minnesota Pollution Control Agency regulations. In the event that there are noise complaints, the Applicant agrees to meet with the Finlayson City Council to discuss ways of alleviating the noise complaints.
  - g. The hours of operation shall be limited to 9:00 a.m. to 10:00 p.m. Monday through Thursday and 7:00 a.m. to 10:00 p.m. Friday through Sunday. Everyone will be off the property by the designated closing time except for persons attending meetings inside a structure and all field lights will be shut off by the designated closing time.
  - h. Screening may be required to buffer the use from adjacent residential land use.

- i. A transportation management plan shall be submitted to the Zoning Administrator at the time of application. This plan shall address off-street parking and traffic control, including the mitigation of overflow parking and traffic movement to the public street system and impact on the surrounding roadways. The transportation management plan shall include periodic monitoring of traffic to and from the facility.
- j. A grading and drainage plan shall be submitted. The standards of the Watershed Management Organization or Watershed District and the Pine County Soil and Water Conservation District must be met.
- k. The Applicant shall execute and deliver to the City a developer's agreement in a form approved by the City Attorney. The developers agreement shall provide security which, in the opinion of the City Engineer, will be sufficient to restore the property to a condition which would not cause surface water runoff to neighboring properties or create other nuisances to adjoining properties and which would allow for removal of any partially constructed site improvements in the event the Applicant failed to complete the project.
- l. The Applicant shall pay all reasonable expenses of the City in connection with the review of its plan and the inspection and approval of all improvements to be made by the Applicant.

**4.02(12) SCHOOLS.**

- (A) **REQUIRED PERMITS.** A Conditional Use Permit is required for schools in Districts A-1, R-R, R-C, Open Space Design, R-1, and R-2.
- (B) **OTHER REQUIREMENTS.** Schools must comply with all rules and regulations of federal, state, county, and City agencies.
- (C) **PERFORMANCE STANDARDS.** Schools must comply with all of the following standards:
  - a. The minimum lot area required for schools is two and one half (2-1/2) acres.
  - b. Landscaping may be required to be installed to buffer the use from adjacent land uses and to provide screening. A landscape plan shall be submitted at the time of application for a Conditional Use Permit, if requested by the Zoning Administrator.

**4.02(13) MULTIPLE USE COMMERCIAL CENTERS (MUCC).**

- (A) **REQUIRED PERMITS.** Multiple Use Commercial Centers are permitted in the Commercial/Business District with the issuance of a Conditional Use Permit.
- (B) **OTHER REQUIREMENTS.** Multiple Use Commercial Centers must comply with all rules and regulations of federal, state, and county agencies.
- (C) **PERFORMANCE STANDARDS.** Multiple Use Commercial Centers must comply with all of the following requirements:
  - a. Multiple Use Commercial Centers shall have direct access to an arterial, or collector street, or local street as designated in the Comprehensive Plan.

- b. The Multiple Use Commercial Centers must comply with the use requirements and dimensional standards of the Commercial/ Business District.

**4.02(14) WIRELESS COMMUNICATION ANTENNAS AND TOWERS.**

- (A) **REQUIRED PERMITS.** The construction of a new tower in excess of 45 feet or the addition of a new antenna on an existing tower or building may be allowed following the issuance of a Conditional Use Permit, if conditions contained in this Zoning Ordinance are met.
- (B) **NON-CONFORMITIES.** Any existing tower which becomes non-conforming as a result of this Zoning Ordinance may continue its use and additional antennas may be attached to the tower structure. If the tower needs to be replaced, it may be permitted with a Conditional Use Permit so long as it is of the same type (guyed, self-supporting, or monopole), same height, same marking, (lighting and painting), and it will be located within ten (10) feet of the tower to be replaced. The only permitted reasons for replacement of an existing, non-conforming tower will be to increase the number of antennas or to preserve the structural integrity of the structure. If a tower requires replacement for any other reasons, such replacement tower would need to meet all of the standards of this Zoning Ordinance.
- (C) **EXCEPTION.** In any District, a proposed tower 200 feet high or less located within the easement of overhead high voltage transmission lines with towers 75 feet in height or higher or within 50 feet of such transmission line easement on the same side of the road will not be required to meet the standards of Part (8) (B) through (G) of this Section, but will be required to meet all other standards.
- (D) **MODIFICATION.**
  - a. A modification to any requirement of this Zoning Ordinance Code may be sought by the applicant and heard by the Planning Commission in accordance with the procedures, but not the standards, set forth in the City of Finlayson Zoning Ordinance.
  - b. The criteria for granting a modification under this Section of the Zoning Ordinance shall be: presentation of engineering data demonstrates that personal wireless services cannot be provided by the applicant to a specific area of City of Finlayson without the modification.
- (E) **TERM OF PERMIT AND REVOCATION.**
  - a. Towers are permitted with either a Conditional Use Permit or Certificate of Compliance. The Certificate of Compliance or Conditional Use Permit shall remain in effect so long as the conditions contained in the certificate or permit are met.
  - b. The grounds for revocation of a Certificate of Compliance or Conditional Use Permit shall be based on finding that:
    - 1. The permittee has failed to comply with conditions of approval imposed; or
    - 2. The facility has not been properly maintained; or

3. The facility is no longer in use and has not been in use for the previous 12 months.

**(F) OTHER REQUIREMENTS.**

- a. All rules and regulations of the FCC and FAA must be met and complied with.
- b. In the event of revocation of a permit, the tower and all accessory structures must be removed and the site restored to its original condition within 120 days. Failure to do so will result in the City's completing the removal and site restoration and the City's cost shall be assessed against the property and collected as a real estate tax.

**(G) DISTRICTS.** Antennas and towers are regulated differently depending on the Zoning District in which the property is located. The following are the standards in each District.

- a. "A-1" Agricultural Districts.
  1. The following are permitted with a Certificate of Compliance:
    - i) Antennas attached to an existing structure or tower and not extending more than 15 feet above the highest point of the structure or tower.
    - ii) A tower within the easement of a high power overhead transmission line or within 50 feet of the transmission line easement on the same side of a road to a maximum height of 200 feet.
  2. The following are permitted with a Conditional Use Permit:
    - i) A free standing communication tower not exceeding 300 feet in height.
    - ii) Communication antenna attached to an existing structure or tower exceeding 15 feet above the highest point of the structure or tower up to a maximum height of 300 feet.
- b. "RR" Rural Residential District
  1. The following are permitted with a Certificate of Compliance:
    - i) Antennas attached to an existing structure or tower and not extending more than 15 feet above the highest point of the structure or tower.
    - ii) A tower within the easement of a high power overhead transmission line or within 50 feet of the transmission line easement on the same side of a road to a maximum height of 200 feet.
  2. The following are permitted with a Conditional Use Permit:
    - i) A free standing communication tower not exceeding 150 feet in height.
    - ii) Communication antenna attached to an existing structure to tower exceeding 15 feet above the highest point of the structure or tower up to 150 feet.

**(H) PROHIBITIONS.**

- a. No tower shall be over 300 feet in height or within one mile of another tower regardless of municipal boundaries.
- b. A proposal for a new wireless service tower shall not be approved unless it can be shown by the applicant that the telecommunication equipment planned for the proposed tower cannot be accommodated;
  1. on an existing tower; or
  2. on a tower that has been permitted by the City of Finlayson (even though it may not yet be constructed); or
  3. on a tower whose application for a Certificate of Compliance or Conditional Use Permit is currently pending before the City of Finlayson.
- c. No tower over 45 feet in height shall be located within 500 feet of any residential dwelling other than the dwelling on the parcel on which the tower is to be located.
- d. No tower over 45 feet in height shall be located closer than one-quarter (1/4) mile to the outside boundary of an existing or proposed park.
- e. No tower over 45 feet shall be erected within one-quarter (1/4) mile from the centerline of State Highway 18, unless it can be demonstrated through visual impact demonstration that the tower will be visually inconspicuous as viewed from the road on a year-round basis.
- f. No tower over 45 feet shall be erected within one-quarter (1/4) mile of a DNR protected lake or river.
- g. No tower over 45 feet shall be erected on any property platted for residential purposes.
- h. No temporary mobile cell sites are permitted except in the case of equipment failure, equipment testing, or in the case of an emergency situation as authorized by the County Sheriff. Use of temporary mobile cell sites for testing purposes shall be limited to twenty-four (24) hours; use of temporary mobile cell sites for equipment failure or in the case of emergency situations shall be limited to a term of thirty (30) days. These limits can be extended by the Zoning Administrator.
  - i. Permanent platforms or structures, exclusive of antennas, other than those necessary for safety purposes or for tower maintenance are prohibited.
  - j. No antenna or tower shall have lights, reflectors, flashers, daytime strobes, steady night time red lights, or other illuminating devices affixed or attached to it unless required by the FAA or FCC.
  - k. No advertising or identification signs shall be placed on towers or antennas.

**(I) PERFORMANCE STANDARDS.**

- a. On a vacant parcel of land zoned for agricultural or residential purposes, the minimum lot size for construction of a tower over 45 feet in height shall be 2.5 acres.

- b. Towers located closer to a property line than a distance equal to the height of the tower shall be designed and engineered to collapse progressively within the distance between the tower and the property line. The application for any tower shall submit written documentation explaining tower construction and possible failure and provide assurance that blowing or falling ice can be contained on the subject property. At a minimum, the tower shall comply with the minimum setback requirement of the zone in which it is located.
- c. A tower shall be located on a parcel of land so as to have the least impact on adjoining properties and any negative impacts of the tower shall be confined as much as possible to the property on which the tower is located.
- d. The tower location shall provide the maximum amount of screening for off-site views of the facility. The Zoning Administrator reserves the right to require creative design measures to camouflage facilities by integrating them with existing buildings and among other existing uses. Existing on-site vegetation shall be preserved to the maximum extent practicable.
- e. The height of the tower shall allow for the co-location of additional antennas as follows:
  - 1. Structures from 100 to 125 feet - a total of two tenants.
  - 2. Structures from 125 to 200 feet - a total of three tenants.
  - 3. Structures above 200 feet but less than 300 feet - a minimum of four (4) tenants.
- f. Structural design, mounting, and installation of the antenna and tower shall be in compliance with manufacturers specifications. The plans shall be approved and certified by a Registered Professional Engineer.
- g. In general, self-supporting towers (i.e. those without the use of wires, cables, beams, or other means) are preferred. The use of a guyed tower is permitted for new tower construction if there is an aesthetic and/or antenna supporting capability advantage. Anchors for the guyed wires must meet underlying setback requirements.
- h. Associated base equipment must be located within a structure. The base of the tower and any accessory structures shall be landscaped where practical. Tower accessory structures shall be constructed of materials designed to minimize visibility to the neighborhood.
- i. The tower shall be a color demonstrated to minimize visibility unless otherwise required by FAA regulations.
- j. Metal towers shall be constructed of, or treated with, corrosive resistant material.
- k. If space is available on a tower, the tower owners shall, in good faith, lease space to other users so long as there is no disruption in the existing service provided by the towers' existing users or no negative structural impact upon the tower. If a

dispute arises, and as a condition to any permit or Certificate of Compliance, City of Finlayson, at its discretion, reserves the right to act as its arbiter in determining if a tower owner is acting in good faith in leasing to other tenants.

- i. Generally, only one communication tower is permitted on a parcel of land and, if in the opinion of the City of Finlayson Council, a particular parcel is well suited for more than one communication tower, and the tower is proposed within 100 feet of the other tower, the additional tower may be allowed following the issuance of a Conditional Use Permit. All other standards contained in this Zoning Ordinance must be met.
- m. All towers shall be reasonably protected against unauthorized climbing. The bottom of the tower from ground level to 12 feet above ground shall be designed in a manner to preclude unauthorized climbing or shall be enclosed by a six (6) feet high chain link fence with a locked gate.
- n. Antenna and tower owners shall be required to conduct an annual inspection of their facilities to insure continuing compliance with this Zoning Ordinance. A copy of the annual inspection report shall be provided to the Zoning Administrator.

**(J) APPLICATION - NEW TOWER.**

- a. In addition to the submittal requirements required elsewhere in this Zoning Ordinance, applications for Conditional Use Permits or Certificates of Compliance for new towers and antennas shall be accompanied by the following information:
  - 1. A report from a qualified and Licensed Professional Engineer which:
    - i) describes the tower height and design including a cross section and elevation;
    - ii) certifies the tower's compliance with structural and electrical standards;
    - iii) describes the tower's capacity, including the potential number and type of antennas that it can accommodate;
    - iv) describes the lighting to be placed on the tower if such lighting is required by the FCC or FAA;
    - v) describes that the applicant will avoid causing destructive interference to co-located, previously established public safety communications;
    - vi) specifies the distance to any DNR protected lake or river, a scenic road and any boundary of a state or county park.
  - 2. Each application shall include a five year facility plan. The City will maintain an inventory of all existing and proposed cell site installations and all carriers shall provide the following information in each five year plan. The plan must be updated with each submittal as necessary:
    - i) Written description of type of consumer services each company/carrier will provide

- to its customers over the next five years (Cellular, Personal Communication Services, Specialized Mobile Radio, Paging Private Radio, or other anticipated communication technology).
- ii) Provide a list of all existing sites, existing sites to be upgraded or replaced, and proposed cell sites within the City for these services by the company.
  - iii) Provide a presentation size map of the City which shows the five year plan for cell sites, or if individual properties are not known, the geographic service areas of the cell sites.
- Information provided as part of the five year facility plan that is a trade secret pursuant to Minnesota Statute §13.37(b) shall be classified as non-public data.
- 3. Written acknowledgement by the landowner that he/she will abide by all applicable Conditional Use Permit or Certificate of Compliance conditions.
  - 4. The Zoning Administrator may, at its discretion, require visual impact demonstrations including mock-ups and/or photo montages; screening and painting plans; network maps; alternative site analysis; lists of other nearby telecommunication facilities; or facility design alternatives for the proposed tower.
  - 5. The City of Finlayson Council is explicitly authorized to employ on behalf of the City, an independent technical expert to review technical materials submitted by the applicant or to prepare any technical materials required but not submitted by the applicant. The applicant shall pay the costs of said review and/or independent analysis. Any proprietary information disclosed to the City expert hired shall remain non-public and subject to the terms and conditions of a properly executed non-disclosure agreement.

**(K) APPLICATION - EXISTING TOWER/NEW ANTENNA.**  
 In the event that an application is only to add a new antenna to an existing tower or structure, the requirements as delineated under Section 4.02(14)(J)(a)(1)(vi) and 4.02(14)(J)(2) shall not apply.

**(L) EXEMPTION FOR TOWERS.**

- a. Ham Radio Operator Towers. Ham radio towers designed for personal use are exempt from the foregoing regulations if their only use is for the personal enjoyment of the owner. Any commercial use of such tower shall require it to be subject to the foregoing regulations.

**4.02(15) WIND ENERGY CONVERSION SYSTEMS.**

**(A) PURPOSE AND INTENT.** The purpose is to establish regulations for wind energy conversion systems. A wind energy conversion system is defined as one (1) tower with rotors and motors with one conversion generator.

- a. Required Permits. A Conditional Use Permit is required for a wind energy conversion system in all zoning districts.
- b. Other Requirements. Wind Energy Conversion Systems shall comply with all rules and regulations of Federal, State, County, and local agencies.
- c. Performance Standards. Wind Energy conversion systems must comply with the following standards:
  - 1. If the wind energy conversion system is 40 feet or less in height, it may be located on a parcel 2.5 acres or greater in size.
  - 2. A wind energy conversion system greater than 40 feet must be located on a parcel at least ten (10) acres in size.
  - 3. One wind energy conversion system is permitted on a parcel.
  - 4. The maximum height of a wind energy conversion system shall be 100 feet. The system height shall be measured from the base of the tower to the highest possible extension of the rotor.
  - 5. No lights, flashers, reflectors, or any other illuminated devices shall be affixed to the wind energy conversion system.
  - 6. The wind energy conversion system shall be located so as to have the least impact on adjoining parcels.
  - 7. No wind energy conversion system shall be located within any required setback and shall have a minimum setback from any property line a distance equal to the height of the tower.
  - 8. Rotors shall not exceed 26 feet in diameter and shall have a clearance of 10 feet above the ground. Each wind conversion system shall be equipped with both a manual and automatic breaking device capable of stopping the wind energy conversion system in high winds (40 MPH or greater).
  - 9. All State, County, and local noise standards must be met. Applicable electrical permits/inspections must be obtained.
  - 10. To prevent unauthorized climbing, wind energy conversion system towers must comply with one of the following provisions:
    - i) Tower climbing apparatus shall not be located within 12 feet of the ground
    - ii) A locked anti-climb device shall be installed on the tower.
    - iii) A protective fence at least 6 feet in height.
  - 11. The color of the structure shall be either gray or off-white.
  - 12. In the event of permit revocation or if the wind generator is no longer used, the wind generator must be removed and the site restored to its original condition within 120 days.