

## **TITLE XV: ZONING**

### **150. ZONING**

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## **§ 150.01 PREAMBLE AND TITLE**

- (A) *Preamble.* An ordinance establishing zoning regulations for the City of Bigfork, Minnesota in pursuance of the authority granted by Chapter 462, Minnesota Statutes, to promote the health, safety, morals and general welfare of the inhabitants by dividing the City into zoning districts and regulating the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open space, the density and distribution of population, the uses of buildings and structures for trade, industry, recreation, public activities, agriculture, forestry, soil conservation, water supply conservation, conservation of shore lands, access to direct sunlight for solar energy systems, and flood control.
- (B) *Title.* This ordinance shall be known as the Zoning Ordinance of the City of Bigfork, Minnesota.

## **§ 150.02 INTENT AND PURPOSE**

This ordinance is adopted for the purpose of:

- (A) Protecting the public health, safety, morals, comfort, convenience and general welfare.
- (B) Dividing the City into zoning districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of structures and land.
- (C) Promoting orderly development of the residential, business, industrial, recreational and public areas.
- (D) Providing adequate light, air, access to direct sunlight, and convenience of access to property.
- (E) Limiting congestion in the public right-of-ways.
- (F) Preventing overcrowding of land and undue concentration of structures by regulating the use of land, buildings and the bulk of buildings in relation to the land and buildings surrounding them.
- (G) Providing for the compatibility of different land uses and the most appropriate use of land throughout the City.
- (H) Providing for the administration of this ordinance and amendments thereto.

- (I) Defining the powers and duties of the administrative officers and bodies, as provided hereinafter.
- (J) Prescribing penalties for the violations of this ordinance or any amendment thereto.
- (K) Regulating land use in accordance with the ordinances of the City of Bigfork.

**§ 150.03 RULES, GENERAL PROVISIONS, PERFORMANCE STANDARDS AND DEFINITIONS**

(A) RULES OF CONSTRUCTION

- (1) The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- (2) Words used in the present tense include the future tense and the singular includes the plural unless the context clearly indicates the contrary.
- (3) The word building includes the work structure.
- (4) The word shall is mandatory and the word may is permissive.
- (5) The word lot includes the words plot or parcel.
- (6) The words used or occupied include the words intended, designed or arranged to be used or occupied.
- (7) Any word or term not interpreted or defined shall be used with a meaning of common or standard utilization.

(B) GENERAL PROVISIONS

These provisions shall apply to all districts

(1) SCOPE, APPLICATION AND INTERPRETATION

- (a) Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

- (b) Conflicting Regulations. Whenever any provision of this ordinance is found to be in conflict with the provision of any other city ordinance, the ordinance containing the more restrictive requirements shall govern. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.
- (c) Scope. 1. No structure, or part thereof, shall be erected, converted, enlarged, reconstructed, altered or moved and no structure or land shall be used for any purpose or in any manner which is not in conformity with the provisions of this ordinance. 2. No site or lot or part thereof, shall be converted, enlarged, reconstructed, altered or used for any purpose or in any manner which is not in conformity with the provisions of this ordinance.

## (2) SEPARABILITY

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

- (a) Validity, General Application. If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.
- (b) Validity, Specific Application. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure included in judgment.

## (3) LOT PROVISIONS

- (a) Lots of Record.
  - 1. Reduction in Lot Area. No lot of record shall be reduced in size below the district requirements of this chapter.
  - 2. Use. A lot of record existing upon the effective date of this ordinance in the residential district (R) which does not meet the requirements of this ordinance as to area or width may be utilized for a single family dwelling, provided the area

of such a lot or width are within sixty-five (65) percent of the requirements of this ordinance. A permit for the construction of a single family dwelling upon such undersized lot may be issued only upon the application for a variance from the City of Bigfork. It is further conditioned that said lot of record shall not be more intensively developed, unless combined with adjoining property so as to create a lot meeting the following requirements of this ordinance:

- a. It fronts on a public right-of-way;
  - b. all other requirements of the district are met;
  - c. where adjacent land is owned, lots shall be combined so as to create a lot meeting the requirements of this ordinance; and
  - d. that any lot so excepted shall be no less than 50 feet in width.
- (b) Contiguous Lots. Two (2) lots of record when contiguous and when held in common ownership may be treated together as a single lot for purposes of this chapter, provided such lots are located in the same district or if in different districts, the use proposed for either is allowed in both districts.
- (c) One Principal Building Per Lot. Except for a PUD, or a multiple-family project as provided for herein, not more than one principal building shall be located on a lot in the R District.

#### (4) REQUIRED YARD AND OPEN SPACE

- (a) Reduction. No yard or other open space shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this ordinance. If the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.
- (b) Relative to Other Buildings. No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open space or minimum lot area requirements for any other building.

(5) TRAFFIC VISIBILITY AND PEDESTRIAN ACCESS

- (a) Intersection Visibility. No structure or planting in excess of thirty (30) inches above the curb line shall be permitted within an area, encompassed by the legs and the hypotenuse of a triangle, the legs of which are measured along and beginning at the intersecting curb lines a distance of thirty (30) feet.
- (b) Hedges, Bushes and Trees. Trees adjacent to the above mentioned triangle and along a public sidewalk shall be pruned so as not to impede vision or the movement of pedestrians on such public sidewalk.

(6) LAND RECLAMATION

The placement or rearrangement of more than one hundred (100) cubic yards of fill on any lot during a three hundred sixty five (365) day time span shall require a “fill permit”. An application for a fill permit shall be supported by information requested in Section 150.05(I)&(J), and said plans must be approved by the City Engineer prior to issuance of a permit. Any land reclamation activities affecting wetland areas, shore lands or the drainage of neighboring properties shall require a Conditional Use Permit (CUP) as per Section 150.05(I)&(J) of this ordinance.

(7) STRUCTURES ON THE PUBLIC RIGHT-OF-WAY

No buildings, structures, signs or uses may be located in or on any public land or right-of-way unless otherwise specifically permitted by City of Bigfork Ordinance.

(8) RELOCATION OF STRUCTURES

No building shall be moved into or within the Bigfork City Limits without first obtaining a permit from the City

(9) ACCESS TO A STREET REQUIRED

Every building hereafter erected shall be located on a lot having frontage on a public street as defined herein.

(10) TEMPORARY DWELLINGS

The use and occupancy of a tent, recreational vehicle or other temporary dwelling for the purpose of living quarters is not permitted in any district for greater than 14 days in any month without a permit from the City of

Bigfork. Permits will be for a specific period of time and will not exceed 60 days.

(11) KEEPING OF ANIMALS

Only domestic animals shall be kept but not raised or boarded for profit in the City of Bigfork, except as otherwise provided by this ordinance. The keeping of wild and exotic animals shall not be permitted in the City of Bigfork.

(12) PERMITS REQUIRED

- (a) Land Use Permit. A land use permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, parking lots, fences and other miscellaneous site improvements, and those grading and filling activities not exempted by Section 150.15(H) of this ordinance. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.
- (b) Existing Structures. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 150.03(B)(13), shall be reconstructed or replaced in accordance with the provisions of this ordinance.
- (c) Certificate of Zoning Compliance. The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 15.03(B)(12) of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction that varies from that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 150.04 of this ordinance.

### (13) WATER SUPPLY AND SEWAGE TREATMENT REQUIRED

- (a) Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health.
- (b) Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment as follows:
  - 1. Publicly owned sewer systems must be used where available. Also see the Sanitation Ordinance (Title V, Section 51) of the City of Bigfork.
  - 2. All private sewage treatment systems must meet or exceed the Minnesota State standards for individual sewage treatment systems.
  - 3. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setback contained in Section 150.15 (D,E,F&G) of this ordinance.
  - 4. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 150.15(L) of this ordinance.

### (C) PERFORMANCE STANDARDS

In addition to the requirements of this chapter, uses shall comply with all of the provisions of any existing Bigfork codes, and all State and Federal laws.

### (D) DEFINITIONS

*ACCESSORY BUILDING.* A subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied or devoted exclusively to an accessory use. In a shoreland district, an “Accessory structure” or “facility” means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

*ACCESSORY USE.* A use on the same lot with the principal use of building that is customarily incidental and subordinate to the principal use of building.

*ADULT BUSINESS.* Any place, establishment, or business which offers, advertises, or is engaged in any activity, service, sale, or display of any



commodity which is prohibited by statute or ordinance to minors, or which otherwise forbids sales, or excludes minors by virtue of age. The term *ADULT BUSINESS* shall include, but is not limited to massage parlors, tattoo parlors, adult arcades, adult bookstores, adult motion picture theaters, and adult cabarets.

*AGRICULTURE.* The use of the land for agricultural purpose, including farming, dairying, pasturage, horticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating or storage of produce, provided, however, that the operation of any such accessory uses shall be secondary to that of normal agriculture and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

*AIRPORT OR HELIPORT.* Any land or structure which is used or intended for use, for the landing and take-off of aircraft, and appurtenant land or port building or other port structures or right-of-ways.

*AIRSPACE ZONES A, B, & C.* Refer to existing code, if any.

*ALLEY.* A public right-of-way, which affords a secondary means of access to abutting property.

*ALTERATIONS.* Any modification, additions, or change in construction or type of occupancy, any enlargement of a building, either horizontally or vertically, or the moving of a structure from one location to another.

*ANIMALS, DOMESTIC.* Fish, dogs, cats, birds and similar household pets.

*ANIMALS, FARM.* Cattle, hogs, horses, sheep, goats, rabbits, chickens and other farm animals.

*ANIMALS, WILD AND EXOTIC.* Animals other than domestic and farm animals that are customarily found in the wild and including snakes, wolves, tigers and other such animals.

*APARTMENT.* A room or suite of rooms, including bath and kitchen facilities, in a multiple-family building designed for occupancy by a single-family.

*APARTMENT, ACCESSORY.* An apartment that is secondary and incidental to a principal use or building.

*ASSISTED LIVING.* A type of living arrangement in which personal care services such as meals, housekeeping, transportation, and assistance with activities of daily living are available as needed to people who still live on

their own in a residential facility. In most cases, the "assisted living" residents pay a regular monthly rent. Then, they typically pay additional fees for the services they get.

*ATTORNEY.* The City Attorney of Bigfork, Minnesota or their designated representative.

*AUTO TRUCK FLEET STORAGE.* The storage of 3 or more operable vehicles that is generally used to for the conduct of a business.

*BASEMENT.* A portion of a building located partly underground, but having less the half (½) its floor-to-ceiling height below the average grade of the adjoining ground.

*BED AND BREAKFAST.* A facility where for compensation and by prearrangement for definite periods of time not to exceed two (2) weeks, morning meal and lodging are provided for not more than eight (8) guest rooms.

*BLUFF.* A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

1. Part or the entire feature is located in a shoreland area;
2. the slope rises at least 25 feet above the ordinary high water level of the waterbody;
3. the grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
4. the slope must drain toward the waterbody.

*BLUFF IMPACT ZONE.* A bluff and land located within 20 feet from the top of a bluff.

*BOARDING HOUSE.* A building other than a motel or hotel, where, for compensation and by prearrangement for definite periods, meals and lodging are provided for not less than three (3) or more than eight (8) persons.

*BOATHOUSE.* A structure designed and used solely for the storage of boats or boating equipment.

*BUILDING.* Any structure having a roof which may provide shelter or enclosure of persons, animals or chattel, and when said structure is divided by party walls without opening, each portion of such building so separated shall be deemed a separate building.

*BUILDING HEIGHT.* The distance between the average ground level at the building line and the highest point of the roof or flat roof, to the deck line of a mansard or to the highest gable on a pitched or hipped roof. In a Shoreland District, the “height of building” means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

*BUILDING LINE.* That line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions. It means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

*BUILDING, PRINCIPAL.* A building in which is conducted the main or primary use of the lot on which it is located.

*CABIN.* A small building, not usually intended for year round living.

*CARPORT.* An open-sided roofed automobile shelter, usually formed by extension of the roof from the side of a building.

*CARWASH.* A principal building which is equipped with a conveyor system or other mechanical equipment and facilities for washing motor vehicles.

*CARWASH, ACCESSORY.* An accessory building or part of a principal building equipped with mechanical equipment for washing autos (not a conveyor system) which is accessory to an automobile service or gasoline station and comprises only one normal service bay of the gas station.

*CELLAR.* That portion of the building having more than one-half (½) of the floor-to-ceiling height below the average grade of the adjoining ground.

*CEMETERY.* A designated area of land dedicated to burial of the dead.

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

*CITY ENGINEER.* The professional engineer employed by the City of Bigfork or person otherwise authorized by the City.

*CLINIC.* An establishment where human patient(s) who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, mental health specialists or similar professionals.

*CLUB, LODGE.* A non-profit organization catering exclusively to members and their guests.

*CLUSTER HOUSING.* The grouping of housing units which results in higher density clusters while maintaining approximately the same overall allowable site density. Cluster housing shall include townhouses, zero lot line houses, row houses and similar housing types.

*COMMERCIAL PLANNED UNIT DEVELOPMENTS.* “Commercial Planned Unit Developments” are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, resorts, recreational vehicle and camping parks, and other primarily service-oriented outdoor activities are commercial planned unit development.

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

*COMMISSION.* The Planning & Zoning Commission of the City of Bigfork.

*COMMISSIONER.* The commissioner of the Department of Natural Resources.

*COMPREHENSIVE PLAN.* A compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development of the City and including a land use plan, a community facilities plan, and a transportation plan which has been prepared and adopted by the City of Bigfork.

*CONDITIONAL USE.* A use that is permitted in a district only upon issuance of a Conditional Use Permit (CUP). It means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

*CONGREGATE HOUSING.* Housing for three (3) or more individuals not related by blood, marriage or adoption on a weekly or longer basis. Typical uses include retirement homes and boarding houses.

*COUNCIL.* Shall refer to the City Council of the City of Bigfork.

*CURB LEVEL.* The level of established curb front of a building measured at the center of such front. Where no curb elevation has been established, the

mean elevation of the finished lot grade immediately adjacent to a building shall be considered the “curb level” for purposes of the ordinance.

*DAY CARE CENTER.* A use defined by, Minnesota Rules, parts 9502.0315 to 9502.0445 which is operated for profit for the daytime only care of children and adults.

*DECK.* A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

*DENSITY.* The number of dwelling units residing upon, or to be developed upon, an acre of land.

*DISTRICT.* An area of land for which there are uniform regulations governing the use of buildings and premises.

*DUPLEX.* A dwelling structure on a single lot having two units being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

*DWELLING.* Any building or portion thereof, which is designed or used exclusively for residential purposes but not including rooms in motels, hotels, nursing homes, boardinghouses, nor trailers, tents, cabins or trailer coaches.

*DWELLING, ATTACHED.* A dwelling which is joined to another dwelling at one (1) or more sides by a party wall or walls.

*DWELLING, DETACHED.* A single-family dwelling.

*DWELLING, SINGLE-FAMILY.* A detached building designed for or occupied exclusively by one (1) family.

*DWELLING, MULTIPLE-FAMILY.* A residential building, or portion thereof, containing three (3) or more dwelling units. Permit will be required from the city.

*DWELLING, UNIT.* A building, or portion thereof, which includes complete kitchen and toilet facilities and is designed exclusively for one (1) family.

*ESSENTIAL SERVICES.* Services provided by the public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, and overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water

storage tanks, conduits, cables, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

*EXTRACTIVE USE.* The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

*FAMILY.* An individual, or two (2) or more persons related by blood, marriage or adoption, or a group of not more than four (4) persons not so related, living together as a single housekeeping unit using common cooking and kitchen facilities.

*FLOODWAY.* An area subject to periodic flooding as delineated by a flood boundary on the Zoning Map.

*FLOOR AREA.* The sum of the gross horizontal areas of the floors of a building or dwelling unit, measured from the exterior walls, or from the centerline of party walls separating buildings, excluding cellars but including basements.

*FOREST LAND CONVERSION.* The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

*FRONT LOT LINE.* See Lot, Line.

*GARAGE, PRIVATE.* An accessory building or an accessory portion of a principal building designed or used solely for the storage of non-commercial motor vehicles, boats, and similar vehicles which are owned and used by the occupants of the building to which it is accessory.

*GARAGE/YARD SALE.* The temporary display and sale of goods within the garage and/or driveway of a residence.

*GASOLINE STATION.* A structure plus an area of land that is used or designed for the supply of motor vehicle fuels. For the purpose of this ordinance, this term shall also mean an area or structure used for greasing, changing the oil, washing or repairing automobiles when such uses are accessory to the principal gasoline station use.

*GENERAL RETAIL SALES.* See Retail.

*GROSS FLOOR AREA (GFA).* For the purpose of computing required parking, Gross Floor Area is the Floor Area for the building excluding accessory garages, underground parking, areas not enclosed by exterior walls, mechanical rooms, patios, decks, restrooms, elevator shafts, or stairwells.

*GROUP USABLE OPEN SPACE.* Open space associated with a multiple-family development that is not part of a required yard, is relatively free of buildings and is available for recreational usage by the residents.

*GROUP OR FOSTER HOME.* A residential use defined by Chapter 462, Minnesota Statutes, which provides housing for the mentally retarded, physically handicapped and those in need of rehabilitation, except mental rehabilitation.

*GUEST COTTAGE.* A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

*GUEST ROOM.* A room or group of rooms occupied, arranged or designed for occupancy by one (1) or more guests for compensation.

*HARDSHIP.* The property in question cannot be put to a reasonable use if used under conditions allowed by the official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner and the variance if granted will not alter the essential character of the locality. Economic considerations alone will not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes but is not limited to inadequate access to direct sunlight for solar energy system.

*HOME OCCUPATION.* A gainful occupation conducted in a residential building which is clearly secondary and incidental to the principle residential use of said building and generates no appreciable increase in traffic at any time over that customarily associated with a residential use. The occupation shall not be visible or audible from the property line.

*HOSPITAL.* An institution whose primary function is to provide inpatient and outpatient services, diagnostic and therapeutic, for a variety of medical conditions, both surgical and non-surgical.

*HOTEL.* A building containing eight (8) or more guest rooms in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

*INDUSTRIAL USE.* The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

*INTENSIVE VEGETATION CLEARING.* Removal of trees, brush or shrubs in a way that would greatly reduce the natural screening and decrease the aesthetic and ecological values of the property.

*IMPERVIOUS SURFACE.* Refers to improvements on or to the land which prevent precipitation from percolating into the soil. It includes buildings, concrete or asphalt pavement, compacted class 5 (gravel), or other similar hard surfaces. It does not include naturally occurring surface bedrock. Porous decks or paving systems over unpaved or uncompacted surfaces are not considered impervious.

*JUNK YARD.* An area where used, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including but not limited to scrap iron, other metals, paper, rags, rubber products, bottles and lumber. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

*KENNEL.* Any lot or premises used for the presence, sale, boarding or breeding of dogs, cats or other household pets. Kennel shall mean three (3) or more animals over six (6) months of age.

*LIMITED CLEARING.* Means the removal of trees, brush or shrubs in a noncontiguous pattern to allow visibility and other permitted uses. Limited clearing shall not greatly reduce the natural screening assuming summer leaf on conditions. For the purpose of this definition, tree(s) are a woody plant that attains a height of 20 feet (20') or more, with a single woody stem and definite crown. Bush/shrubs are smaller than trees, usually with multiple woody stems, and seldom exceeds twelve feet (12') in height.

*LOT.* Land occupied or to be occupied by a building, land use or group of buildings together with such open spaces or yards as are required by this ordinance and having its principal frontage on a public street.

*LOT AREA.* The area of a horizontal plane in square feet as bounded by the lot lines.

*LOT AREA PER DWELLING UNIT.* The number of square feet of lot area required for each dwelling unit.

*LOT, CORNER.* A lot which has at least two (2) contiguous sides abutting upon a street for their full length.

*LOT COVERAGE.* Lot coverage shall include all structures, driving surfaces including gravel surfaces, and parking areas regardless of type of surface.



*LOT, INTERIOR.* A lot other than a corner lot.

*LOT LINE.* The lines bounding a lot as herein described.

*LOT LINE, FRONT.* The line abutting a public right-of-way having the least width.

*LOT OF RECORD.* A lot which is part of a subdivision or plat, an Auditor's Subdivision or a Registered Land Survey; or a parcel of land not so platted, for which a deed has been recorded in the Itasca County Recorder's office.

*LOT, THROUGH.* A lot where opposite lot lines abut two (2) parallel streets and which is not a corner lot.

*LOT WIDTH.* The width measured along the front lot line of street line, or the shortest distance between lot lines measured at the midpoint of the building line.

*MANUFACTURED HOME.* A manufactured home is a structure that has all of the following characteristics: (1) It is built on a permanent chassis; (2) it is designed to be used as a dwelling with or without a permanent foundation; (3) it is built in compliance with the National Manufactured Housing Construction and Safety Standards promulgated by the Department of Housing and Urban Development. Compliance with these standards must be evidenced by a "certification label" that is permanently affixed to each transportable section of the manufactured home. (Source: FHLMC Single-Family Seller/Service Guide, Glossary)

*MANUFACTURED HOME PARK.* Any premises on which are parked two (2) or more occupied manufactured homes.

*MINING.* The extraction of sand, gravel or other such material from the land in the amount of four hundred (400) or more cubic yards.

*MOBILE HOME.* Any type of transportable structure or vehicle not drawn by its own power with permanently attached undercarriage and wheels which is designed, constructed, and equipped for use as a single-family dwelling place, living abode, or living quarters, suitable for occupancy during the entire year which contains the same water supply, waste disposal, and electrical conveniences as immobile housing.

*MONUMENT.* A structure erected to commemorate persons or events

*MOTEL.* A building or group of attached or detached buildings under common ownership containing eight (8) or more guest or sleeping rooms which is used or intended to be used primarily for the accommodation of

transient automobile travelers. This term shall include buildings designated as auto courts, tourist courts, motor courts, motor hotels and similar names.

*MOTOR FREIGHT TERMINAL.* A building or area in which freight brought by motor truck is assembled and/or stored for routing in intra-state or inter-state shipment.

*MULTIPLE-FAMILY DWELLING.* See Dwelling, Multiple-Family.

*NON-CONFORMING USE.* A building or use of land existing at the time of adoption of this ordinance which does not conform to the regulations of the district or zone in which it is situated.

*NURSERY SCHOOL.* A school for children of preschool age.

*OFFICES, PROFESSIONAL.* A building in which professional and management duties and services are carried out, including medical and dental clinics and offices; psychiatrists and psychologists offices, architectural, engineering, planning and legal offices; and similar uses.

*OFFICES, BUSINESS.* A building in which business of a non-retail low traffic generating nature and clerical services and duties are carried out, including corporate offices, banks, credit unions, insurance and real estate offices and similar uses.

*OPEN SPACE.* Any unoccupied space open to the sky on the same lot with a building.

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

*OUTDOOR STORAGE.* The practice and keeping of materials/supplies/equipment on a lot but not within the confines of a structure.

*PERFORMANCE STANDARD.* A criterion established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, glare or heat generated by or inherent in uses of land or buildings.

*PLANNED UNIT DEVELOPMENT.* A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density, increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivision of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

*PRINCIPAL USE OF STRUCTURE.* The main use to which the premises are devoted and the principal purpose for which the premises exist.

*PUBLIC HEARING.* An official public meeting for which notice has been published in the official newspaper.

*PUBLIC WATERS.* Any waters as defined in Minnesota Statutes, section 103.005, Subd. 15.

*PUBLICATION.* A notice placed in the official newspaper.

*RESIDENTIAL PLANNED UNIT DEVELOPMENT.* A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit development. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

*RETAIL – GENERAL SALES AND SERVICES.* Refers to a broad range of commercial activities operating out of a permanent structure catering to the general public. It does not include other land uses referred to in Table 1 (Permitted Uses) of this ordinance.

*RIGHT-OF-WAY.* A street, alley or easement permanently established for the passage of persons and vehicles including the traveled surface and lands adjacent that are formally dedicated to such usage.

*ROOMERS.* A tenant in someone's house.

*SENIOR CITIZEN HOUSING.* Housing that is exclusively for occupancy of elderly persons over sixty-five (65) years of age.

*SENSITIVE RESOURCE MANAGEMENT.* The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

*SETBACK.* The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, or property line.

*SEWAGE TREATMENT SYSTEM.* A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in the City of Bigfork Sanitation Ordinance No 33.

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

*SHORE IMPACT ZONE.* Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

*SHORELAND.* Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shoreland 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 commissioner.

*SIGNIFICANT HISTORIC SITE.* Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

*SINGLE-FAMILY DWELLING.* See Dwelling, Single-Family.

*STEEP SLOPE.* Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction

techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more that are not bluffs.

*SOLAR COLLECTOR.* A device, structure or part thereof that transfers direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply.

*SOLAR ENERGY.* Radiant energy, direct, diffuse and reflected, received from the sun.

*SOLAR SKYSPACE.* The space between a solar collector and the sun that shall be free of obstructions so the collector is not shaded to an extent that precludes its cost-effective operation.

*STACKING SPACE.* The area required to serve as a waiting area as in a line of vehicles.

*STREET.* A public thoroughfare which affords the principal means of access to abutting property.

*STREET LINES.* The legal line of demarcation between a street and abutting land.

*STRUCTURE.* Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

*SUBDIVISION.* Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

*SURFACE WATER-ORIENTED COMMERCIAL USE.* The use of land for commercial purposes, where access to and use of surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

*THROUGH LOTS.* See Lots, Through.

*TOE OF THE BLUFF.* The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment with an average slope exceeding 18 percent.

*TOP OF THE BLUFF.* The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment with an average slope exceeding 18 percent.

*TOURIST HOME.* A building providing lodging for not less than three (3), or more than eight (8) tourists where accommodations have no cooking facilities.

*TRUCK.* Any vehicle or combination of vehicles or trailers whose total weight loaded or unloaded exceeds 10,000 pounds, or is registered with a GVW of 12,000 pounds or more, except recreational vehicles shall not be considered trucks for the purpose of the zoning ordinance.

*USE.* The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied or maintained and shall include any manner of performance of such activity with respect to the performance standards of this ordinance.

*USE, CONDITIONAL.* A permitted use which is potentially detrimental to a neighborhood or area which requires special treatment and the issuance of a CUP.

*USE, PERMITTED BY PUD.* A use which is permitted only if the PUD procedure is used and a plan is formally approved by the City.

*USE, PERMITTED WITH RESTRICTIONS.* A use which is permitted in the district under which it is listed in Section 150.06 subject to all of the conditions listed.

*VARIANCE.* Instances where the ordinances strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be keeping with the spirit and intent of the ordinance.

*VIDEO ARCADE.* A place equipped with machines which play video games when you put money into them.

*WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY.* A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

*WETLAND.* A surface water feature classified as a wetland by the Wetland Conservation Act of 1991.

*YARD OR SETBACK.* A required open space on a lot which is unoccupied and unobstructed from the ground upward, except as otherwise provided for herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building line.

*YARD, INTERIOR SIDE.* A side yard that is not adjacent to a street.

*YARD, REAR.* A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which said lot is located.

*YARD, SIDE.* A yard extending along a side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

*YARD, STREET SIDE.* A side yard that is adjacent to a street.

*ZERO LOT LINE HOUSING.* Single-family detached dwellings located on individual lots which are designed to have little or no setback from lot lines.

#### **§ 150.04 ADMINISTRATION**

(A) **AUTHORITY.**

The provisions of this ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the City Council.

(B) **DUTIES AND RESPONSIBILITIES.**

The Zoning Administrator shall have the following duties and responsibilities.

- (1) Determine that all land use permits comply with the terms of this ordinance.
- (2) Conduct or arrange for inspections of use of land to determine compliance with the terms of this ordinance.
- (3) Maintain permanent and current records of this ordinance, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications therefore.

- (4) Receive, file and forward all applications for appeals, variances, conditional uses and other matters to the designated official bodies.
- (5) Initiate in the name of the City of Bigfork any appropriate actions or proceedings against a violator as provided by law.
- (6) Interpret when an interpretation question arises about literal provisions of this ordinance, or whether a specific land use fits within a given “use” category. The interpretation shall be made by the Zoning Administrator, with the approval of the Planning & Zoning Commission. When a question arises as to whether a land use district’s boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the City Council.

(C) ENFORCEMENT

- (1) Inspection. The Zoning Administrator shall inspect or order the inspection of each alleged violation and order correction of all conditions found to be in violation of this ordinance.
- (2) Violations and Penalties. Any person(s), firm(s), corporation(s), or voluntary association(s) which violates or refuses to comply with any of the provisions of this ordinance shall be guilty of a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.

(D) VARIANCE PROCEDURES

- (1) Applications for Variances. The owner(s) of land may file a signed application with the Zoning Administrator on forms provided by the City. The Application shall be accompanied by plans drawn to scale and illustrations, which accurately reflect existing conditions and the improvements to be made if the variance is granted.
- (2) Hearing and Mailed Notices. The Zoning Administrator shall cause to be published, a notice of public hearing before the Planning & Zoning Commission in the official newspaper not less than ten (10) days prior to the hearing date. Notices shall also be mailed to all owners of property within three hundred and fifty (350) feet of the parcel included in the request not less than ten (10) days prior to the hearing.
- (3) Planning & Zoning Commission Decisions. Within sixty (60) days after receipt of the application, the Committee shall conduct a public hearing and decide on the variance or appeal.
- (4) Findings for Variances.



- (a) General Requirements: The Planning & Zoning Commission shall not grant a petition for a variance unless it determines that the strict enforcement of the ordinance would cause undue hardship because of circumstances unique to the individual property under consideration and that the granting of such variance(s) will be in keeping with the spirit and intent of this ordinance. “Undue Hardship” as used in connection with the granting of a variance means the property in question can not be put to reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to their property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Under no circumstances shall a variance be granted where prohibited by Minnesota Law.
  - (b) ADA Improvements: Variations from building setbacks may be permitted where necessary to allow existing buildings to comply with the Americans With Disabilities Act (ADA) accessibility requirements.
- (5) Appeals of Planning & Zoning Commission Decisions. Any person(s) who deems them self aggrieved by the Planning & Zoning Commission’s decision including, but not limited to, the petitioner, an affected property owner or an administrative officer of the City, may appeal the decision of the Planning & Zoning Commission to the City Council within fifteen (15) days after the decision by the Planning & Zoning Commission.
- (6) City Council Public Hearing. Following the above prescribed notice procedures, the City Council shall decide the appeals upon the record and findings of the Planning & Zoning Commission within sixty (60) days after the appeal date, unless the City Council’s decision is continued for a period not to exceed forty-five (45) days. The City Council may affirm the decision of the Planning & Zoning Commission, reverse the decision, or remand the matter back to the Planning & Zoning Commission for additional findings. If the action of the Council results in the variance being granted, the Council may impose such conditions as it deems necessary to ensure compliance with the intent of this ordinance.

- (7) Resubmissions. No application which has been denied by the Planning & Zoning Commission or City Council, on appeal, shall be resubmitted for a period of one (1) year from the date of denial.
- (8) Lapse and Extension. If, within one (1) year after the date the variance was granted, a land use permit was not obtained, the variance shall become null and void. Requirements for an extension shall be the same as for a CUP. Refer to Section 150.05(I)(8).
- (9) Additional Steps Necessary for issuing a variance in the Shoreland Zones.
- (a) The Planning & Zoning Commission shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 150.04(D)(10) below shall also include the Planning & Zoning Commission's summary of the public record/testimony and findings of facts and conclusions which supported the issuance of the variance.
  - (b) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.
  - (c) Notifications to the Department of Natural Resources.
    - 1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivision/plats must include copies of the subdivision/plat.
    - 2. A copy of approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action

(E) AMENDMENTS/REZONING PROCEDURES

- (1) Authority. The City Council upon the recommendation of the City Planning & Zoning Commission shall have the authority to amend this ordinance by a four-fifth (4/5) vote of the City Council
- (2) Initiation. The City Council of Bigfork or the Planning & Zoning Commission may, upon their own motion, initiate a request to amend the text or the zoning map of this ordinance. Any person(s), firm or corporation owning real estate in Bigfork may initiate a request to amend the district boundaries or the text of this ordinance. No application for an amendment which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said denial except on the grounds of new evidence or a change in conditions.
- (3) Referral to the Planning & Zoning Commission. Except where initiated by the Planning & Zoning Commission, any proposed change shall be submitted to the Planning & Zoning Commission and its recommendation shall be submitted to the City Council within sixty (60) days after the date of application. If the Planning & Zoning Commission transmits no recommendation within sixty (60) days as prescribed, the City Council may take action without further awaiting such recommendation.
- (4) Notice and Hearing. The City Council upon receiving the recommendation of the Planning & Zoning Commission or after sixty (60) days from the submission thereof to the Planning & Zoning Commission without a recommendation, shall review the application, and if a majority of the City Council are in favor, set a public hearing. Notice of a regular or special meeting, at which a public hearing will be held shall be given by publication at least once in the official newspaper, not less than ten (10) days prior to said hearing, stating the time and place. Notice shall also be mailed to all owners of property within three hundred fifty (350) feet of the parcel included in the request not less than ten (10) days prior to the meeting. Failure to give such notice or defects or errors in the notice shall not invalidate the proceedings, provided a good faith attempt to comply with notice requirements was made.

**§ 150.05 DISTRICTS**

(A) ESTABLISHMENT OF DISTRICTS

For the purpose of this ordinance, the City of Bigfork, Minnesota, is hereby divided into the following zoning districts:

R-1 LOW-DENSITY RESIDENTIAL DISTRICT

- R-2 MODEST-DENSITY RESIDENTIAL DISTRICT
- GB GENERAL BUSINESS DISTRICT
- M MEDICAL DISTRICT
- I INDUSTRIAL PARK DISTRICT
- AG AGRICULTURAL DISTRICT

(B) ZONING DISTRICTS MAP

The location and boundaries of the districts herein established are shown upon the Official Zoning Map, together with all notations, references and other information shown thereon, and all amendments thereto, shall be as much a part of this ordinance as if fully set forth and described herein. The Zoning Map shall be kept on file in the office of the City Clerk.

(C) INTERPRETATION OF ZONING DISTRICTS MAP

- (1) District boundary lines on said map are intended to follow lot lines, the center lines of streets, alleys, highways and right-of-ways projected, the Ordinary High Water Elevation of lakes, ponds and water courses or the corporate limits, all as they exist upon the effective date of this ordinance or changed by a specific amendment thereto.
- (2) Where district boundaries are so indicated that they are approximately parallel to the centerline of a street, alley, highway or right-of-way, such district boundary shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning District Map. If no distance is given, such dimension shall be determined by the use of the scale on said zoning map.

Any future widening or realignment of the adjacent streets or highways shall not affect the location of such boundaries unless provisions are made therefore by amendment to this ordinance.

- (3) Where district boundaries cross property that is not subdivided into lots, and other provisions herein are not applicable, the location of the district line shall be determined by use of the scale on the said zoning map.
- (4) Where a zoning district boundary line divides a parcel of land or lot which was of record into two (2) or more Use Districts, any portion of such lot within fifty (50) feet on either side of such a dividing district boundary line may be used for any use of either Use District provided the distance does not exceed fifty (50) feet. If it should, the zoning district boundary line shall remain as drawn, and the actual location of the boundary line shall be determined by use of the scale on said zoning map.

- (5) Whenever any street, alley or other public way is vacated by official action of the City, the zoning district on each side of such street, alley or public way shall automatically be extended to the centerline.
- (6) Appeals from the Zoning Administrator's determination concerning the exact location of district boundary lines shall be determined by the City Council.

(D) ANNEXATION

Land hereafter annexed to the City of Bigfork shall automatically be reclassified R-1 Residential District upon the effective date of said annexation. Within ninety (90) days thereafter, the City may elect to study the subject annexation area and, based upon the City Comprehensive Plan, surrounding land use, timing of development, availability of public services, etc., may rezone said annexation area to another classification. If the land owner(s) wishes to have the subject property reclassified, it shall be their responsibility to petition the City for rezoning within ninety (90) days after the effective date of the annexation.

(E) PURPOSE OF DISTRICTS

The City of Bigfork is divided into the following districts. These districts further the general intent of this ordinance and, in addition, are established for the specific purposes provided herein.

(1) R-1 LOW-DENSITY RESIDENTIAL DISTRICT

Purpose and Intent. These are low-density residential districts that generally correlate with the existing close-in neighborhoods that were originally divided into town size lots. While they are primarily for single-family detached dwellings at densities lower than the R-2 District, they are also intended to be used for two-family (2) dwellings. They may also serve a transitional function in sensitive areas along major streets and railroad tracks and in areas where the land use changes from high to low intensity (e.g. commercial to single-family residential). In such locations, rental housing at low densities may offer a more feasible alternative than owner occupied housing. Such zoning would allow the conversion of existing and the construction of new dwellings provided all district development regulations are met. Refer to Section 150.06, District Development Regulations. For uses permitted by right refer to Section 150.05(F).

(2) R-2 MODEST-DENSITY RESIDENTIAL DISTRICT

Purpose and Intent. These are modest density residential districts that are primarily intended to provide families with efficient alternatives to traditional single family living. They are intended to provide for a variety and a mixture of multiple family housing including townhouses, condominiums, apartments and other group housing types. They are also intended to provide recreation amenities and group usable open space within each project or development. For uses permitted by right refer to Section 150.05(F)

(3) GB GENERAL BUSINESS DISTRICT

Purpose and Intent. These districts are intended to accommodate a broad range or retail goods and services, land uses, and generally serve the entire community. Though not exclusively so, businesses in this district are relatively free standing and tend to occupy independent building sites. They may enjoy close proximity to like businesses but depend primarily on good accessibility, high visibility and a relatively large volume of passing traffic. For uses permitted by right refer to Section 150.05(F).

(4) M MEDICAL DISTRICT

Purpose and Intent. These districts are intended to accommodate the development of medical, office, multifamily residential and related uses in the area surrounding the hospital complex. Development should be characterized with large lots and high landscaping standards. For uses permitted by right refer to Section 150.05(F).

(5) I INDUSTRIAL PARK DISTRICT

Purpose and Intent. These districts are established and preserved areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and make provision for certain kinds of commercial uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of people in these areas. For uses permitted by right refer to Section 150.05(F).

(6) AG AGRICULTURAL DISTRICT

Purpose and Intent. These districts are intended to allow for the continuation of agricultural practices and activities especially in areas that may be annexed to the City of Bigfork where public services are not yet available, an alternative use is not imminent and the owner desires to

continue to farm the land. For uses permitted by right, refer to Section 150.05(F)

(F) TABLE OF USES PERMITTED IN ZONES

For the purpose of this ordinance, a comprehensive list of uses is presented in Table 1, Uses Permitted in Zones. This table is hereby incorporated into the ordinance generally and into the regulations of each district, as appropriate, the same as if the uses were listed separately and for each district. Table 1 identifies four types of uses: uses permitted by right (Permitted Uses), uses with special restrictions (Restricted Uses), Conditional Uses, and those uses which are not permitted (Not Permitted Uses).

- (1) Permitted Uses: These are identified as permitted in a particular zone by the placement of a “P” in the column bearing the heading of that zone.
- (2) Restricted Uses: These uses are permitted in a particular zone subject to certain special restrictions. These uses are identified by the placement of an “R” in the column bearing the heading of that zone. For details on the types of restrictions, please refer to Section [150.05\(H\)](#).
- (3) Conditional Uses: Certain uses, because of their unique characteristics, must be considered individually as to their impact upon neighboring land, and the public welfare and their compatibility at the particular location. Conditional uses must go through a special approval process prior to their establishment. These uses are identified by the placement of a “CUP” in the column bearing the heading of that zone. For details on the conditional use process, please refer to Section 150.05(I).
- (4) Not Permitted Uses: These uses are identified as not permitted in a particular zone by a blank in the column bearing the heading of that zone.

(G) USES WITH RESTRICTIONS

- (1) Accessory Buildings (within all Districts except AG District). Accessory buildings may be erected as part of the principal building or may be connected to it by a roofed-over porch, patio, breezeway or similar structure or it may be completely detached.
  - (a) If attached to the principal building, an accessory building shall be structurally a part of it and shall comply in all respects with the requirements applicable to the principal building.

- (b) An accessory building not attached and not made part of the principal building shall not be nearer than six (6) feet from any other separate structure on the same lot.
- (c) No accessory building shall be used for living quarters.

In addition to the requirements established by Sections 150.06 and 150.07, the following shall apply:

(a) Garages in R-1 District.

1. The building height does not exceed the height of the principal structure or twenty-four (24) feet, whichever is greater, and the wall height does not exceed sixteen (16) feet; and
2. The total building coverage shall not exceed the limits outlined in the attached Tables 2 or 3.
3. An accessory building shall not be located any closer to the front lot line than the principal building.
4. An accessory building shall not be located any closer to a lot line than the height of the side wall.

(2) Bed And Breakfast Facilities (within R & AG Districts) provided:

- (a) One (1) off-street parking space be provided for each guestroom in addition to the minimum number required for residential and any other permitted uses.
- (b) The facility shall be limited to providing service to four (4) persons per guest room (excluding children under twelve (12) accompanied by a parent).
- (c) The facility shall not have more than eight (8) guestrooms.
- (d) Signs identifying Bed and Breakfast facilities shall not exceed three (3) square feet in area. (This provision shall take precedence over any less restrictive sign regulations in this ordinance.)

(3) Car and Equipment Cleaning Establishments (within GB District): subject to the special restrictions established for Gasoline and Fuel Sales and Service establishments – see Section 150.05(H)(10). In addition, vehicle entrance door shall be no more than fourteen (14) feet high.



- (4) Churches: Places of worship and churches provided as follows (within R & AG Districts):
- (a) No principal building shall be located within thirty (30) feet of any lot line of an abutting lot in the R-1 or R-2 District, and;
  - (b) The site shall be at least one (1) acre in size, and;
  - (c) The use shall be subject to the site development standards defined in Section 150.06.
- (5) Contractor's Yard, Material Storage (within GB & I Districts). All outdoor storage of equipment (except automobiles and trucks up to two (2) tons), materials and supplies shall be screened from public view as per the requirements of Section 150.06(D)(7). No repair work shall take place outside of the principle structure.
- (6) Day Care Centers for 14 or less persons (within R Districts). Provided it is licensed by the State of Minnesota within elementary, junior high and senior high school, religious institutions and medical facilities.
- (7) Equipment/Tool Rental (within GB & AG Districts). All outdoor storage of equipment (except automobiles and trucks up to two (2) ton) and materials/supplies shall be screened from public view as per the requirements of Section 150.05(H)(18) and (19).
- (8) Fraternal Clubs/Lodges (within GB District). Fraternal Clubs/Lodges may not be located closer than three hundred (300) feet to any school.
- (9) Garage/Yard Sales – Temporary (within all Districts except I Districts): provided as follows:
- (a) The sale is not more than four (4) successive days in duration;
  - (b) Not more than three (3) such sales are conducted on the premises in a calendar year.
- (10) Gasoline and Fuel Sales and service establishments including accessory car washes (within GB District): subject to all of the following:
- (a) Minimum front yard of thirty (30) feet;
  - (b) all operations shall be conducted within the principal building except for vacuuming and gas pumps;

- (c) a curb six (6) inches above grade shall be provided at any edge of a parking lot abutting a property line which adjoins a public street;
- (d) the site shall be planned so as not to permit water from a car wash to run into a public street or access thereto. A drainage system shall be installed subject to the approval of the City Engineer; and
- (e) Pump islands, canopies, and tank vents shall conform to yard requirements or a minimum of twenty (20) feet from a street right-of-way, whichever is greater;

(11) Group and Foster Homes, for all numbers of persons (within R & AG Districts): must be licensed by the State of Minnesota.

(12) Home Occupations (within R & AG Districts) subject to all of the following conditions:

- (a) Home occupations shall be conducted solely by persons residing in the residence;
- (b) all business activity and storage shall take place within the interior of the residence and shall not take place in an accessory building or buildings;
- (c) there shall be no alteration to the exterior of the residential dwelling, accessory building or yard that in any way alters the residential character of the premises;
- (d) no sign, display, or device identifying the occupation shall be used;
- (e) the occupation shall not be visible or audible from any property line;
- (f) said occupation shall not involve the retail sale or rental of products on the premises;
- (g) no vehicle used in the conduct of the occupation shall be parked, stored or otherwise present at the premises other than such as is customarily used for domestic or household purposes such as a van or three quarter (3/4) ton truck;
- (h) only on-site off-street parking facilities normal for a residential use shall be used;and

- (i) the use of substances that may be hazardous to the health, safety or welfare of neighbors and neighboring property shall not be used in the conduct of a home occupation.

(13) Manufacturing (within GB & I Districts): subject to the following:

- (a) Not to exceed a gross floor area of six thousand (6,000) square feet with at least one-third (1/3) of said space to be used for retail sales and display purposes;
- (b) no hazardous materials or processes used in the fabrication of materials; and
- (c) subject to the requirements of 150.05(H) (16) and (17).

(14) Outdoor Storage (within R Districts): subject to the following:

- (a) Not more than two (2) portable recreation buildings or vehicles provided they are owned by the resident(s);
- (b) maintained in a neat, safe and orderly fashion; and
- (c) not stored in the front yard or nearer the front lot line than the principal building, or less than five (5) feet from any other lot line.

(15) Outdoor Storage (within GB and I Districts): Those items not normally considered to be retail display items, shall be subject to the requirements of Section 150.06(D)(7). Such items may include, but shall not be limited to, construction materials, tires, packaged inventory, salvaged / discarded materials, and damaged or disassembled vehicles. This would not include such items as cars, trucks, recreational vehicles, lawn equipment, ornaments, etc., to the extent that the display item(s) conform to the setback requirements for parking lots in the district.

Such items shall be subject to the following:

- (a) All outdoor storage shall be accommodated within a central storage area;
- (b) such outdoor storage area shall not be within a setback and; and
- (c) the storage area shall be screened from view from all public streets and R Districts by a wall, fence and/or plant materials providing ninety percent (90%) opacity during all seasons of the year to a

height above the ground of six (6) feet, in such a manner as described in Section 150.06(D)(7).

- (16) Private Non-Commercial Recreation (within R Districts). This includes tennis courts and swimming pools provided they are located no nearer the front lot line than the principal structure and are not less than ten (10) feet from a property line. Swimming pools shall be completely enclosed with a six (6) foot high protective fence.
- (17) Recycling Center (within I District). All outdoor storage of equipment (except automobiles and trucks up to two (2) tons) and materials/supplies shall be subject to all of the following:
  - (a) Screened from public view as per the requirements of Section 150.05(H)(17).
  - (b) All materials shall be secured on site to prevent wind dispersion.
- (18) Roomers (within R and AG Districts). The leasing of rooms to not more than two (2) roomers provided no signs are displayed, the rooms are not equipped with kitchen facilities of any kind and one (1) on-site parking space is provided for each roomer in addition to the minimum number required for the residence.
- (19) Satellite Dishes and Solar Energy Systems/Collectors (within all Districts except AG Districts). Provided they comply with the yard and height requirements for principal buildings. See Section 150.06.
- (20) Schools – Elementary through Secondary (within R & AG Districts): subject to the following:
  - (a) Small Schools within Existing Buildings: Schools for twenty-five (25) or less students shall be permitted by within the existing principal church or religious building provided that:
    - 1. Alterations – There shall be no external alteration of the building(s) or grounds to reflect school usage;
    - 2. Parking – There shall be sufficient parking within the existing parking lot to accommodate off-street parking as required by section 150.07(H).
  - (b) Primary, Middle or Secondary Schools:
    - 1. Minimum Site Area – One (1) acre;

2. minimum Yards – Thirty (30) feet from all R District lot lines or the minimum for the District, whichever is greater; and
  3. all other requirements of the zoning district are met, including the site development standards in Section 150.06.
- (21) Temporary Buildings (within all Districts except AG Districts). Buildings incidental to construction work on the premises shall be removed upon completion or abandonment of said work or within the period of one (1) year from the establishment of the building, whichever is the lesser.
- (22) Temporary Outdoor Sales (within GB & AG Districts): subject to all of the following:
- (a) The sale is conducted by the owner or lessee of the premises, or with his written permission and is conducted immediately adjacent to the business; and
  - (b) the sale is no longer than four (4) months in duration;
- (23) Vending Machines (within all Districts except R Districts): subject to the following:
- (a) Must be accessory to a permitted principal use;
  - (b) must conform to setback requirements of principal structure; and
  - (c) must be located adjacent to principal structure.
- (24) Vet Clinics (within GB, I, and AG Districts). Vet clinics are limited to domestic animals only, all animals shall be housed indoors.
- (25) Video Arcades (within GB District): subject to the following
- (a) Any arcade with fifteen (15) or more machines shall have an adult supervisor on the premises during all hours of operation; and
  - (b) no arcade shall be operating within five hundred (500) feet of a daycare, group home, school, church or residence.
- (26) Woodpiles (within all Districts except AG Districts): subject to the same restrictions as 150.05(H)(16) and (17).

(H) CONDITIONAL USE PERMITS (CUP)

- (1) Purpose and Intent: The development and execution of this Ordinance is based upon the division of the City into districts within which the regulations are specified. It is recognized, however, that there are special or conditional uses, which, because of their unique characteristics, must be considered individually as to their impact upon neighboring land, and the public welfare and their compatibility at the particular location. To provide for these needs, the City Council may by resolution approve a Conditional Use Permit for those uses and purposes listed and may impose conditions and safeguards in such permits to ensure that the purpose and intent of this ordinance is carried out.
- (2) Application Requirements: An application signed by the landowner for a CUP shall be filed with the Zoning Administrator together with a filing fee as established by the City Council in the Ordinance Establishing Fees and Charges. Said application shall be accompanied by the following information:
  - (a) A site plan drawn to scale which shows all dimensions; the location of existing and proposed streets, buildings and parking; the existing and proposed building height and floor area; curb cuts and driveway locations; utilities; loading areas and lighting
  - (b) A drainage plan showing existing and proposed topography, slopes, surface drainage, vegetation, and surface treatments.
  - (c) Building plans showing elevation drawings and floor plans.
  - (d) A written description of the use to be made of the property and buildings including the number of employees, students, etc., as may be appropriate.
  - (e) (Mandatory for property within shoreland areas and optional for all others) Information regarding soil conditions, water supply, on-site sewage treatment.
  - (f) (Mandatory for property within shoreland areas and optional for all others) Information regarding the type, uses and number of watercraft that the project will generate and the ability of the impacted waterbody to accommodate these watercraft.
  - (g) (Mandatory for property deemed within the floodplain area) Plans drawn to scale showing flood-proofing measures and specifications for building construction and materials, filling, dredging, grading, channel improvement, and storage of materials.

- (h) Any Other Information which, in the opinion of the Zoning Administrator, is required to evaluate the application and its consistency with the City's expressed goals.
  
- (3) Waiver Authority. The Zoning Administrator shall have the authority to waive any of the above information not deemed to be necessary and appropriate to evaluate the application.
  
- (4) Hearing and Mailed Notices. The Zoning Administrator shall cause to be published a notice of the public hearing before the Planning & Zoning Commission in the official newspaper at least ten (10) days prior to the hearing date. Notices shall also be mailed to all owners of property within three hundred fifty (350) feet of the parcel included in the request not less than ten (10) days prior to the hearing. In the AG District, notices shall be mailed to all owners of property within fifteen hundred (1,500) feet of the parcel included in the request not less than ten (10) days prior to the hearing. Failure to give such notice or defects or errors in the notice shall not invalidate the proceedings, provided a good faith attempt to comply with notice requirements was made.
  
- (5) Planning & Zoning Commission Review. The Planning & Zoning Commission shall conduct a public hearing on the application and make its determination with findings and conditions. The Planning & Zoning Commission shall not approve a CUP unless it shall find that the establishment, maintenance and operation of the use:
  - (a) Will not be detrimental to the public health, safety, morals or general welfare;
  - (b) will not cause undue traffic congestion or hazards and will not result in a parking shortage;
  - (c) will not be injurious to the use and enjoyment or result in a decrease in value of other property in the area;
  - (d) will not impede the orderly development of other property in the area;
  - (e) will not impose an excessive burden on parks and other public facilities and utilities; and
  - (f) is consistent with the City's goals and objectives.

Approval shall require a majority vote of the City Council.

- (6) Conditions and Restrictions. The Planning & Zoning Commission may impose such conditions and restrictions as it deems necessary on the establishment, location, construction, maintenance, operation and duration of the use to ensure compliance with the requirements of this ordinance.
- (7) Resubmission. No application which has been denied by the Planning & Zoning Commission shall be resubmitted by the applicant for a period of one (1) year following the date of denial by the Planning & Zoning Commission.
- (8) Lapse and Extension. If within one (1) year after the date of issuance the use for which the CUP was issued has not commenced, the CUP shall become null and void. If the applicant requests an extension in writing within one (1) year after issuance, the Planning & Zoning Commission shall conduct a public hearing and consider an extension utilizing the same notice procedures as required for the original application. The Planning & Zoning Commission may extend the CUP for up to one (1) year upon finding that: 1) a good faith effort has been made to use the permit, 2) there is reasonable expectation that the permit will be used, and; 3) the facts upon which the original permit was issued are essentially unchanged.
- (9) Periodic Review. If periodic review is imposed as a condition of a CUP, the CUP shall be reviewed at a public hearing prior to the expiration of the review period. It shall be the responsibility of the Zoning Administrator to schedule the public hearing and inform the owner of the review. A fee shall not be required to be paid.
- (10) Revocation. If any person is found in violation of any condition or restriction imposed by the Planning & Zoning Commission, the City may revoke said CUP utilizing the procedures established in this Ordinance.
- (11) Special Considerations for Shoreland Areas. The following additional evaluation criteria and conditions apply within shoreland areas:
  - (a) Conditions attached to conditional use permit. The Planning & Zoning Commission, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
    1. Increased setbacks from the ordinary high water level;



2. limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted, and
3. special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(12) Appeals of Planning & Zoning Commission Decisions. Any person(s) who deems themselves aggrieved by the Planning & Zoning Commission's decision including, but not limited to, the petitioner, an affected property owner or an administrative officer of the City, may appeal the decision of the Planning & Zoning Commission to the City Council within fifteen (15) days after the decision by the Planning & Zoning Commission.

(I) USES PERMITTED BY CONDITIONAL USE PERMIT (CUP)

The following uses or any expansion of an existing use requiring a CUP shall require the issuance by the City of a CUP. Each such use shall comply with these stated conditions.

- (1) Cemeteries (public/private): subject to the following conditions:
  - (a) Site plan for all public cemeteries shall be in accordance with procedures set forth in the City Cemetery Ordinance; and
  - (b) site plan for all private cemeteries shall be in accordance with procedures set forth in the MN Statutes Chapter 307.
- (2) Interim Use of Buildings. The City may, in accordance with CUP procedures and subject to the required findings (refer to Section 150.05(H)(5), allow existing buildings to be occupied by uses not permitted by this Ordinance for a period not to exceed one (1) year. Up to one (1) and two (2) year extensions may be allowed but in the event all or any part of said building, or land upon which it is located, is disposed of or transferred to another owner by deed or lease agreement, all interim uses shall cease and the land shall thereafter be used in accordance with district requirements.
- (3) Junk and Salvage Operations: subject to the following conditions:
  - (a) Minimum site area shall be one (1) acre;
  - (b) all activities shall be enclosed within a wall or fence at least eight (8) feet in height so as to screen the site from surrounding property. Such fence shall be of sound construction and shall be properly maintained;

- (c) all materials shall be secured on site to prevent wind dispersion; and
- (d) all activities shall have a front setback of not less than fifty (50) feet. A yard abutting an R District shall be at least one hundred (100) feet in width.

(4) Land Reclamation: subject to the following conditions:

(a) Additional Information. In addition to the information required in Section 150.05(H)(2), the following shall be provided:

1. The correct legal description of the premises.
2. The name and address of the applicant and owner of land.
3. The purpose of the excavation or filling.
4. The estimated time required to complete the work. (Starting date and days to completion.)
5. Method and schedule for restoration and measures to control erosion during and after work.
6. A topographical map or plat of the proposed excavation or filling showing the limits of the proposed work together with the existing and proposed finished elevations based on sea level datum.
7. The method of controlling drainage both during the proposed work and the final drainage plan.
8. The estimated quantity of excavation or fill material.
9. Type of material to be utilized.
10. Signature of the applicant, verifying that the application is made with the express approval of all owners of the land.

(b) Protection of Water Resources. No material shall be used for reclamation which will have a detrimental effect on ground or surface waters quality.

(c) Financial Guarantee. The City may require a bond or letter of credit in such form and amount as it shall determine to cover the

expense of restoring any land reclamation site to a reasonable condition. Said guarantee shall, if required, be made a condition of obtaining a CUP.

- (5) Mining of Sand and Gravel (extractive uses, gravel pits, borrow areas, and similar uses) (within I and AG Districts): subject to the following conditions:
- (a) State Law Compliance. All uses shall comply with applicable State laws.
  - (b) Additional Information. In addition to the application requirements identified in Section 150.05(H)(2), the following information shall be required:
    - 1. An end use plan showing all uses of land, access, hazard control, future ownership intent, etc.;
    - 2. A site rehabilitation plan showing how the site will be landscaped and drained and how slopes will be stabilized and protected; and
    - 3. An operations plan identifying the number and routing of trucks, the amount of material to be excavated annually, phasing, the number of years of expected operation, the location of buildings and equipment, and the levels of noise, dust and vibration that can be expected at all property lines.
  - (c) Fencing Required. The property shall be properly fenced to prevent trespass.
  - (d) Maintenance. The operation shall be maintained in a neat and orderly fashion so as to prevent injury to any single property, to any individual or to the community in general.
  - (e) Compliance. The approved plan shall govern the operation and any departure thereafter shall constitute a violation warranting revocation of the CUP.
  - (f) Financial Guarantee and Insurance. The applicant shall post a bond or a letter of credit in an amount required by the City. The applicant shall also file with the City a liability insurance policy or certificate of insurance issued by the company authorized to do business in the State of Minnesota in the amount of two hundred thousand dollars (\$200,000) per person and six hundred thousand

dollars (\$600,000) per accident and at least fifty thousand dollars (\$50,000) for property damage.

- (6) Recreation, Commercial-Indoor (within I and AG Districts): subject to the following conditions:
  - (a) Proposed facility shall be compatible with surrounding uses; and
  - (b) no facilities are closer than fifty (50) feet to an R District boundary.
  
- (7) Recreation, Commercial-Outdoor (within GB, I and AG Districts): subject to the following conditions:
  - (a) All improvements shall conform to setback requirements for principal buildings in the district;
  - (b) no structure shall exceed twenty-five feet (25') in height;
  - (c) proposed facility shall be compatible with surrounding uses; and
  - (d) no facilities are closer than fifty (50) feet to an R District boundary.
  
- (8) Restaurants (within AG Districts): subject to the following conditions:
  - (a) Applicant shall submit a site plan in accordance with the procedures set forth in Section 150.06 of this ordinance.

## **§ 150.06 SITE DEVELOPMENT DESIGN STANDARDS**

### **(A) YARD AND BULK REQUIREMENTS**

Please refer to Tables 2 and 3 for a listing of the yard and bulk requirements. Refer to Table 7 for yard and bulk requirements for shoreland districts.

### **(B) SUPPLEMENTARY HEIGHT REGULATIONS**

- (1) Permitted Exceptions. The following structural appurtenances shall be permitted to exceed the height restrictions for the district provided they do not impair the solar access of buildings on adjoining properties and are not used for human occupancy or commercial enterprise:
  - (a) Ornamentation such as church spires, belfries, bell towers, cupolas, domes, monuments and flagpoles.

- (b) Mechanical appurtenances such as solar collectors, chimneys, smoke stacks, public utility facilities, elevator and stairwell penthouses, aerials, television antennae and cooling towers.
- (c) Security fences or walls in the R-2, GB & I Districts shall be permitted to a height of twelve feet (12') provided that any fence or wall over 6 feet (6') in height meets the setback requirements for buildings. No barbed wire shall be permitted on any fence at a height of less than seven feet (7') from the finished grade level.

(2) Required Reduction. Refer to Minnesota Airport Zoning Ordinance

(C) SUPPLEMENTARY YARD REGULATIONS

- (1) Permitted Yard Encroachments. No yard or required open space shall be so reduced in area or dimension so as to make any such area or dimension less than required by this ordinance. If already less than the minimum required, a yard shall not be further reduced. The following encroachments into required yards shall be permitted:
  - (a) Special structural elements attached to the principal building such as chimneys, solar collectors, flues, belt courses, sills, pilasters, lintels, ornamental features, cornices, eaves and gutters provided they do not extend more than two and one half (2 ½) feet into a yard.
  - (b) Yard lights in R Districts not closer than five (5) feet to the front lot line and lights in all districts for illuminating parking areas, loading areas or yards for safety and security purposes provided the direct source of light is not visible from the public right-of-way or adjacent residential property.
  - (c) Planting and ornamental landscape features.
  - (d) Terraces, steps, decks, uncovered porches and patios at the same level as the height of the ground floor level of the principal building provided as follows:
    - 1. The highest elevation shall not exceed a height of three (3) feet above the ground at the ground floor level
    - 2. No portion of the decked or paved area is closer than two (2) feet to any lot line. Deck railings shall not exceed the

maximum height above deck grade allowed for walls and fences.

- (e) Fences, walls and hedges which do not exceed a height of three and one half (3 ½) feet provided they are no closer to a street or alley line (property line) than two (2) feet. Fences, walls and hedges up to six (6) feet in height above grade shall be permitted provided such fence is located no closer than two (2) feet to an alley line and is no closer to a street line than the minimum distance required for a building. (Any border fence located within two feet (2') of the common lot line shall be within six (6) inches of said common line.) The finished side of the fence must face the exterior of the lot. Barbed wire or similar materials on fences shall be prohibited within R Districts except as permitted in Section 150.06(B)(1).
- (f) Balconies in rear yards. Balconies may project into a required front or street side yard a distance not to exceed five (5) feet.
- (g) Detached picnic shelters, open arbors and trellises, recreation equipment, unenclosed stairways and fire escapes may project only into a required rear yard and shall conform to setback requirements for accessory building (see Table 3).
- (h) Canopies, marquees and awnings may be erected in any GB district provided the following conditions are met:
  - 1. Minimum clearance of eight (8) feet above ground, public sidewalk, etc. and
  - 2. shall maintain a minimum distance of 3 ½ feet from the face of the curb to the front of the awning, canopy or marquee.

(2) Required Side and Rear Yard Enlargement:

- (a) Where a side yard abuts a street, which is adjacent to the front yard on one or more residential lots on the same block, such side yards shall be a minimum of thirty-five (35) feet. The same yard dimension determined for a side yard shall apply to structures in the rear yard.
- (b) Through lots shall provide the required front yard on both streets.

- (c) For business and industrial buildings exceeding thirty-five (35) feet in height in all but the I District and located on a lot adjoining an R District, any such building shall be set back from the interior side or rear lot line abutting said R District a minimum of one (1) additional foot for each foot of building height in excess of thirty-five (35) feet. Where there is an intervening alley one-half (½) the alley right-of-way may be subtracted from this computation.

(3) Permitted Yard Reduction and Required Expansion.

- (a) In an R District where forty percent (40%) or more of the lots on any block are developed with buildings, the average front yard for the block shall be computed. Where the average is less than the required front yard, the average or twenty (20) feet, whichever is greater, shall be the required front yard. Where the average is greater than the required front yard, the average shall be the required front yard.
- (b) In a GB District where forty percent (40%) or more of the lots on any block are developed with buildings, the average street-side yard for the lots abutting the street on a block shall be computed. Where the average street-side yard of the lots abutting the street on a block is less than the required yard for the street side of the lots, the average yard shall be the required yard for the street-side of a lot, for buildings and parking.

(4) Surface Parking in R Districts (Driveways).

Surface Parking (Cement Patios, Sidewalks, and Driveways) shall not be permitted within the setbacks required for accessory buildings except within a normal driveway area. (Refer to Table 3)

(D) LANDSCAPING AND BUFFERYARD REQUIREMENTS:

- (1) Purpose and Intent. The inclusion of landscaping standards in this ordinance is designed to promote the health, safety and general welfare of Bigfork residents and property owners. Effective landscaping and buffering can greatly enhance an area's visual appeal. Buffering can minimize the adverse impacts of intensive land uses; it can protect adjacent land uses from excessive noise, light, litter and traffic.
- (2) Scope of Applicability. The requirements of this ordinance shall apply to all uses, structures, or properties constructed, extended, enlarged, moved, or altered, with the exception of properties zoned R-1 or R-2. All open areas not used or required for buildings, off-street parking, drives or

storage shall be landscaped with a combination of conifers and deciduous trees, shrubs, flowers, ground covers and grass. One and two family dwellings permitted in any zone shall be exempt from the requirements of Section 150.06(D).

- (3) Bufferyards: Plant materials and fencing in the installation of bufferyards shall be located within the required front, side and rear yards. As part of the land use permitting process, the Planning and Zoning Commission, upon receipt of a written plan, will determine the sufficiency of the bufferyard components based on the area and type of use.
- (4) Maintenance of Bufferyards: Shall consist of all acts necessary to ensure that areas remain useable as originally designed and that no hazards, nuisances or unhealthy conditions exist. Where screening with landscape materials is proposed in lieu of required walls or fences, all materials shall have a minimum opacity of ninety percent (90%) year round. The owner shall have the responsibility to maintain all such screening.
- (5) Bufferyards and Street Tree Credits: When existing trees, buffers or other landscape materials exist, the developer may receive credit for such trees, buffers, or landscape materials, provided they are maintained in accordance with the requirements of Section 150.06(D)(4). The Zoning Administrator, upon receipt of a written request and submittal of a survey of existing trees, landscaping or buffers, may waive the landscaping and bufferyard requirements to the degree that the waiver is consistent with the intent of this ordinance.
- (6) Dumpster/Trash Can Screening: All dumpsters, trash cans, incinerators, etc. shall be screened from public view with a fence, wall or other enclosure six (6) feet in height with a minimum of 90% opacity. The dumpster area may not extend into a front yard or street side yard space, but may extend into any other required yard provided it is at least five (5) feet from the property line.
- (7) Outdoor Storage of Materials/Merchandise: Any outdoor storage of materials and merchandise shall be screened from public view with a fence, wall, other enclosure, or vegetative screening as per Section 150.05(H)(15) and (16) of these requirements. Said storage area shall not encroach into the required yard space specified for that zoning district.

(E) PARKING LOT DESIGN AND MAINTENANCE STANDARDS

- (1) Intent and Scope of Applicability: It is the intent of these standards to promote the safe and efficient storage, circulation and channelization of motor vehicles development on-site. The following standards shall apply



to the design of all parking areas with the exception of those for one (1) and two (2) family dwellings.

(2) Street Access: Each parcel shall be granted at least one (1) curb cut per street which abuts that parcel. However, up to two (2) curb cuts may be permitted on any one (1) street provided that one (1) of the accesses is designated as an entrance and the other as an exit. The location/design of curb cuts shall be restricted as follows:

- (a) No closer than twenty-five (25) feet to any existing curb cut;
- (b) No closer than twenty-five (25) feet to the nearest point of any street/alley intersection;
- (c) No curb cut shall exceed thirty-three (33) feet in width.
- (d) One-way curb cuts shall not exceed sixteen (16) feet in width.

(3) Setbacks/Landscaping: All parking lots shall be set back from the property lines as prescribed by Table 2 of this ordinance. The following landscape requirements shall also apply:

- (a) Each landscaped area contained within the perimeter of a parking lot shall be no less than fifty (50) square feet in size, and shall have a minimum dimension of five (5) feet.
- (b) Two property owners may jointly develop a parking lot overlapping a common lot line without meeting the required setbacks on their respective side of the lot line, provided the following conditions are met:
  - 1. The entire parking lot is developed as a single project, and;
  - 2. Jointly developing a parking lot will result in an increase in the number of parking places over two individually developed lots meeting the setback requirements, or would result in safer traffic patterns, and;
  - 3. The property owners agree to a single curb cut for access, as per Section 150.06(F)(2), for the two (or more) parcels, and;

4. The property owners file, with the County Recorder's Office, a binding agreement addressing joint use.

(c) Two or more property owners who have their parcels separated by an alley may jointly develop a parking lot on both sides of the alley allowing vehicles to back into the alley, provided all of the following conditions are met:

1. Additional ROW easements must be granted to the City on both sides of the existing alley to increase its width to twenty-four feet (24'). It shall be the responsibility of the property owner(s) to obtain the necessary easements for the City. The easements shall cover the entire width of the owner's lot, as well as the lot(s) across the alley from the owner(s)', and must extend to a connection with a developed public street. The easements must be approved by the City Attorney prior to acceptance by the City.
2. The parking lot design must provide for "head in" parking.
3. It shall be the responsibility of the adjacent property owners to pave the alley in accordance with the City's standards. The pavement of the alley, in its required width, shall extend to the public street.
4. Other setbacks, landscaping requirements, and design requirements shall still apply to this type of parking lot. The required rear bufferyard shall be constructed at the head of the proposed parking stalls. The parking stalls shall be limited to nineteen feet (19') deep.
5. This parking lot design option will not be applicable in situations where an alley is the dividing line between a commercial and a residential zoning district.

(4) Surfacing: All parking lots other than for a single or two-family residential use shall be surfaced with concrete, bituminous or compacted Class-5 aggregate in accordance with standards as established by the City.

- (5) Maneuvering Lanes: All maneuvering lanes shall permit only one-way traffic movements with the exception of the ninety degree (90°) pattern where two-way traffic will be permitted. Each parking space shall have direct unimpeded access to a maneuvering land and dead-end maneuvering lanes shall only be permitted with the ninety degree (90°) pattern which is designed to accommodate two-way traffic. Backing from a parking lot directly into a street shall be prohibited.
- (6) Drainage: All parking lots shall have a drainage system which is approved by the City Engineer.
- (7) Lighting: Shall be so arranged to deflect the light away from R Districts so that the source is not visible. All lighting cable shall be placed underground and shall be installed in compliance with the State Electrical Codes. The average minimum illumination of two foot (2') candles at the parking surface shall be required.
- (8) Maintenance: It shall be the joint responsibility of the operator and owner(s) of any principal use to maintain, in a neat and aesthetic manner, the parking space, access way, landscaping and required fences and walls.
- (9) Drive-Up Window and Car Wash Stacking Spaces Required: No stacking space shall encroach into any drive aisle necessary for the circulation of vehicles on the lot. All stacking shall comply with setbacks required for parking spaces. The minimum size of stacking space shall be nine feet (9') by eighteen feet (18').
- (10) Bumper Overhang: The minimum parking space length may be decreased by up to three feet (3') for spaces which allow the bumper of the auto to project beyond the terminus of the parking space without obstructing other parking spaces or vehicle circulation.
- (11) Exceptions for Compact Cars: Up to thirty-three percent (33%) of the parking required for a given use may be designed specifically for compact cars, provided:
  - (a) Signage is erected at appropriate locations indicating "For Compacts Only";
  - (b) Compact stalls are located in one contiguous area and signage is erected at the parking lot entry showing directions to compact only parking;
  - (c) The minimum design and construction standards apply.

(12) Parking Stall & Maneuvering Lane Standards.

<b>FULL SIZE CARS</b>						
Parking Angle	0° Parallel	30°	45°	60°	75°	90° Head-In
Maneuvering Lane Width	12	12	14	18	21	24
Parking Space Width (ft)	8	8.5	8.5	8.5	8.5	8.5
Parking Space Length (ft)	22	17	18	18	18	19
Bay Dimension (One Tier)	20	29	32	36	39	43
Bay Dimension (Two Tiers)	28	46	50	54	57	62
<b>COMPACT CARS</b>						
Parking Angle	0° Parallel	30°	45°	60°	75°	90° Head-In
Maneuvering Lane Width	12	12	14	18	21	24
Parking Space Width (ft)	7.5	8	8	8	8	8
Parking Space Length (ft)	20	16	16	16	16	17
Bay Dimension (One Tier)	19.5	28	30	34	37	41
Bay Dimension (Two Tiers)	27	44	46	50	53	59

(13) Handicapped Parking: Shall be provided as required by the applicable Building Code and shall be located as near the main entrance of the principal use as possible. Each space shall be at least four feet (4') wider than the minimum design standards for conventional spaces. Each handicapped space shall be clearly designated.

(14) Financial Guarantee Required: No occupancy permit shall be granted for any structure or site required to meet the provisions of this ordinance until all required parking improvements have been completed. However, a temporary occupancy permit may be granted if the owner provides the City with a letter of credit, performance bond, or some other financial guarantee acceptable to the City Attorney, in an amount equal to one hundred twenty percent (120%) of the estimated cost of completing the required work. Said guarantee shall be retained until said parking improvement is completed and acceptable to the City. Any improvements covered by the financial guarantee must be completed by the owner prior to the following August 1, or the City shall have the right to exercise said guarantee and have the work completed.

(F) OFF STREET LOADING DESIGN STANDARDS AND REQUIREMENTS

(1) Intent: It is the intent of these regulations to provide needed on-site facilities for the loading and unloading of motor vehicles in addition to and in a manner that does not interfere with required off-street parking areas and the capacity and function of public streets. It is also intended

that these facilities not be so located as to negatively impact residential areas.

- (2) Access. Each required loading zone shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.
- (3) Construction. All loading zones and access ways shall be improved with a durable material to control the dust and drainage according to a plan approved by the City Engineer.
- (4) Accessory Use. Any space allocated as a loading zone or access drive so as to comply with the terms of this ordinance shall not be used for the storage of goods, vehicles or be included as a part of the space necessary to meet off-street parking requirements.
- (5) Minimum number of Required Loading Berths.

<b>USE</b>	<b>GFA (SqFt)</b>	<b># BERTHS REQUIRED</b>
Auditoriums, Convention Halls, Armories, Exhibition Halls, Sports Arenas	0-3,000 3,000-15,000 15,000-50,000 50,000-100,000 Over 100,000	0 1 Small 1 Large 1 Large + 1 Small 1 Small Berth for each 25,000 or fraction thereafter
Retail Sales, Office, Public Administration, Buildings, Hospitals, School, Hotels	0-5,000 5,000-50,000 50,000-100,000 Over 100,000	1 Small 1 Large 1 Small berth for each 50,000 or fraction thereafter
Manufacturing, Warehousing, Fabricating, Assembly	0-10,000 10,000-50,000 Over 50,000	1 Small 1 Large 1 Large Berth for each 50,000 or fraction thereafter

(G) **SITE PLAN REQUIREMENTS**

- (1) Scope of Applicability. The requirements of this ordinance shall apply to all uses, structures, or properties constructed, extended, enlarged, moved, or altered, with the exception of properties zoned R.
- (2) Application Requirements. Any application for land use permit which will change the footprint of a structure or modify a site shall be

accompanied by six (6) copies of a site plan showing the following information:

- (a) Legal description, property lines, setback lines, and property dimensions;
  - (b) A topographic survey of the property with a contour interval of not greater than five feet (5'), showing existing and proposed grades;
  - (c) The location of all of the following:
    - 1. Principal and accessory buildings;
    - 2. Easements or right-of-ways for utility or service lines;
    - 3. Access drives, parking, and loading areas, with stalls clearly delineated;
    - 4. Sidewalks and pedestrian ways;
    - 5. Required screens, fences, or required buffers;
    - 6. Proposed/required landscaping;
    - 7. Signs, with information about height and size;
    - 8. Nearest existing or proposed fire hydrant;
    - 9. Streets adjacent to site. Indicate curb line in relation to property line.
  - (d) Specifications for all improvements including, but not limited to, underground utilities, pavement, sidewalks, curb/gutter, and driveway aprons;
  - (e) Property owner(s) and applicant(s) name and address;
  - (f) Preparer's name and address and date prepared.
- (3) The Zoning Administrator: may waive any site plan requirements which will be irrelevant to the issuance of a permit.
- (4) Enforcement: The site plan materials must be approved by the City prior to the issuance of any land use permit. Once approved, they become the

working plans for the proposed project. No deviations from approved plans will be allowed without written approval of the Zoning Administrator.

## § 150.07 OFF-STREET PARKING REQUIREMENTS

- (A) Purpose and Intent. It is the intent of these regulations that off-street parking be provided and maintained by each property owner for the use of occupants, employees and patrons. These regulations are further intended to promote the safe and efficient storage, circulation and channelization of motor vehicles on-site to avoid undue congestion of the public streets.
- (B) Compliance Required. In all districts except where exempt by Section 150.06(F), off-street parking shall be provided as follows:
  - (1) New Construction. Full off-street parking compliance is required for all newly erected buildings.
  - (2) Enlargement. Whenever a use of building requiring off-street parking is increased in floor area or when interior building modifications or structural alterations result in an increase in effective capacity for any use, additional parking shall be provided in proper ratio to the increase in floor area or capacity.
  - (3) Change in Use. Whenever a building or use or part thereof is changed in usage, such that the new use requires more parking than the old, the extent to which the use is changed shall be required to comply fully with the provisions of this ordinance.
  - (4) Parking Lot Construction and Expansion. All new parking lots and improvements and extensions to existing lots shall comply fully with the requirements of this ordinance.
- (C) Permits Required. Land use permits shall be required for parking lot construction in all districts except for one (1) and two (2) family homes within the R districts.
- (D) Limitations on Use.
  - (1) No commercial repair work or service of any kind, or sale or display thereof, or the storage of new or used vehicles which are not for the use of the occupant, employees and patrons shall be conducted in such parking area.

- (2) Any area once designated as required off-street parking shall not be changed to any other use until equal facilities as required by this ordinance are provided elsewhere.
- (3) Off-Street Parking existing at the date of adoption of this ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.
- (E) Joint Use of Parking Areas. Two (2) or more buildings or uses may collectively provide off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the individual uses computed separately. In the case of the joint use of off-street parking spaces where operating hours do not overlap, the Planning & Zoning Commission may recommend to the City Council, an exception to allow the total parking required to be reduced below the sum total of the individual uses provided a copy of an agreement between joint users is filed with the application.
- (F) Location And Lease Agreements. All off-street parking required by this ordinance for other than R Districts shall be located on the same lot or within three hundred feet (300') as measured from the nearest point of the parking lot to the nearest point of the property intended to be served. The owner of the property to be served shall own or hold at least a five (5) year lease to all property utilized to meet minimum parking requirements. Said lease shall not be cancelable without the permission of the City. Said off-street parking shall be located in the same district as the use it is intended to serve. In R Districts, all required parking shall be located on the lot it is intended to serve.
- (G) Backing Into A Street. Except for one (1) and two-family (2) dwellings, backing from a parking lot directly into a street shall be prohibited.
- (H) Off-Street Parking Required. The minimum number of off-street parking spaces by type of use shall be required in accordance with the following schedule.

Fractional Spaces. When determining the number of required parking spaces results in a fractional space, any fraction up to and including one-half (½) shall be disregarded and fractions over one-half (½) shall require one parking space.

<b>RESIDENTIAL USES</b>	<b>MINIMUM PARKING REQUIRED</b>
1. One and Two Family Units	2/Dwelling Unit (DU)
2. Multiple-Dwellings	2/DU <sup>1</sup>

<sup>1</sup> In the R-2 Zones, 25% of the required parking shall be enclosed.



3. Senior Citizens Housing	.05/DU
4. Boarding and Rooming Houses	1/Sleeping room
5. Accessory Apartments	1/Unit
6. Bed & Breakfast	1/Room <sup>2</sup>
7. Day Care/Nursery Schools	Same as one-two family units
8. Group and Foster Homes	Same as one-two family units
9. Mobile Home Parks	2/DU
<b>PUBLIC AND QUASI-PUBLIC USES</b>	<b>MINIMUM PARKING REQUIRED</b>
1. Churches	¼ Seats (72 inches of pew) in largest assembly room
2. Elementary School	2/Classroom
3. Junior High School	2/Classroom
4. High School	6/Classroom plus 1/6 seats in main auditorium
5. Post High School	10/Classroom
6. Stadiums, Arenas, Auditoriums (accessory to a school)	1/6 Seats
7. Stadiums, Arenas, Theaters & Auditoriums	1/3 Seats
8. Museums, Libraries, & Art Galleries	1/500 sq. ft Gross Floor Area (GFA)
9. Golf & Country Clubs	6/Hole
10. Government Offices	1/200 sq. ft GFA
11. Hospitals	2/bed
12. Nursing Homes	1/3 Beds
13. Clubs & Lodges, Social & Fraternal	½ persons based on occupancy rating

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<sup>2</sup> Plus minimum requirement for other permitted uses.

<b>BUSINESS USES</b>	<b>MINIMUM PARKING REQUIRED</b>
1. Business, Ins. & General Offices	1/250 sq. ft GFA
2. Medical, Dental Offices & Clinics	1/200 sq. ft. GFA
3. Agricultural/Animal Sales	1/400 sq. ft. GFA
4. Automotive Sales/Repair	1/300 sq. ft. GFA
5. Beauty/Barber Shop	3/Chair
6. Bank/S&L/Loan Agency	1/250 sq. ft GFA <sup>3</sup>
7. Car Washes (principal use)	3 plus <sup>4</sup>
8. Car Washes (accessory)	4 stacking spaces/bay
9. Restaurants, Cafes, Bars	1/75 sq. ft. GFA
10. Drive-Up Restaurants	1/50 sq. ft. GFA plus 6 stacking spaces/drive up window
11. Athletic Facilities	
(a) Racquetball/Tennis	6/Court
(b) All Other	1/200 sq. ft. GFA
12. Movie Theaters	¼ Seats
13. Gasoline Stations	3 plus 2/Service Stall plus 1/100 sq. ft GFA of retail space
14. Bowling Alleys	5/Lane
15. Hotels, Motels Tourist Homes	7/5 Guest Rooms (or fraction thereof)
16. Funeral Homes & Mortuaries	1/3 Seats in largest parlor or chapel
17. Home Furnishings Stores	1/500 sq. ft. GFA
18. Hardware/Home Improvement	1/300 sq. ft. GFA
19. Daycare/Group Homes (commercial)	1/5 persons enrolled
20. Pool Halls, Roller and Ice Rinks, Exhibition Halls	½ persons based on occupancy rating
21. Mini-warehouse	1/10 Units
22. General Retail Sales (not listed)	1/175 sq. ft. GFA (minimum 5)
23. Retail Services (not listed)	1/200 sq. ft. GFA (minimum 3)
<b>INDUSTRIAL USES</b>	<b>MINIMUM PARKING REQUIRED</b>
1. Custom Manufacturing	1/300 sq. ft retail space plus 1/employee major shift
2. Other Manufacturing	2/3 employees or 1/2000 sq. ft GFA, whichever is greater

(I) Off-Street Parking Exceptions.

<sup>3</sup> Plus 4 stacking spaces per drive up window

<sup>4</sup> a) 4 stacking spaces/manual self-serve bay; and b) 8 stacking spaces/automatic bay; and c) 1/140 sq. ft GFA of retail space. In addition, one (1) detailing space shall be provided for each car wash bay of any type, plus one (1) detail space for each vacuum machine if machines are not located within the stacking spaces. If machines are located within the stacking spaces, no additional detail space is required.

- (1) Proof of Parking Required. Establishments shall be capable of providing the number of on-site parking spaces required by this ordinance at any time said parking is needed. However, all such required parking need not be constructed initially if it is demonstrated by the owner to be in excess of his/her real parking demand. Future parking sufficient in quantity to meet the ordinance requirement shall be shown on the official site plan for which a land use permit request is made and said parking shall be constructed at the discretion of the zoning Administrator if it proves to be needed later.

## § 150.08 SIGNS

### (A) PURPOSE AND INTENT

The purpose of this ordinance is to protect and promote the health, safety, morals and general welfare of the inhabitants of the City of Bigfork through the establishing of impartial standards, regulations and procedures which govern the erection, use and/or display of devices, signs, or symbols serving as means of visual communication to persons situated within, upon or adjacent to public rights-of-way of properties.

Because of Bigfork's unique environmental setting and awareness and its reliance on tourism, it is further the intent of this ordinance to encourage quality and aesthetics in the size, design and the materials used for sign construction; to enhance the overall appearance and image of the City; and to assure that the public is not endangered or distracted by the unsafe, disorderly or unnecessary use of this communication medium.

### (B) DEFINITIONS

- (1) Abandoned Sign. Any sign that becomes vacant, unoccupied, or unused for a period of six (6) months or more, or a sign that pertains to an event, time, or purpose that no longer applies to a business or an activity shall not be deemed to be an abandoned sign unless that business or activity ceases to be conducted on the premises on which the sign is located for a period of more than six (6) months.
- (2) Animated Sign. Any sign that has any moving or rotating part, or gives the illusion of movement by means of illumination, provided that a changing sign shall not be considered an animated sign.
- (3) Changing Sign. Any electronically controlled and lighted sign such as a message center or reader board that displays messages of an informative nature that flashes on and off or travels across the area on which the

message is displayed without the lighting of such message changing in intensity.

- (4) Erect. “Erect” shall mean to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way to bring into being or establish, but it shall not include any of the foregoing activities when performed as customary maintenance of an outdoor advertising structure or device.
- (5) Flashing Sign. Any illuminated sign that does not maintain a uniform light intensity or color, provided that a changing sign shall not be considered a flashing sign.
- (6) Free-Standing Sign. Any sign that is attached directly to the ground or is supported vertically by any structurally sound support having its source of support independent of any building existing on the premises on which the sign is located.
- (7) Height. The height of a sign shall be measured from the centerline of the street or highway toward which the sign is principally displayed to the top of the sign.
- (8) Multiple-Faced or Back-To-Back Sign. Any sign that has one or more faces as a result of being constructed back-to-back or of “V” type construction.
- (9) Name Plate Sign. A sign that contains only the name and/or address of the occupant.
- (10) Non-Conforming Sign. Any sign lawfully in existence on the effective date of this ordinance or any sign lawfully in existence on the date of any amendment to this ordinance which does not conform to the regulations affecting signs for the district in which the sign is situated.
- (11) Off-Premise Sign. Any sign that directs attention to a business, product, service, activity, or entertainment not conducted upon the premises on which such sign is located.
- (12) On-Premise Sign. Any sign that directs attention to the name of the building, premises, or the name of the principal product, service, entertainment, or activity conducted, sold or offered upon the premises on which such sign is located.
- (13) Political Sign. Any sign that advertises a candidate or an issue that is to be voted on in a local, state or federal election process.

- (14) Premises. The contiguous land in the same ownership or control that is not divided by a street.
- (15) Projecting Sign. Any sign which is affixed to the outside of the exterior wall of any building and which extends more than twelve inches (12") from the building wall face.
- (16) Real Estate Sign. A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.
- (17) Safety Control Sign. Warning signs, notices, or markers that are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operation.
- (18) Sign. Any letter, work, symbol, model, printed, projected, or affixed device, poster, picture, reading matter, or other representation in the nature of an advertisement, announcement, direction, or informative device including structural and component parts, that is located outdoors and is larger than one (1) square foot in area.
- (19) Sign Area. The area of a sign includes the space inside a continuous line drawn around and enclosing all letters, designs and background materials exclusive of border, trim and structural supports. For the purpose of calculating the sign area of multiple-faced or back-to-back signs, the stipulated maximum sign area shall refer to a single face.
- (20) Temporary Sign. A promotional sale sign, fund-raising sign, special event sign, garage sale sign, or similar sign displayed no more than fourteen (14) days in any six (6) month period
- (21) Traffic Control Signs. Signs and notices erected and maintained by public officers or public agencies within their territorial jurisdiction and pursuant to and in accordance with direction or authorization contained in federal or state law for the purposes of carrying out an official duty or responsibility.
- (22) Wall Sign. Any sign that is affixed to the outside of an exterior wall or other part of any building.

(C) SIGN EXEMPTIONS

The following signs shall be exempt from the provisions of this ordinance:

- (1) Any sign erected and maintained pursuant to and in the discharge of any governmental function or required by any law, ordinance or governmental regulation.

- (2) Signs that are not visible beyond the boundaries of the lot or parcel upon which they are located.
- (3) Works of fine art that in no way identify or advertise a product or business.
- (4) Temporary decorations or displays when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday or celebration.
- (5) Safety Control Signs
- (6) Traffic Control Signs
- (7) Political Signs provided they are removed within one week after the date of the election to which they pertain. The owner or occupier of the property on which said sign is placed shall be responsible for its removal. Political signs shall not be placed in the public right-of-way.
- (8) Temporary Signs provided they are not displayed for more than fourteen (14) days in a six (6) month period.
  - (a) Temporary signs advertising garage and similar sales are also subject to the following restrictions:
    1. signs shall be located on private property and shall not be placed on the public right-of-way
    2. the maximum size for said signs shall be 24" x 24"
    3. signs may be placed one (1) day prior to sale and shall be removed within one (1) day of termination of sale
- (9) Real Estate Signs provided they are twenty-five (25) square feet or less in area and are removed within seven (7) days following the lease or sale of the property.
- (10) Signs, merchandise, pictures or models of products or services that are incorporated as an integral part of a window display.
- (11) Signs on vehicles, including trailers and trucks; provided such vehicles shall not be utilized as pared or stationary outdoor display signs, or as a structure from which to hang a sign.
- (12) Signs such as corner stones, commemorative tablets and historical signs.

- (13) National, State or Local governmental flags or symbols, provided that the display of such does not impair public safety.

(D) PROHIBITED SIGNS

The following signs shall not be permitted or erected in the City of Bigfork:

- (1) Signs that emit sound.
- (2) Any sign or structure that is unsafe or constitutes a hazard.
- (3) Any sign which in any way obstructs the view of, may be confused with, purports to be, or contains a facsimile of an official traffic sign, signal or device.
- (4) Signs with rotating or revolving beacon lights.
- (5) Abandoned signs.
- (6) Signs that contain any indecent or offensive picture or written material.
- (7) Any sign which violates Minnesota Statutes 173.15 as it may be amended from time to time, or any other state or federal law or regulation.
- (8) Any sign that advertises, identifies or pertains to any activity or business that has not been in existence for a period of thirty (30) days from the date the activity or business ceased to exist.
- (9) Animated Signs.
- (10) Flashing Signs.
- (11) Name Plate Signs larger than three (3) square feet.
- (12) Any sign larger than thirty-two (32) square feet.

(E) GENERAL DESIGN AND CONSTRUCTION STANDARDS

- (1) All signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- (2) Color: All colors used must be approved by the City Council as part of the permitting process.

- (3) **Materials:** All sign materials must be approved by the City Council as part of the permitting process.
  - (4) **Distance from Roadways:** All signs shall be located a minimum of 10 feet from the edge of any adjacent roadway.
  - (5) **Sign Area:** The maximum sign area for any sign shall not exceed thirty-two (32) square feet.
  - (6) **Sign Height:** The maximum height of any sign shall not exceed the district requirements for building height or twenty-five feet (25'), whichever is the lesser.
  - (7) **Illumination:** The lighting sources from any sign shall not cause up-light, spill light, or glare above, below, or alongside the sign. Exposed lighting sources such as bulbs, tubes, and the like are prohibited. All lighting sources shall be shielded from view by shrubbery or some other permitted material.
  - (8) All signs shall be maintained in good structural condition.
- (F) **DESIGN AND CONSTRUCTION STANDARDS FOR SPECIFIC TYPES OF SIGNS**
- (1) Changing Signs. Changing signs will only be allowed to display public information such as time and temperature.
  - (2) Projecting Signs. Projecting signs that overhang a sidewalk or other pedestrian way shall provide a minimum clearance above the said pedestrian way of ten feet (10').
- (G) **OFF-PREMISE SIGNS.**
- (1) Description of Ownership. Every off-premise sign shall indicate plainly the owner of such sign.
  - (2) Location. Off-premise signs are permitted in the GB District. Any off-premise sign shall not be located more than ten feet (10') from the edge of any adjacent roadway.
  - (3) Height. The maximum height of an off-premise sign shall not exceed the district requirements for building height or twenty-five feet (25'), whichever is the lesser.
  - (4) Sign Area. The maximum sign area of an off-premise sign shall not exceed thirty-two (32) square feet.



- (5) Spacing. No off-premise sign shall be placed within one hundred feet (100') of another off-premise advertising sign. Said one hundred feet (100') to be measured along the nearest edge of the street or highway to which an off-premise advertising sign is displayed and between points directly opposite the centers of the off-premise signs. For the purpose of calculating the one hundred feet (100'), multiple-faced or back-to-back type signs shall be considered as one (1) sign.
- (6) Setback Requirements. All off-premise signs shall be set back in conformance with the setback requirements for buildings in the district in which the sign is located.
- (7) Interference with Traffic. No off-premise sign shall be placed on a site or constructed or maintained in such a manner that the sign will substantially obstruct the vision of pedestrians and motorists entering and leaving any street or highway intersection so as to create a dangerous traffic hazard. Off-premise signs shall be constructed and maintained so as to prevent beams or rays of light from being directed at any portion of a street or highway with such brilliance, intensity, or glare so as to impair the vision of pedestrians and motorists.
- (8) Proximity to Natural Features. No off-premise sign shall in any way obstruct the view from any public street or natural features.
- (9) Permitted Arrangements. Off-premise signs are permitted as multiple-faced and back-to-back type signs provided, however, not more than two (2) displays are allowed on each face of a sign structure. Off-premise signs shall not be constructed as wall signs.

(H) ADMINISTRATION AND ENFORCEMENT

- (1) Permits and Fees. Except as hereinafter provided, no person, partnership, firm or corporation shall erect, cause to be erected, or allow to be erected on property owned by them any sign unless a sign permit has been issued by the Zoning Administrator at the direction of the Planning & Zoning Commission and the fee as set forth in the Ordinance Establishing Fees and Charges has been paid.
- (2) Review of Application. The Planning & Zoning Commission shall review all applications for sign permits and holds the authority to grant or deny the application. The Planning & Zoning Commission reserves the right to deny any application based on their findings in the review of such application. The Planning & Zoning Commission also reserves the right to place conditions on the granting of any sign permit.

(3) Exceptions. All applicable provision of this ordinance shall apply except that no permit or permit fee shall be required for the following:

- (a) Any sign designated as exempt in Section 150.08(C)(1-13)
- (b) The replacement of any permitted sign with an exact duplicate of the original sign. The replacement sign must be identical in size, color, and copy to the original sign. If any changes to the sign are desired, a new sign permit application must be submitted before the sign may be erected.

(4) Permit Requirements. Forms for application for a sign permit may be obtained from the Zoning Administrator. The application must be completed in full and shall contain the following information.

- (a) An artist's sketch of what the sign will look like when completed, including samples or a listing of the colors to be used;
- (b) The exact location of the proposed sign, including distances from the edge of any adjacent roadways or property lines, and distances from any other signs in the area;
- (c) The dimensions of the proposed sign;
- (d) A listing of the materials with which the proposed sign will be constructed;
- (e) Whether the sign will be illuminated or use any type of artificial light source;
- (f) The name and address of the owner of the property on which the sign is to be constructed, including proof of permission to erect the sign if the property is now owned by the person requesting the sign permit; and
- (g) The name and address of the person that is to construct the proposed sign.

The Zoning Administrator may require additional suitable information consistent with the provision of this ordinance. All signs shall be constructed and placed in substantial compliance with the permit and the data submitted by the applicant.

- (5) Gopher State One Call Required. No person shall begin the construction of a permitted sign for which digging must take place without first placing a Gopher State One Call (“Call Before You Dig”). Calls must be made two days prior to the start of any digging or construction.
- (6) Certification by Structural Engineer. The Planning & Zoning Commission may order certification of the structural design of any sign by an Engineer or Architect registered in the State of Minnesota.
- (7) Inspection after Installation. Upon installation of the sign, the applicant must notify the Zoning Administrator of the installation. The Zoning Administrator may then order inspection of the sign to ensure the installation was in keeping with the granting of the permit. If any discrepancies are found between the restrictions of the permit and the actual installation of the sign, the applicant must make the necessary corrections immediately or the sign must be removed until such corrections are made.
- (8) Maintenance. All signs shall be maintained so as not to threaten danger to persons or property. Abandoned signs and signs that have become damaged, dangerous, or dilapidated shall be repaired or removed immediately. The City shall have the right and shall follow the procedures set forth in Minnesota Statutes 463.15 as it is amended from time to time with respect to any abandoned, dangerous, or dilapidated sign.
- (9) Area Around Signs. The owner, or lessee, or any sign or the owner of the land on which the sign is located shall keep the grass, weeds and other growth cut and the area free from refuse between the sign and the street and also for a distance of six feet (6’) behind and at the ends of said sign.
- (10) Violations and Penalties. Any person convicted of violating any provision of this Section shall be guilty of a petty misdemeanor and shall be subject to the penalties as provided by law.

(I) NON-CONFORMING SIGNS

- (1) Permitted Maintenance: Non-conforming signs existing on the effective date of this ordinance shall be allowed to continue and reasonable maintenance of non-conforming signs shall be allowed. If the Zoning Administrator is of the opinion that a sign is not secure, safe, or in good state of repair, written notice of this fact shall be given to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within thirty (30) days, the Zoning Administrator may revoke the sign permit, thus placing the sign owner in violation of this ordinance.

- (2) Modifications. Any lawfully existing nonconforming sign cannot be enlarged, redesigned, or altered in any way including the repainting in a different color, except to conform to the requirements of this ordinance.
- (3) Replacement. Any sign replacing a non-conforming sign shall conform with the provisions of this ordinance and the non-conforming sign shall no longer be displayed.
- (4) Relocating Signs. Non-conforming signs shall not be replaced without being brought into compliance with all of the requirements of this ordinance.

**§ 150.09 SPECIAL OVERLAY REGULATIONS**

- (A) FLOODWAY OVERLAY REGULATIONS Refer to Section 150.14 of this ordinance.
- (B) PLANNED UNIT DEVELOPMENT (PUD) OVERLAY REGULATIONS (mandatory)
  - (1) Purpose and Intent. There are certain areas within the City of Bigfork that have very unique natural characteristics (wooded), are environmentally sensitive (wetlands), or are marginally developable due to such adverse external influences as high traffic volumes and/or non-residential uses. It is very desirable to encourage the clustering of development within these areas in an effort to preserve larger expanses of open space.
  - (2) Lands Subject to Ordinance. Within the areas so designated on the Official Zoning Map of the City, the use of PUD shall be mandatory except for lots or parcels of record consisting of two (2) or less acres at the time of adoption of this ordinance. Where such lots or parcels of record exist, the City in accordance with the existing zoning may allow residential development.
  - (3) Applicable Regulations. Refer to Section 150.10 of this ordinance.

**§ 150.10 PLANNED UNIT DEVELOPMENT (PUD)**

- (A) PURPOSE, OWNERSHIP, USES, ELIGIBILITY
  - (1) Purpose and Intent. PUD is established to permit flexibility in the design, layout and type of structures constructed; to achieve an efficiency in the

use of land, natural resources, energy, and the providing of public services and utilities; to encourage usable open space, and to provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of this City and State.

It is the intent of PUD to provide a process for rezoning which results in real property development utilizing a comprehensively prepared site plan which allows for flexibility and variances in building sites, densities and yards; allows for the mixing of uses and housing types and provides for usable open space as well as the preservation of natural features.

- (2) Eligibility Requirements. PUD may be applied within any district provided the following requirements are met:
  - (a) The site shall be not less than two (2) acres in size,
  - (b) Land to be incorporated in a PUD shall be under the control of one (1) owner or group of owners and shall be capable of being planned and developed as one integral unit.
- (3) Uses Permitted. As a process, PUD conveys no right to the use of land other than permitted by the district within which it is located.
- (4) Development Guidelines. Within a PUD, the basic zoning district regulations may be negotiated and variances granted by mutual consent of the City and the land owner(s) in accordance with the uses established by the City of Bigfork. The following shall apply:
  - (a) No variance shall be negotiated for yards adjacent to exterior property lines or public streets,
  - (b) No variances shall be negotiated for off-street parking or screening except as provided for in Section 150.07(E),
  - (c) A maximum variance from basic density requirements of up to twenty-five percent (25%) may be negotiated provided the findings under Section 150.10(B)(7) can be made.

(B) PLANNED UNIT DEVELOPMENT PROCEDURES

- (1) Preliminary Discussion. Prior to filing a petition, the proponent must request a meeting with the City to discuss the potential for PUD approval, consistency with City plans, etc. Such requests shall be made by addressing a letter to the City Planning & Zoning Commission. Said

letter shall be accompanied by a preliminary sketch plan that indicates the density; street pattern; building square footage, height and type and a time schedule. The proposed will be discussed at the next regular Planning & Zoning Commission meeting. Guidance will be provided in concept by the Planning & Zoning Commission to assist the proponent with the preparation of a Preliminary Development Plan.

- (2) Application and Fees. Depending on the outcome of the preliminary discussion, the proponent shall initiate the PUD process by filing an application signed by the owner with and paying the required fee to the Zoning Administrator not less than fifteen (15) days prior to the Planning & Zoning Commission meeting on a form provided by the City and including the information required in Section 150.10(B)(3).
- (3) Plan Requirements. The following information shall be provided in graphic and written form.
  - (a) An Existing Conditions Map showing property boundaries, topography, existing natural features, including trees, water courses, and ponds, soil conditions, buildings, streets, etc.;
  - (b) Preliminary Development Plan indicating the proposed uses of land, acreage, densities, building square footage, types and heights, public and private street locations, walkway locations, recreation areas and facilities, and any other information that will be necessary to evaluate the proposal;
  - (c) A Staging Plan indicating the proposed sequence of development and a general grading scheme. This plan can be indicated on the overall plan sheet;
  - (d) Final Development Plan for Phase I. Plans and support information shall be as prescribed for Conditional Use Permits (Refer to Section 150.05(I)(2) plus such protective covenants or agreements as might be intended or required by the City).

This information shall be provided in a neat package stapled together and accompanied by the application and a transmittal letter (eight (8) copies).

- (4) Planning & Zoning Commission Review. The Zoning Administrator shall distribute the material to the Planning & Zoning Commission for review at the next Planning & Zoning Commission meeting. Within sixty

(60) days of the completed application date, the Planning & Zoning Commission shall recommend approval, disapproval or modification of the Preliminary Development Plan and the Phase I Final Development Plan to the City Council. If the proposal is within a shoreland area, the plans will also be forwarded to the Commissioner of the Department of Natural Resources for review and comment.

- (5) City Council Receipt. The City Council will consider the recommendations of the Planning & Zoning Commission at its next meeting and may require modifications to the plan at that time. The City Council will then set a date for a public hearing.
- (6) Hearing and Mailed Notices. The City Clerk shall give notice of the public hearing in accordance with the procedures established for rezoning. Refer to Section 150.04(E)(4).
- (7) City Council Action and Findings. The City Council shall consider the advise of the Planning & Zoning Commission, the Commissioner of the Department of Natural Resources and the public and shall approve, disapprove, or suggest modifications to the Preliminary and Final Development Plans. If the City Council approves said plans, it shall also approve the rezoning for Phase I. The City Council shall not approve a PUD unless it finds as follows:
  - (a) The Proposed development is consistent with the city Comprehensive Plan;
  - (b) The development is more compatible, having used PUD, with surrounding development than if PUD had not been used;
  - (c) The open space gain warranted the use of PUD to grant variances;
  - (d) The Final Development Plan is in substantial conformance with the approved Preliminary Development Plan.
- (8) Conditions and Records. The City Council may impose such conditions as it deems necessary on the Preliminary and Final Development Plans and shall maintain a record of all approved plans, amendments and conditions for continuing reference.
- (9) Final Development Plans – Subsequent Phases. As rezoning is needed for subsequent development phases, the proponent shall prepare Final Development Plans for each phase and shall petition the City for rezoning in accordance with the above procedures. The application for rezoning

shall be accompanied by the information specified for final development plans in Section 150.10(B)(3)(e) above. The Planning & Zoning Commission shall review and recommend on each development phase and the City Council shall, prior to action on the request, hold a public hearing in accordance with the procedures established for rezoning. Each proposed Phase shall be in substantial conformance with the approved Preliminary Development Plan.

- (10) Resubmission. No application for PUD that has been denied by the City Council shall be resubmitted by the applicant for a period of one (1) year following the date of denial.
- (11) Lapse and Extension. If within one (1) year after the date of rezoning, a land use permit has not been issued, the Planning & Zoning Commission may review the zoning and recommend to the Council that the rezoning be extended or rescinded. Before acting on the Planning & Zoning Commission recommendation, the City Council shall conduct a public hearing and notice shall be given in the same manner as the original petition. The City Council may rescind or extend the zoning previously granted and the Preliminary and Final Development Plans for up to one (1) year upon finding that: 1) a good faith effort has been made to use the PUD; 2) there is reasonable expectation that the PUD will be used, and ; 3) the facts upon which the original PUD was issued are essentially unchanged.
- (12) Land Use Permits. At the time of land use permit approval, the building plans shall be reviewed by the Zoning Administrator to establish their compliance with the approved Preliminary and Final Development Plans. If they do not comply, the plans shall be reviewed by the Planning & Zoning Commission and City Council and a public hearing shall be conducted by the City Council all in accordance with the procedures established in Section 150.10(B).

## **§ 150.11 NON-CONFORMING USES**

### **(A) CLASSIFICATION**

- (1) Class 1. Those where the use of the building or land does not conform to the District Use Regulations of Section 150.05 of this ordinance.
- (2) Class 2. Those where the use of the building or land does comply with the District Use Regulations of this ordinance, but said use does not meet in its entirety the Site Development and Design Standards (Section 150.06) and Off-Street Parking and Loading requirements set forth in Section 150.07.



(B) PURPOSE AND INTENT

It is the intent of this ordinance to permit the continuance of a lawful use of any building or land existing at the effective date of this ordinance though such use may not conform with the provisions of this ordinance. It is also recognized that Class 1 uses are incompatible with the permitted uses in the districts in which located and it is the intent of this ordinance not to encourage their continuation or expansion. Class 2 uses are generally compatible, in terms of use, with the district in which located. It is, therefore, the intent of this Section to encourage their continuance, allow for their expansion, and to encourage, over time, ever greater compliance with the requirements of this ordinance.

(C) NON-CONFORMING USE REGULATIONS

Non-conforming uses of building, structures and land shall be subject to the following regulations:

(1) Structural Alterations, Replacement or Enlargement.

- (a) Class 1 shall not be structurally altered or enlarged unless the resultant altered or enlarged building or use shall conform in terms of usage to the provisions of this ordinance. Single Family Dwellings and Owner occupied Duplexes damaged or destroyed by fire, explosion, or other act of nature may be reconstructed or replaced with a building of similar size and value of the original building.
- (b) Class 2. Non-conforming uses of structures which do not meet the Site Development and Design Standards (Section 150.06) and/or the Off-Street Parking and Loading Requirements of this ordinance (Section 150.07) shall be allowed to be structurally altered or replaced provided there is no further violation of said requirements that lawfully exists at the time of said alteration or replacement.
- (c) Site Development Compliance Requirements (Class 2 Non-Conforming Uses): 1. Lawful Class 2 non-conforming uses existing at the time of adoption of this ordinance shall be “grandfathered,” provided however, that any modification to an existing structure, or the addition of any structure valued at equal to or greater than five thousand dollars (\$5,000) shall require compliance with the site development standards (Section 150.06) subject to the following standards:

1. An additional fifteen percent (15%) or the value of a proposed building improvement project must be added to the project and applied towards site improvements.
2. The proposed site improvements required to satisfy the requirements of this section shall be submitted for approval to the Zoning Administrator.
3. Written cost estimates shall be provided for any site improvements being proposed.
4. With the understanding that the “15%” improvement requirements will not bring many sites up to full compliance, the required improvements shall be prioritized in the following order, where practical: pavement of parking lots, screening of dumpsters, screening of outdoor storage, bufferyard development, and general landscaping.
5. “Phasing In” Improvements: Where the estimated site improvement costs exceed \$2,000 the City Council may allow the owner to phase in the required improvement over a 3-year period provided that:
  - a. The property owner(s) file a binding agreement, in a form acceptable to the City, committing the owners to making said improvement with three (3) years, and
  - b. At least one-third of the improvement costs must be spent in the first year
  - c. Any site or lot or part thereof being converted, enlarged, reconstructed or altered in any way or changed in use for any purpose shall be in full conformity with the provisions of this ordinance.

- (2) Repair of Non-Conforming Buildings. Nothing in this ordinance shall prohibit the repair, improvement or modernizing of a lawful non-conforming building to correct deterioration, obsolescence, depreciation and wear provided that such repair to Class 1 non-conforming uses shall not exceed and aggregate cost of thirty percent (30%) of the replacement value of the building.

- (3) Reconstruction and Restoration. Any lawful non-conforming use damaged by fire, explosion, an act of God, or by other causes may be restored, rebuilt or repaired provided such restoration for Class 1 non-conforming uses does not exceed fifty percent (50%) of its replacement value, exclusive of land and foundations. Owner occupied Class 1 non-conforming single family dwellings and duplexes damaged or destroyed by fire, explosion or act of nature may be reconstructed or replaced with a building of similar size and value as the original building.
- (4) Discontinuance or Abandonment. Whenever a non-conforming use of either class has been discontinued for six (6) or more consecutive months or for eighteen (18) months during any three (3) year period, such discontinuance shall be considered conclusive evidence of the intention to abandon the non-conforming use and shall not be reestablished. Any future use shall be in conformity with the provisions of this ordinance.
- (5) Changing of Uses. Whenever a Class 1 non-conforming use had been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a non-conforming or less conforming use. Whenever a Class 2 non-conforming use is changed to a use requiring the same or less parking, full ordinance compliance shall not be required but in no case shall existing parking be diminished.
- (6) Prior Construction Approval. Nothing in this ordinance shall prohibit the completion of construction and use of a non-conforming building for which a land use permit has been issued prior to the effective date of this ordinance, provided that construction is commenced within ninety (90) days after the date of issuance of the permit and that the entire building shall have been completed according to plans filed with the permit application within one (1) year after the issuance of the building permit.
- (7) District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provision of this Section shall also apply to any existing uses that become non-conforming as a result of the boundary changes.

## **§ 15.12 PLANNING & ZONING COMMISSION**

See Title III of the Bigfork Code of Ordinances, Section 31.45.

## **§ 150.13 FEES**

Refer to the Ordinance Establishing Fees and Charges for the City of Bigfork.

## § 150.14 FLOODPLAIN REGULATIONS

### (A) STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

- (1) Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 104 and 462 (Zoning Enabling Statute) delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Bigfork, Minnesota does ordain as follows:
- (2) Findings of Fact: The flood hazard areas of the City of Bigfork, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (3) Methods Used to Analyze Flood Hazards: This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
- (4) Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in 150.14(A)(2) by provisions contained herein.

### (B) GENERAL PROVISIONS

- (1) Lands to Which Ordinance Applies: This Ordinance shall apply to all lands within the jurisdiction of Bigfork as shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe District.
- (2) Regulatory Flood Protection Elevation: The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- (3) Interpretation: In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be

deemed a limitation or repeal of any other powers granted by State Statutes.

The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Planning & Zoning Commission shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Planning & Zoning Commission and to submit technical evidence.

- (4) Abrogation and Greater Restrictions: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
- (5) Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside the flood plain district or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Bigfork or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
- (6) Severability: If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- (7) Definitions: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Basement – means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Conditional Use – means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

- (a) certain conditions as detailed in the zoning ordinance exist and
- (b) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe – that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe”.

Flood Plain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Flood-Proofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal Use or Structure – means all uses or structures that are not accessory uses or structures.

Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

Regulatory Flood Protection Elevation – The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Structure – anything constructed or erected on the ground or attached to the ground or on-site utilities, including but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in 150.16(I)(3) of this Ordinance and other similar items.

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

(C) ESTABLISHMENT OF ZONING DISTRICTS

(1) Districts:

- (a) Floodway District: The Floodway District shall include those areas designated as floodway on the Flood Boundary Map.
- (b) Flood Fringe District: The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary Map.

(2) Compliance:

No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway and Flood Fringe District, all uses not listed as permitted uses or conditional uses in 150.14(D), (E) and (F) the follow, respectively, shall be prohibited. In addition, a caution is provided here that:

New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically 150.14(I);

Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and nonconforming uses of structures of land are regulated by the general provisions of this Ordinance and specifically 150.14(K); and

As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as

(D) FLOODWAY DISTRICT (FW)

(1) Permitted Uses:

General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

Industrial/Commercial loading areas, parking areas, and airport landing strips.

Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

Residential lawns, gardens, parking areas, and play areas.

(2) Standards for Floodway Permitted Uses:

The use shall have a low flood damage potential.



The use shall be permissible in the underlying zoning district if one exists.

The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(3) Conditional Uses:

Structures accessory to the uses listed in 150.14(D)(1) above and the uses listed below.

Extraction and storage of sand, gravel, and other materials.

Marinas, boat rentals, docks, piers, wharves, and water control structures.

Railroads, streets, bridges, utility transmission lines, and pipelines.

Storage yards for equipment, machinery, or materials.

Placement of fill.

Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of 150.14(I)(3) of this Ordinance.

Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(4) Standards for Floodway Conditional Uses:

(a) All Uses:

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

All floodway Conditional Uses shall be subject to the procedures and standards contained in(J)(4) of this ordinance.

The conditional use shall be permissible in the underlying zoning district if one exists.

(b) Fill:

1. Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term

(c)

(E) FLOOD FRINGE DISTRICT (FF)

(1) Permitted Uses:

Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe “Permitted Uses” listed in 150.14(E)(2) and the standards for all Flood Fringe “Permitted and Conditional Uses” listed in 150.14(E)(5).

(2) Standards for Flood Fringe Permitted Uses:

All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one foot (1’) below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen feet (15’) beyond the outside limits of the structure erected thereon.

As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally flood proofed in accordance with 150.14(D)(4)(c).

The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be

allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with section 150.14(E)(2) of this Ordinance.

The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

The provisions of section 150.14(E)(5) of this Ordinance shall apply.

(3) Conditional Uses:

Any structure that is not elevation on fill or flood proofed in accordance with section 150.14(E)(2) or any use of land that does not comply with the standards in section 150.14(E)(2) shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in sections 150.14(E)(4-5) and 150.14(J)(4) of this Ordinance.

(4) Standards for Flood Fringe Conditional Uses:

Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) is designed to internally flood and is constructed with flood resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(a) Design and Certification – The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(b) Specific Standards for Above-grade, Enclosed Areas – Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

1. The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters to equalize pressures, the bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

Basements, as defined by section 150.14(B)(8) of this Ordinance, shall be subject to the following:

1. Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
2. Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with section 150.14(E)(4) of this Ordinance

All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional

flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

(a) Storage of Materials and Equipment:

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

The provision of section 150.14(E)(5) of this Ordinance shall also apply.

(5) Standards for all Flood Fringe Uses:

All new principal structures must have vehicular access at or above an elevation not more than two feet (2') below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Planning & Zoning Commission must specify limitation on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

Commercial Uses – accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet (2') or be subject to flood velocities greater than four feet (4') per second upon occurrence of the regional flood.

Manufacturing and Industrial Uses – measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in section 150.14(E)(5) above. In considering permit application, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation – FEMA’s requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

Standards for travel trailers and travel vehicles are contained in section 150.14(I)(3).

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

#### (F) SUBDIVISIONS

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

(G) PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

- (1) Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.
- (2) Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with section 150.14(D) and 150.14(E) of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided here failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

This Section is not intended as a substitute for a comprehensive city or county subdivision ordinance. It can, however, be used as an interim control until the comprehensive subdivision ordinance can be amended to include necessary flood plain management provisions.

- (3) On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided:
  - (a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and
  - (b) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

(H) MANUFACTURE HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES

New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by section 150.14(G) of this Ordinance.

The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in the

flood plain district will be treated as a new structure and may be placed only if elevated in compliance with section 150.14(E) of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with section 150.14(E)(5), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

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

Travel trailers and travel vehicles that do not meet the exemption criteria specified in section 150.14 (I)(1) below shall be subject to the provisions of this Ordinance and as specifically spelled out in section 150.14(I)(3-4) below.

(1) Exemption. Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in section 150.14(I)(2) below and further they meet the following criteria:

- (a) Have current licenses required for highway use.
- (b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
- (c) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(2) Areas Exempted For Placement of Travel/Recreation Vehicles:

- (a) Individual lots or parcels of record.
- (b) Existing commercial recreational vehicle parks or campgrounds.
- (c) Existing condominium type associations.

(3) Travel trailers and travel vehicles exempted in section 150.14(I)(1) lose this exemption when development occurs on the parcel exceeding \$250.00 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood



proofing requirements and the use of land restrictions specified in sections 150.14(D) and 150.14 (E) of this Ordinance.

- (4) New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
  - (a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe District provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the Site exists in accordance with section 150.14(E)(5) of this Ordinance. Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of section 150.14(D).
  - (b) All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a Conditional Use if in accordance with the provisions of section 150.05(J) of this Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with section 150.14(H)(3) of this Ordinance.

(I) ADMINISTRATION

- (1) Zoning Administrator: A Zoning Administrator designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in section 150.14(L) of this Ordinance.
- (2) Permit Requirements:
  - (a) A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation

of materials, or the storage of materials or equipment within the flood plain.

- (b) Application for a Permit shall be made to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
- (c) Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
- (d) It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
- (e) Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by section 150.14(L) of this Ordinance.
- (f) The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
- (g) The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood-proofed.

### (3) Variances and Appeals

- (a) The City Council may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities. In the granting of such variance, the City Council shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.
- (b) Upon filing with the City Council of an appeal from a decision of the Zoning Administrator, or an application for a variance, the City Council shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The City Council shall submit by mail to the Commissioner of Natural Resources, a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
- (c) The City Council shall arrive at a decision on such appeal or variance within sixty (60) days. In passing upon an appeal, the City Council may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the City Council may prescribe appropriate conditions and safeguards such as those specified in section 150.14(J)(4)(f), which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under section 150.14(L). A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- (d) Appeals from any decision of the City Council may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.

(e) The Zoning Administrator shall notify the applicant for a variance that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
2. Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(4) Conditional Uses: The Planning & Zoning Commission shall hear and consider applications for Conditional Uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning & Zoning Commission for consideration.

(a) Upon filing with the Planning & Zoning Commission an application for a Conditional Use Permit, the Planning & Zoning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

(b) The Planning & Zoning Commission shall arrive at a decision on a Conditional Use within sixty (60) days. In granting a Conditional Use Permit the Planning & Zoning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified in section 150.14(J)(4)(f), which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under section 150.14(L). A copy of all decision s granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(c) Procedures to be followed by the Planning & Zoning Commission in Passing on Conditional Use Permit Application within the Flood Plain District.

1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Zoning Administrator for determining the suitability of the particular site for the proposed use:
  - a. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.
  - b. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities
2. Transmit one copy of the information described in subsection a. to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluation the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
3. Based upon the technical evaluation of the designated engineer or expert, the Planning & Zoning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(d) Factors upon Which the Decision of the Planning & Zoning Commission shall be based.

In passing upon Conditional Use application, the Planning & Zoning Commission shall consider all relevant factors specified in other sections of this Ordinance, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  5. The importance of the services provided by the proposed facility to the community.
  6. The requirements of the facility for a waterfront location.
  7. The availability of alternative locations not subject to flooding for the proposed use.
  8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
  12. Such other factors which are relevant to the purposes of this Ordinance.
- (e) The Planning & Zoning Commission shall act on an application in the manner described above within sixty (60) days from receiving the application, except that where additional information is required pursuant to section 150.14(J)(4)(d) of this Ordinance. The Planning & Zoning Commission shall render a written decision within sixty (60) days from the receipt of such additional information.
- (f) Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning & Zoning Commission shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
5. Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

#### (J) NONCONFORMING USES

A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted below.

The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of section 150.14(D)

or 150.14(E) of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more if its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in section 150.14(D) or 150.14(E) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

#### (K) PENALTIES FOR VIOLATION

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

Nothing herein contained shall prevent the City of Bigfork from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the



construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either

- (1) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or
- (2) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

#### (L) AMENDMENTS

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

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

### **§ 150.15 SHORELAND MANAGEMENT PROVISIONS**

#### (A) STATUTORY AUTHORIZATION AND POLICY

##### (1) STATUTORY AUTHORIZATION

These shoreland management rules have been adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations Parts 6120.2500-6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

(2) POLICY

The uncontrolled use of shorelands of the City of Bigfork, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. The City of Bigfork, Minnesota, hereby recognizes this responsibility.

(3) JURISDICTION

The provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Chapter 150.15(B) of this ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500-6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance.

(4) COMPLIANCE REQUIRED

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.

(B) SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

(1) Shoreland Classification System

The public waters of the City of Bigfork have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Itasca County, Minnesota. The shoreland area for the waterbodies listed in Chapter 150.15(B)(a-b) shall be as defined in Chapter 150.03(D) and as shown on the Official Zoning Map.

Lakes

- (a) Natural Environment Lakes:  
Cemetary Lake (31-715)
- (b) Recreational Development Lakes:

Bustic Lake (31-713)

Rivers and Streams\*

(a) Tributary Streams

	From			To		
	Sec	Twp	Rng	Sec	Twp	Rng
Coon Creek	4	61N	26W	27	61N	26W
Rice River	25	60N	26W	27	61N	26W
Unnamed to BRF	26	61N	26W	23	61N	26W

\*Refer to Big Fork River Management Ordinance for the City of Bigfork for development standards within the Big Fork River Corridor.

(C) LAND USE DISTRICT DESCRIPTIONS

The land use districts described in Chapter 150.05 and the delineation of a land use district's boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives:

- (1) General Considerations and Criteria for All Land Uses:
  - (a) Preservation of natural areas;
  - (b) Present ownership and development of shoreland areas;
  - (c) Shoreland soil types and their engineering capabilities;
  - (d) Topographic characteristics;
  - (e) Vegetative cover;
  - (f) In-water physical characteristics, values, and constraints;
  - (g) Recreational use of the surface water;
  - (h) Road and service center accessibility;
  - (i) Socioeconomic development needs and plans as they involve water and related land resources;
  - (j) The land requirements of industry which, by its nature, requires location in shoreland areas; and
  - (k) The necessity to preserve and restore certain areas having significant historical or ecological value.

- (2) Factors and Criteria for Planned Unit Developments:
  - (a) Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
  - (b) Physical and aesthetic impacts of increased density;
  - (c) Suitability of lands for the planned unit development approach;
  - (d) Level of current development in the area; and
  - (e) Amounts and types of ownership of undeveloped lands.
- (3) The land use districts for shoreland areas are described in Chapter 150.15 of this ordinance, and shall be properly delineated on the Official Zoning Map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Regulations, Part 6120.3200, Subp. 3.
- (4) Permitted Uses: Please refer to Table 2 for a listing of the types of uses allowed in the Shoreland zones. Table 2 identifies three types of uses: permitted uses, restricted uses, and conditional uses. Refer to Chapter 150.05(F)(1-3) for a description of these types of uses.

#### (D) GENERAL SITE DEVELOPMENT DESIGN STANDARDS

Except as noted elsewhere in Chapter 150.15, land within the shoreland district is subject to the same site development regulations as non-shoreland areas (see Chapter 150.05).

Wherever the requirements of two or more sections are contradictory, the strictest requirement shall apply.

#### (E) YARD AND BULK REQUIREMENTS

Please refer to Table 2 for listing of the yard and bulk requirements for principle structures (setbacks, lot area, lot width, etc) that apply to lands located in the shoreland district.

#### (F) ADDITIONAL SPECIAL PROVISIONS

- (1) Residential subdivisions with dwelling unit densities exceeding those in the tables in Chapter 150.15©(1) can only be allowed if designed and approved as residential planned unit developments under Chapter 150.15(J) of this ordinance. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Chapter 150.15(C)(1) can only be used if publicly owned sewer system service is available to the property.

- (2) Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:
- (a) Each building must be set back at least 200 feet from the ordinary high water level;
  - (b) Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
  - (c) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
  - (d) No more than 25 percent of a lake’s shoreline can be in duplex, triplex, or quad developments.
- (3) One guest cottage may be allowed on riparian lots meeting or exceeding the duplex lot area and width dimensions presented in Chapter 150.15(C)(1) provided the following standards are met:
- (a) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
  - (b) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
  - (c) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
- (4) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:
- (a) They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
  - (b) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements	
Ratio of lake size to shore length	Required increase in frontage

(acres/mile)	(percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- (c) They must be jointly owned by all purchasers of lots in the subdivisions or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
- (d) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the no significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

(5) Structure and On-site Sewage System Setbacks (in feet) from Ordinary High Water Level\*

Classes of Public Waters	Setbacks*		
	Structure (Unsewered)	Structure (Sewered)	Sewage Treatment System
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75
Rivers			
Tributary	100	50	75

- (6) Additional Structure Setback. The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback From:	Setback (in feet)
Top of bluff	30
Unplatted cemetery	50

- (7) Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- (8) Uses Without Water-oriented Needs. Uses without water oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- (9) When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structures setbacks may be altered (with or without?) a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows.

**(G) DESIGN CRITERIA FOR STRUCTURES**

- (1) High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
  - (a) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
  - (b) For rivers and streams, by placing the lowest floor at least three feet above the floor of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

- (c) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in Chapter 150.15(G)(1)(a) if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris
- (2) Water-oriented Accessory Structures. Each lot may have water-oriented accessory structures not meeting the normal structure setback in Chapter 150.15(C)(1) of this ordinance if the water-oriented accessory structures comply with the following provisions:
- (a) The structures or facilities must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet total. Detached decks must not exceed eight feet above grade at any point;
  - (b) The setback of the structure or facility from the ordinary high water level must be at least ten feet;
  - (c) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
  - (d) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
  - (e) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
  - (f) As an alternative for recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.
- (3) Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements



- (a) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreation properties, and planned unit developments.
  - (b) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments.
  - (c) Canopies or roofs are not allowed on stairways, lifts, or landings;
  - (d) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
  - (e) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of public water assuming summer, leaf-on conditions, whenever practical; and
  - (f) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are complied with in addition to the requirements of Minn. Regulations Chapter 1340 (Handicapped Accessibility Code)
- (4) Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- (5) Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on conditions.

#### (H) SHORELAND ALTERATIONS

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

## (1) VEGETATION ALTERATIONS

- (a) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Chapter 150.15(C)(5) of this ordinance are exempt from the vegetation alteration standards that follow.
- (b) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Chapters 150.15(G)(2-3), respectfully, is allowed subject to the following standards:
  - (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forestland conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
  - (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
    - (A) No more than one third (1/3) of the existing trees and brush and shrubs may be removed. Trees and brush and shrubs shall be considered separately in complying with this provision.
    - (B) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
    - (C) Along rivers, existing shading of water surfaces is preserved; and
    - (D) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

- (3) Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.

(2) TOPOGRAPHIC ALTERATIONS/GRADING AND FILLING

(a) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued land use permits for these facilities do not require the issuance of a separate fill permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(b) Public roads and parking areas are regulated by Chapter 150.15(E) of this Ordinance.

(c) Notwithstanding Items (a) and (b) above, a fill permit will be required for:

(1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

(2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones

(d) the following considerations and conditions must be adhered to during the issuance of land use, private wastewater, fill, and conditional use permits, variances and subdivision approvals:

1. Grading or filling in any wetland shall require a permit pursuant to the Wetland Conservation Act.
2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the Itasca County Soil and Water Conservation District and the United State Soil Conservation Service;
6. Fill or excavated material must not be placed in a manner that creates an unstable slope;
7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
8. Fill or excavated material must not be placed in bluff impact zones;
9. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 103G.245
10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
11. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

(e) Connections to public waters. Excavations where the intended purpose is connection to public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

(I) PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS, AND PARKING AREAS.

- (1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are

designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

- (2) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternative exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- (3) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 5.32 of this ordinance must be met

#### (J) STORMWATER MANAGEMENT

The following general and specific standards shall apply:

- (1) General Standards:
  - (a) When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
  - (b) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
  - (c) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
- (2) Specific Standards
  - (a) Impervious surface coverage of lots must not exceed 25 percent of the lot area
  - (b) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

- (c) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(K) SPECIAL PROVISIONS FOR COMMERCIAL, INDUSTRIAL, PUBLIC/SEMIPUBLIC, AGRICULTURAL, FORESTRY AND EXTRACTIVE USES AND MINING OF METALLIC MINERALS AND PEAT.

(1) Standards for Commercial, Industrial, Public, and Semipublic Uses.

- (a) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

1. in addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
2. uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
3. uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
  - a. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
  - b. Signs must be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32

square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

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

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

(2) AGRICULTURE USE STANDARDS.

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

- (a) Animal feedlots must meet the following standards:

1. new feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and
2. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(3) FOREST MANAGEMENT STANDARDS.

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution

Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota.”

(4) EXTRACTIVE USE STANDARDS.

Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

(5) MINING OF METALLIC MINERALS AND PEAT.

Mining of metallic minerals and peat, as defined in Minnesota Statutes, sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, sections 93.44 to 93.51 are satisfied.

(L) CONDITIONAL USES

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

(1) Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- The visibility of structures and other facilities as viewed from public waters is limited;
- The site is adequate for water supply and on-site sewage treatment; and
- The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(2) Conditions attached to conditional use permits. The City Council, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:



- (a) increased setbacks from the ordinary high water level;
- (b) limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- (c) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(M) Water Supply and Sewage Treatment

- (1) Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota department of Health and the Minnesota Pollution Control Agency.
- (2) Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
  - (a) Publicly-owned sewer systems must be used where available.
  - (b) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
  - (c) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 5.21 of this ordinance.
  - (d) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (1)-(4). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation criteria:

- 1. depth to the highest known or calculated ground water table or bedrock;
- 2. soil conditions, properties, and permeability;

3. slope;
  4. the existence of lowlands, local surface depressions, and rock outcrops;
- (e) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 6.13 of this ordinance.

(N) NONCONFORMITIES

All legally established nonconformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

- (1) Construction on nonconforming lots of record.
  - (a) Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 5.1 of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.
  - (b) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided
  - (c) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 5.1 of this ordinance the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 5.1 of this ordinance as much as possible.
- (2) Additions/expansions to nonconforming structures.

- (a) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Section 5.0 of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 3.3.
- (b) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
  - 1. the structure existed on the date the structure setbacks were established;
  - 2. a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
  - 3. The deck is constructed primarily of wood, and is not roofed or screened.

(3) Nonconforming sewage treatment systems.

- (a) All residential structures within the shoreland areas of the City of Bigfork will be provided with access to municipal sewer where feasible. Any nonconforming onsite sewage disposal systems that are found to exist will be referred to the Itasca County Zoning Administrator for upgrading in accordance with the Minnesota Pollution Control Agency's Chapter 7080 standards for design of onsite sewage treatment systems.

(O) SUBDIVISION/PLATTING PROVISIONS

- (1) Land suitability. Each lot created through subdivision, including planned unit developments authorized under Section 8.0 of this ordinance, must be suitable in its natural state for the proposed susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- (2) Consistency with other controls. Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a

later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Section 5.2 and 5.8 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 5.1, including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

- (3) Information requirements. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:
  - (a) topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
  - (b) the surface water features required in Minnesota Statutes, section 505.02 subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
  - (c) adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
  - (d) information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
  - (e) location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
  - (f) A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- (4) Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

- (5) **Platting.** All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.
- (6) **Controlled Access or Recreational Lots.** Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 5.14 of this ordinance.

**(P) PLANNED UNIT DEVELOPMENTS (PUDS)**

**(1) Types of PUDs Permissible**

Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in Section 4.2 of this ordinance and the official zoning map.

**(2) Processing of PUDs**

Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 8.5. Approval cannot occur until the environmental review process (EAW/EIS) is complete. All residential planned unit developments must contain at least five dwelling units or sites.

**(3) Application for a PUD**

The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

- (a) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.

- (b) A property owners association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of Section 8.6 of this ordinance.
- (c) Deed restrictions, covenants, permanent easements or other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and 2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 8.6 of this ordinance.
- (d) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- (e) Those additional documents as requested by the City Council that are necessary to explain how the PUD will be designed and will function.

(4) Site “Suitable Area” Evaluation

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 8.5.

- (a) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions	Unsewered (feet)	Sewered (feet)
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

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

(5) Residential and Commercial PUD Density Evaluation

The procedures for determining the “base” density of a PUD and density increase multipliers are as follows. Allowable densities may be

transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier class.

(a) Residential PUD “Base” Density Evaluation:

1. The suitable area within each tier is divided by the single residential lot size standard for lakes, or for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Section 8.6.

(b) Commercial PUD “Base” Density Evaluation:

1. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

2. Select the appropriate floor area ratio from the following table:

Commercial Planned unit Development Floor Area Ratios* Public Waters Classes			
*Average unit floor area (sq. ft.)	Sewered general development lakes; first tier on unsewered general development lakes, urban, agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes; transitions and forested river segments	Natural environment lakes and remote river segments
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025

1000	.108	.054	.027
1100	.116	.058	.029
1200	.125	.064	.032
1300	.133	.068	.034
1400	.142	.072	.036
1500	.150	.075	.038

\*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufacture home sites in recreational camping areas shall use a ratio equal to the size of the manufacture home, or if unknown, the ratio listed for 1000 square feet.

1. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
2. Divide the total floor area by the tier computed in Item C. above by the average inside living area size determined in Item A. above. This yields a base number of dwelling units and sites for each tier.
3. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Section 8.6.

(c) Density Increase Multipliers:

1. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 5.0 are met or exceeded and the design criteria in Section 8.6 are satisfied. The allowable density increases in Item B. below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 greater than the minimum setback.
2. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments:

Density evaluation tiers	Maximum density increase Within each tier (percent)
First	50
Second	100



Third	200
Fourth	200
Fifth	200

(6) Maintenance and Design Criteria

(a) Maintenance and Administration Requirements.

1. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
  
2. Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
  - a. commercial uses prohibited (for residential PUDs)
  - b. vegetation and topographic alterations other than routine maintenance prohibited
  - c. construction of additional building or storage of vehicles and other materials prohibited; and
  - d. uncontrolled beaching of watercraft prohibited
  
3. Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:
  - a. membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
  - b. each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on unites or sites;
  - c. assessments must be adjustable to accommodate changing conditions; and
  - d. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

- (b) Open Space Requirements. Planned unit developments must contain open space meeting all of the following criteria:
1. at least 50 percent of the total project area must be preserved as open space;
  2. dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
  3. open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
  4. open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
  5. open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
  6. open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
  7. the appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means, and
  8. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50 percent of the shore impact zone must be preserved in its natural state.
- (c) Erosion Control and Stormwater Management. Erosion control and stormwater management plans must be developed and the PUD must:

1. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
  2. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial Pods 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 5.3.
- (d) Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:
1. Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On site-water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 5.2 and 5.8 of this ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
  2. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Section 8.53 of this ordinance for development with density increases;
  3. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas

suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

4. structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;
5. accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and
6. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 5.2 of this ordinance and are centralized.

#### (7) Conversions

Existing resorts or other land uses and facilities may be converted to residential planned unit developments if all of the following standards are met:

- (a) Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
- (b) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.
- (c) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvement made as part of the conversion. These improvements must include, where applicable, the following:
  1. removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

2. remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
  3. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
- (d) Existing dwelling unit or dwelling site densities that exceed standards in Section 8.5 may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

#### **§ 150.16 RENTAL UNITS**

All rental units shall be required to be registered annually with the City of Bigfork. Registration to be completed prior to the first of the calendar year. No fee is required.

#### **§ 150.17 REPEALS**

The Zoning Ordinance enacted by the City of Bigfork prior to September 1, 2002 and all amendments and extensions thereof are hereby repealed. Parts of other ordinances in conflict with the ordinance, to the extent of the conflict and no further, are hereby repealed.

**TABLE 1 - PERMITTED USES**

<b>R-1</b>	<b>R-2</b>	<b>GB</b>	<b>M</b>	<b>I</b>	<b>AG</b>	<b>LISTING OF USES</b>
<b>RESIDENTIAL</b>						
P	P				P	single family detached
	P				P	duplex
		P			P	accessory apartments
R	R	P			R	roomers
R	R				R	bed & breakfast accommodations
	P		P		P	multi family
	CUP				CUP	manuf. home community
P	P				P	congregate housing
<b>GROUP AND FOSTER HOMES</b>						
R	R				R	6 or less persons
R	R				R	7-16 persons
R	R				R	17 or more persons
<b>DAY CARE/NURSERY</b>						
R	R	P	P		P	14 or less persons
		P			P	15 or more persons
<b>MISC. RESIDENTIAL USES</b>						
R	R	R	R	R	P	accessory buildings
R	R	R	R		R	garage sales
P	P	P	P	P	P	essential services
R	R	R		R	P	outdoor storage
R	R				P	private recreation
R	R	R	R	R	P	woodpiles
R	R	R	R	R	P	temporary buildings
R	R	R	R	R	P	satellite dish/solar collectors
R	R				R	home occupations

Notes: P = Permitted

CUP = Conditional Use Permit Required

R = Permitted with Restrictions

Blank = Not Permitted

**TABLE 1 - PERMITTED USES (Cont.)**

<b>R-1</b>	<b>R-2</b>	<b>GB</b>	<b>M</b>	<b>I</b>	<b>AG</b>	<b>LISTING OF USES</b>
						<b>COMMERCIAL</b>
<b>AGRICULTURAL SALES &amp; SERVICE</b>						
					P	kennels
		P				pet shops
		R		R	R	vet clinics
		P			P	farm equipment
		P			P	feed, grain, supplies
<b>AUTO / REC. VEHICLES</b>						
		P				sales: new or used
		P				repair/service
		R				car & equipment cleaning establishment
		R				gasoline & fuel sales
				CUP		junk/salvage yard
		P		P		auto-truck fleet storage
<b>CONSTRUCTION</b>						
		R		R		contractor's yard, materials storage
		P				equipment/truck sales & service
		R			R	tool and/or equipment rental
<b>FINANCIAL INSTITUTIONS</b>						
		P				bank, s&l, loan agency, etc.
<b>FOOD SERVICE</b>						
		P			CUP	restaurant
		R	R	R	R	vending machines
<b>HEALTH CARE</b>						
		P	P	P		clinic (outpatient treatment centers)
			P			state licensed residential treatment centers
			P			hospitals & nursing homes

Notes: P = Permitted

CUP = Conditional Use Permit Required

R = Permitted with Restrictions

Blank = Not Permitted

**TABLE 1 - PERMITTED USES (Cont.)**

<b>R-1</b>	<b>R-2</b>	<b>GB</b>	<b>M</b>	<b>I</b>	<b>AG</b>	<b>LISTING OF USES</b>
CUP	CUP	CUP	CUP	CUP	CUP	<b>INTERIM USE</b>
		P	P	P		<b>OFFICE</b>
<b>RECREATION / ENTERTAINMENT</b>						
		P		CUP	CUP	indoor (commercial)
		R				fraternal clubs, lodges, etc..
		CUP			CUP	outdoor amusement centers (commercial)
		R				video arcade
<b>RETAIL</b>						
		P			CUP	general sales and services (see definition)
		P			P	greenhouse/nursery & sales
		P	P			pharmacy
		R			R	temporary out-door sales
<b>SCHOOLS PUBLIC &amp; PRIVATE</b>						
R	R				R	elementary - secondary
R	R				R	small schools within existing buildings
<b>INDUSTRIAL</b>						
		P		P		communications service
		P		P		monument work/sales
		R		R		manufacturing (see restrictions)
				R		recycling center
				CUP	CUP	mining of sand and gravel
CUP	CUP	CUP	CUP	CUP	CUP	land reclamation
						landfills
		R		R	P	outdoor storage (merchandise/material)
<b>PUBLIC</b>						
R	R				R	churches
CUP					CUP	cemeteries

Notes: P = Permitted

CUP = Conditional Use Permit Required

R = Permitted with Restrictions

Blank = Not Permitted



TABLE 2 DISTRICT DEVELOPMENT REGULATIONS - STRUCTURES											
DISTRICT	MINIMUM LOT SIZE		MINIMUM YARD SETBACKS				MAX LOT COVERAGE	BLDG SIZE	SURFACE PARKING		
	Lot Area (sq ft)	Width (ft)	Front (ft)	Side Yard (ft)		Rear Yard (ft)			Max. Hgt (ft)	MINIMUM YARD SETBACKS	
				Prin. <sup>1</sup>	Acc. <sup>2</sup>		Prin.	Acc.		Front (ft)	Side (ft)
R-1	10,500	75	35	10	6	15	10	35	Please refer to Chapter 150.06(C) <sup>4</sup>		
R-1 (no sewer)	17,500	125	35	10	6	15	10	35	Please refer to Chapter 150.06(C) <sup>4</sup>		
R-2	9,375	75	35	10	6	15	10	35	10	6	6
GB	9,375	75	35	10	10	15	10	35	10	6	6
M	10,500	75	35	10	10 <sup>3</sup>	15	15	35	10	6	10
I	43,560	125	35	25 <sup>4</sup>	25	25	25	45	10	6	10
AG	108,900	125	35	50	25	50	25	35	10	6	10

FOOTNOTES: 1. Prin = principal structure on the property

2. Acc = accessory structure on the property

3. Or equal to the height of the building, whichever is greater.

4. Or equal to the height of the building, whichever is greater. Must be 50' when abutting an R district.

**TABLE 3 MINIMUM SETBACKS/COVERAGE STANDARDS SHORELAND DISTRICTS**

Natural Environment Lake (Cemetery Lake)					
	MINIMUM LOT SIZE		SETBACKS FROM OHWL		LOT COVERAGE
	Lot Area (ac)	Width (ft)	Structure (ft)	Sewage Treatment (ft)	
Riparian Unsewered	2	200	150	150	15%
Non-Riparian Unsewered	2.5	200	See Table 2 for district setbacks	150	15%
Riparian Sewered	2.5	200	150	N/A	15%
Non-Riparian Sewered	2.5	200	See Table 2 for district setbacks	N/A	15%

  

Recreational Development Lakes (Bustic Lake)					
	MINIMUM LOT SIZE		SETBACKS FROM OHWL		LOT COVERAGE
	Lot Area (ac)	Width (ft)	Structure (ft)	Sewage Treatment (ft)	
Riparian Unsewered	1.5	200	100	75	25%
Non-Riparian Unsewered	1.5	200	See Table 2 for district setbacks	75	25%
Riparian Sewered	0.67	100	75	N/A	25%
Non-Riparian Sewered	0.67	100	See Table 2 for district setbacks	N/A	25%

  

Tributary Streams (Coon Creek, Rice River, Unnamed Creek to Bigfork River)					
	MINIMUM LOT SIZE		SETBACKS FROM OHWL		LOT COVERAGE
	Lot Area (ac)	Width (ft)	Structure (ft)	Sewage Treatment (ft)	
Riparian Unsewered	0.67	100	100	75	25%
Non-Riparian Unsewered	0.67	100	See Table 2 for district setbacks	75	25%
Riparian Sewered	0.5	100	50	N/A	25%
Non-Riparian Sewered	0.5	100	See Table 2 for district setbacks	N/A	25%

Note: See Bigfork River Management Plan for properties located in the shoreland district of the Bigfork River.