

TITLE XV: ZONING

150. ZONING

General Provisions

- 150.01 Authorization, Intent and purpose
- 150.02 Title
- 150.03 Interpretation of terms
- 150.04 Definitions
- 150.05 Zoning Map
- 150.06 Annexed land
- 150.07 Compliance with ordinance
- 150.08 Nonconforming Uses
- 150.09 Board of Appeals and Adjustments
- 150.10 Amendments

Administration

- 150.20 Consistency with state law
- 150.21 Permits Required
- 150.22 Variances
- 150.23 Public notice and hearings
- 150.24 Final actions
- 150.25 Notice of decision
- 150.26 Appeals
- 150.27 Record of decisions
- 150.28 Fees

Lot Provisions

- 150.40 Lot Provisions

Zoning Districts

- 150.50 Classification of Zoning Districts
- 150.51 R-1 Single-Family Residential District
- 150.52 R-2 Multiple-Family Residential District
- 150.53 General Business District
- 150.54 Medical District
- 150.55 Industrial District
- 150.56 Ag/Residential District

Requirements for Fences and Signs

- 150.60 Fence requirements
- 150.61 Sign requirements

Floodplain Regulations

- 150.70 Floodplain Regulations

Shoreland Regulations

- 150.80 Shoreland Regulations

- 150.99 Enforcement/Penalty

GENERAL PROVISIONS

150.01 AUTHORIZATION, INTENT AND PURPOSE

This ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. 462.351 et seq. The intent of this ordinance is to ensure public health, safety and general welfare in accordance with the adopted development goals, plans and policies as stated hereto. This plan for the City is to ensure that the land uses of the city are properly situated in relation to one another, providing for adequate space for each type of development; to control the density of development in each area of the city so that the property can be adequately serviced by such governmental facilities as streets, schools, recreation and utilities systems; to direct new growth into appropriate areas; to protect existing property by requiring that the development afford adequate light, air and privacy for persons living and working within the city; to improve the quality of the physical environment of the city; to protect and maintain property values, and to preserve and develop the economic base of the city.

150.02 TITLE

This Ordinance shall be known as the “City Zoning Ordinance” except as referred to herein, where it shall be known “this Ordinance” or “this section.”

150.03 INTERPETATIONS OF TERMS

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. For the purpose of this Ordinance, the words “must” and “shall” are mandatory and permissive. All distances, unless otherwise specified, shall be measured horizontally.

150.04 DEFINITIONS

For the purpose of this ordinance, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. Any building or structure 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, and incidental and subordinate to, the principal use.

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.

CONDITIONAL USE. A land use or development as defined by ordinance that would not be allowed 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.

DWELLING, MULTIPLE. A building or portion thereof used for occupancy by three or more families living independently of each other.

DWELLING, ONE-FAMILY. A building used exclusively for occupancy by one family.

DWELLING, TWO-FAMILY. A building used exclusively for occupancy by two families living independently of each other.

DWELLING UNIT. Any structure or portion of a structure or other shelter designed as short or long-term living quarters for one or more persons, including rental or time-share accommodations, such as motel, hotel and resort rooms and cabins.

FENCE. A structure like a wall built outdoors, usually of wood or metal, that separates two areas, creates a border between one area and another, or prevents people or animals from entering or leaving

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

HOME OCCUPATION. A lawful occupation customarily carried on by a resident of a dwelling as an accessory use within the same building.

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

wholesale items.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means, and separated from other parcels or portions by that description for the purpose of sale, lease or separation. A lot must be situated and have its principal frontage on a public street.

LOT WIDTH. The shortest distance between lot lines.

NONCONFORMING STRUCTURE OR USE. A structure or use lawfully in existence on the effective date of this ordinance or any amendment thereto, and not conforming to the regulations for the district in which it is situated.

NONCONFORMITY. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

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 keeping of materials, supplies, equipment, etc. on a lot but not within the confines of a structure.

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.

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 2 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

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.

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.

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

VARIANCE. A modification or variation of the provisions of this zoning ordinance as applied to a specific piece of property.

150.05 ZONING MAP

This ordinance has no effect until the boundaries of the use districts are delineated on an Official Zoning Map, which, once it is adopted by ordinance after notice and hearing as provided in M.S. 462.359, as it may be amended from time to time, and after a certified copy is filed with the County Recorder as required by M.S. 462.36, as it may be amended from time to time, is hereby adopted by reference and declared to be a part of this ordinance. This map shall be on permanent file and available for public inspection in the City Office. It shall be the responsibility of the Clerk or other person appointed by the City Council to administer this ordinance, to maintain and keep the map up to date, and to record each amendment thereto with the County Recorder within 30 days after official publication of the ordinance adopting the amendment.

150.06 ANNEXED LAND

Any land hereafter annexed to the city shall be considered to be in the district that is delineated on the adjacent areas than are designated for orderly annexation, unless otherwise reclassified.

150.07 COMPLIANCE WITH ORDINANCE

No structure or land shall hereafter be used or occupied and no structure shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with the regulations specified in the Zoning Ordinance for the district in which it is located.

Penalty, see section 151.99

150.08 NONCONFORMING USES

Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of these zoning regulations, may be continued, including through repair, restoration, maintenance or improvement, but not including expansion, unless the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, and no zoning permit has been applied for within 180 days of when the property is damaged. In this case, the Planning & Zoning Commission may impose reasonable conditions upon a zoning permit in order to mitigate any newly created impact on adjacent property. A subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

150.09 BOARD OF APPEALS AND ADJUSTMENTS

The City Council shall be the Board of Appeals and Adjustments for this City, and have the powers granted under M.S. 462.357, Subd. 6 and 462.359, Subd. 4, as they may be amended from time to time.

150.10 AMENDMENTS

An amendment to this zoning ordinance may be initiated by the Planning & Zoning Commission, City Council or by petition of affected property owners. The requirements for public notice and hearing contained in 150.23 shall be followed. The zoning ordinance may be amended by a majority vote of all of the members of the City Council. The adoption of an amendment which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the City Council.

ADMINISTRATION

150.20 CONSISTENCY WITH STATE LAW

Notwithstanding anything in this ordinance to the contrary, the provisions of M.S. 15.99 as it may be amended from time to time, and the following sections shall govern the process for making decisions under this ordinance. To the extent to which these sections conflict with the provisions of M.S. 15.99, as it may be amended from time to time, the provisions of that statute shall apply.

150.21 PERMITS REQUIRED

No construction shall commence until a permit has been obtained from the City. Permits are required for the construction of buildings or accessory structures including, but not limited to, garages, decks, sheds, greenhouses, fences and signs. Permits are also required for alterations that change the footprint or height of a structure.

Regular building maintenance or replacement of such items as windows, doors and shingles will not require a permit.

No person shall begin the construction of any project 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 on construction.

Failure to obtain a permit will result in immediate notification from the City that any structure or use under construction be immediately halted until a proper permit or approval is granted by the City. If the construction is already completed, a permit must be applied for after the fact. If no permit application is submitted and accepted within ten (10) days of the date of the notice, a penalty of \$20.00 will be added to the permit fee and another notice will be sent. If no permit application is submitted and accepted within 30 days of the second notice, an additional \$40.00 penalty will be added and a third notice sent. If no permit application is submitted and accepted within 30 days of the date of the third notice, an additional \$100.00 penalty will be charged plus any applicable attorney fees related to the issue.

(A) Zoning Permits

1. Zoning permits will be issued by the City Clerk to cover any items listed as "permitted uses and structures" in sections 150.51 through 150.56 below.
2. The application for a zoning permit shall be submitted in writing on a form provided by the City and include a site plan showing all property lines and the location of the structure on the property in relation to those lines and to other structures. The application shall demonstrate that the structure will meet any setbacks and standards established by this ordinance. Nothing in this ordinance shall be deemed to prevent the City Clerk from requesting additional information from the applicant upon which to base a decision. Applications submitted with incomplete information, or submitted without payment of applicable fees, will not be formally accepted until such information is completed and/or said fees remitted.
3. A decision by the City Clerk not to issue a zoning permit may be appealed to the Planning & Zoning Commission, and from there, to the Board of Appeals and Adjustments as provided for in 150.09.

(B) Conditional Use Permits

1. Conditional use permits will be reviewed by the Planning & Zoning Commission and will cover items listed as "conditional uses" in sections 150.51 through 150.56 below.
2. The application for a conditional use permit shall be made in writing on a form provided by the City and include a full site plan as described for zoning

permits in section 150.21(A) above in addition to a written description of the use planned. Nothing in this ordinance shall be deemed to prevent the City from requesting additional information from the applicant upon which to base a decision.

3. The applicant must show that any standards and criteria stated in this ordinance will be satisfied, and that the intent and purpose of the ordinance will be upheld in the event that a conditional use permit is granted.
4. Applications submitted with incomplete information, or submitted without payment of applicable fees, will not be formally accepted until such information is completed and/or said fees remitted.
5. The applicant must adhere to any additional conditions placed on their use or structure by the Planning & Zoning Commission during the approval process.
6. A public hearing on the granting of a conditional use permit shall be held in the manner provided in section 150.23.
7. A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but the Council may enact or amend the zoning ordinance to change the status of conditional uses.
8. A decision by the Planning & Zoning Commission not to issue a conditional use permit may be appealed to the Board of Appeals and Adjustments as provided for in 150.09

150.22 VARIANCES

Wherever a deviation from the provisions of this ordinance is desired, a variance is required.

- (A) Variance requests will be reviewed by the Planning & Zoning Commission.
- (B) The application for a variance shall be made in writing on a form provided by the City and include a full site plan as described for zoning permits in section 150.21(A) above. Nothing in this ordinance shall be deemed to prevent the City from requesting additional information from the applicant upon which to base a decision.
- (C) A variance from the literal provisions of this zoning ordinance may be granted by the Planning & Zoning Commission only where the strict enforcement of these provisions would cause undue hardship because of circumstances unique to the individual property under consideration. A variance may be granted only when it is demonstrated that the granting of the variance will be in keeping with the spirit and intent of this ordinance. A variance may be granted only in cases of undue hardship as defined in section 150.04.
- (D) A use that is not listed as a permitted or conditional use under sections 150.51 through 150.56 for the particular zone in question shall not be permitted by the granting of a variance.

- (E) Applications submitted with incomplete information, or submitted without payment of applicable fees, will not be formally accepted until such information is completed and/or said fees remitted
- (F) Conditions may be imposed in the granting of variances to ensure compliance, to maintain the spirit and intent of this ordinance, and to protect adjacent properties.
- (G) A decision by the Planning & Zoning Commission not to issue a conditional use permit may be appealed to the Board of Appeals and Adjustments as provided for in 150.09

150.23 PUBLIC NOTICE AND HEARINGS

A public hearing shall be held by the Planning & Zoning Commission before any conditional use permit or variance may be granted. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the day of the hearing. A similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 100 feet of the property to which the conditional use or variance relates. The City Clerk may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the City Clerk and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with the mailed notice requirements has been made.

150.24 FINAL ACTIONS

As required by M.S. 15.99, as it may be amended from time to time, the following provisions apply to the process for approving or denying applications for a zoning amendment, zoning permit, conditional use permit, variance or any other application which requires City approval under this ordinance.

- (A) The city shall take final action to approve or deny an application described above within 60 days of receiving an application, unless the application is not accepted under 150.21. If the City cannot take action to approve or deny the application within 60 days of receiving the application, the City Clerk is authorized before the end of the initial 60-day period to make a one-time extension of the time for taking action by providing written notice by first-class mail to the applicant of the extension, the reasons for the extension, and its anticipated length, which may not exceed an additional 60 days unless approved by the applicant in writing.
- (B) When the final action to approve or disapprove an application is to be taken by the Planning & Zoning Commission or City Council, if a vote on a resolution or properly made motion to approve the application fails for any reason, the failure shall constitute a denial of the application, provided that those voting against the motion

state on the record the reasons why they oppose the application. A denial of an application because of a failure to approve a resolution or motion does not preclude an immediate submission of a same or similar application

(C) Except as provided in division (B) of this section, if the application is denied by the Planning & Zoning Commission or City Council, it must state the reasons for denial on the record and provide the applicant a statement in writing of the reasons for the denial. If this written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the application, but before the expiration of the time allowed for making a decision under this section. The written statement must be consistent with the reasons stated in the record at the time of the denial. The written statement must be provided to the applicant upon adoption.

150.25 NOTICE OF DECISION

As soon as practicable after a decision is made, but within the 60-day period, or the extended 60-day period, as provided for in 150.24, the City Clerk, Planning & Zoning Commission or City Council shall cause written notice of its decision, including the reasons for its decision and any findings upon which the decision is based, to be mailed to the applicant.

150.26 APPEALS

Appeals to the City Council, acting as the Board of Appeals and Adjustments, may be taken by any affected person where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer of the city in the enforcement of the zoning ordinance. No mailed or published notice of the hearing on the appeal is required, but a public hearing shall be held on each appeal.

150.27 RECORD OF DECISIONS

The Planning & Zoning Commission or City Council shall provide that a record be made of its proceedings concerning its actions on any application for a permit, zoning ordinance amendment, or appeal. This record shall include the minutes of the meeting, the findings of the Planning & Zoning Commission or City Council and the action taken.

150.28 FEES

As provided by M.S. 462.353, Subd. 4, as it may be amended from time to time, fees may be established as follows:

(A) The Council may in a separate ordinance, or in the Ordinance Establishing Fees and Charges, prescribe fees sufficient to defray the costs incurred in reviewing,

investigating, and administering applications for an amendment to the provisions of this ordinance and to all official maps, and applications for permits, variances or for any other approval required under this ordinance.

- (B) These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The city shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

LOT PROVISIONS

150.40 LOT PROVISIONS

- (A) Reduction in Lot Area. No lot of record shall be reduced in size below the district requirements of this chapter.
- (B) Use. A lot of record existing upon the effective date of this ordinance in the residential district (R-1) 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:
 - 1. It fronts on a public right-of-way;
 - 2. all other requirements of the district are met;
 - 3. where adjacent land is owned, lots shall be combined so as to create a lot meeting the requirements of this ordinance; and
 - 4. that any lot so excepted shall be no less than 50 feet in width.
- (C) 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.
- (D) One Principal Building Per Lot. Except for a multiple-family project as provided for herein, not more than one principal building shall be located on a lot in the R District.

ZONING DISTRICTS

150.50 CLASSIFICATION OF ZONING DISTRICTS

| | |
|-----|------------------------------------|
| R-1 | Single Family Residential District |
| R-2 | Multi-Family Residential District |
| GB | General Business District |
| M | Medical District |
| I | Industrial District |
| AG | Agricultural District |

Special Overlay Districts

Floodplain – refer to section 150.70 of this ordinance

Shoreland – refer to section 150.80 of this ordinance

150.51 R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

(A) *Purpose.* The purpose of the R-1 Single Family Residential District is to provide for moderate density one- and two-family dwelling units and directly related, complementary uses.

(B) *Permitted uses and structures.*

1. One- and two-family dwelling units.
2. Public parks, playgrounds, athletic fields and other recreational uses.
3. Churches, public and private schools and publicly-owned buildings and facilities.
4. Customary residential accessory uses and structures incidental to the principal use such as private garages, sheds, greenhouses, screen porches, fences, decks, signs, play equipment, etc.
5. Outdoor storage of items subject to the following:
 - i. Not more than two (2) portable recreational vehicles
 - ii. All items are maintained in a neat and orderly fashion
6. Customary home occupations in a residence, provided that the conduct of the home occupation shall result in:
 - i. no change in the outside appearance of the building(s) or land
 - ii. no visible or audible evidence of the conduct of the home occupation, other than one sign subject to section 150.28,
 - iii. no articles displayed for sale so as to be visible from the street
 - iv. no traffic generated in greater volume than would normally be expected in a residential neighborhood
 - v. no use of substances that may be hazardous to the health, safety or welfare of the neighbors and neighboring property
7. Garage/Yard Sales provided that:
 - i. No sale is more than four (4) successive days in duration, and
 - ii. No more than three (3) such sales per calendar year are conducted on the premises

(C) *Conditional uses.*

1. Hospitals and nursing homes, and day care centers.
2. Accessory uses and structures other those listed as permitted uses above.

3. Cemeteries

(D) *Lot requirements and setbacks.* The following minimum requirements shall be observed in an R-1 District, subject to additional requirements, exceptions and modifications set forth in this ordinance:

1. *Lot area.* 10,500 square feet
2. *Lot width.* 75 feet.
3. *Setbacks.*
 - i. *Front yards.* Not less than 35 feet; except in the case of existing structures, the front set-back will be determined to be in-line with those existing structures on that same street.
 - ii. *Side yards.* Not less than 10 feet for a principal structure or 6 feet for an accessory structure
 - iii. *Rear yards.* Not less than 15 feet for a principal structure or 10 feet for an accessory structure
4. *Maximum Lot Coverage.* 30%
5. *Maximum Building Height.* 35 feet

150.52 R-2 MULTIPLE FAMILY RESIDENTIAL DISTRICT

(A) *Purpose.* The purpose of the R-2 Multiple Family Residential District is to provide for medium density housing in multiple family structures and directly related complementary uses.

(B) *Permitted uses and structures.*

1. Any use permitted in a Single-Family Residential District.
2. Multiple-family dwelling.

(C) *Conditional uses.*

1. Any use permitted in Single-Family Residential District.
2. Manufactured home parks

(D) *Lot requirements and setbacks.* The following minimum requirements shall be observed in R-2 Districts, subject to additional requirements, exceptions and modifications set forth in this ordinance:

1. *Lot area.* 9,375 square feet
2. *Lot width.* 75 feet
3. *Setbacks.*
 - i. *Front yards.* Not less than 35 feet; except in the case of existing structures, the front set-back will be determined to be in-line with those existing structures on that same street.
 - ii. *Side yards.* Not less than 10 feet for a principal structure or 6 feet for an accessory structure
 - iii. *Rear yards.* Not less than 15 feet for a principal structure or 10 feet for an accessory structure

6. *Maximum Lot Coverage.* 35%
7. *Maximum Building Height.* 35 feet

150.53 GB GENERAL BUSINESS DISTRICT

(A) *Purpose.* The purpose of the General Business District is to accommodate a broad range of retail goods and services, land uses, and generally serve the entire community.

(B) *Permitted uses and structures.*

1. Business and commercial establishments including but not limited to the following:
 - i. Retail establishments, including grocery, hardware, drug, clothing, variety and furniture stores; restaurants, bars, auto dealers, automobile service stations, farm implement dealerships, farm supply stores, farm services and meat locker shops.
 - ii. Personal services, including laundries, beauty shops, barber shops, funeral homes, shoe repair shops, printing and publishing shops and photographic studios.
 - iii. Professional services, including medical and dental clinics and attorney's offices.
 - iv. Repair services, including automobile, jewelry, radio and television repair shops, appliance repair shops, farm and implement repair shops, plumbing contractor's shop and electrical contractor's shop.
 - v. Entertainment and amusement services, including motion picture theatres, recreation halls and bowling alleys.
 - vi. Lodging services, including hotels and motels.
 - vii. Finance, insurance, real estate and tax services.
2. Public and semi-public buildings and essential services, including post office, fire hall and city hall.
3. Private clubs.
4. Apartments, provided they are accessory to the principal use of the structure, are located above the first floor level or at the rear or side of the building, and are accessed only from the rear or side of the same with adequate off-street parking for the tenants
5. Parking lots.
6. Other such uses which in the determination of the City Council and as formally documented will be compatible and will not be detrimental to uses allowed in this or contiguous districts.
7. Uses incidental to the foregoing uses, such as off-street parking and loading and unloading areas, indoor storage of merchandise and wholesaling and manufacturing, when incidental to a permitted use.
8. Temporary outdoor sales of goods subject to the following:
 - i. The sale is conducted by the owner or lessee of the premises or with their written permission and is conducted immediately adjacent to the business building, and

- ii. The sale is no longer than two weeks in duration
- iii. These restrictions on outdoor sale of items does not apply to the following:
 - 1. items customarily displayed outside on a regular basis such as cars, recreational vehicles, lawn equipment, portable structures, firewood, bulky items stored on and sold from pallets (bagged salt or animal feed), etc.
 - 2. seasonal items which may be displayed during the season they are relevant to and for a reasonable amount of time afterwards (grills, sleds, greenhouse and planting items, etc.)
 - 3. items for sale outside that are not visible from the street

(C) *Conditional uses.*

- 1. One and two-family dwellings and multiple-family dwellings.
- 2. Nonresidential day care facilities.

(D) *Lot requirements and setbacks.* The following minimum requirements shall be observed in GB Districts, subject to additional requirements, exceptions and modifications set forth in this ordinance:

- 1. *Lot area.* 9,375 square feet
- 2. *Lot width.* 75 feet
- 3. *Setbacks.*
 - i. *Front yards.* Not less than 35 feet; except in the case of existing structures, the front set-back will be determined to be in-line with those existing structures on that same street.
 - ii. *Side yards.* Not less than 10 feet for a principal or accessory structure
 - iii. *Rear yards.* Not less than 15 feet for a principal or 10 feet for an accessory structure
- 8. *Maximum Lot Coverage.* 90%
- 9. *Maximum Building Height.* 35 feet

150.54 MEDICAL DISTRICT

(A) *Purpose.* The purpose of the Medical District is to accommodate the development of medical, office, multifamily residential and related uses in the area surrounding a hospital complex.

(B) *Permitted uses and structures.*

- 1. Health care related facilities such as hospitals, nursing homes, assisted living, treatment centers, clinics, dental offices and pharmacies
- 2. Parking lots servicing the same
- 3. Related accessory structures such as commercial garages, sheds, etc.
- 4. Daycare centers
- 5. Gyms/pools/fitness centers and other athletic/recreational facilities
- 6. Multiple-family dwellings

(C) *Conditional uses.*

1. Any use or structure that does not fit the permitted uses given above.

(D) *Lot requirements and setbacks.* The following minimum requirements shall be observed in Medical Districts, subject to additional requirements, exceptions and modifications set forth in this ordinance:

1. *Lot area.* 10,500 square feet
2. *Lot width.* 75 feet
3. *Setbacks.*
 - i. *Front yards.* Not less than 35 feet; except in the case of existing structures, the front set-back will be determined to be in-line with those existing structures on that same street.
 - ii. *Side yards.* Not less than 10 feet for a principal or accessory structure
 - iii. *Rear yards.* Not less than 15 feet for a principal or accessory structure
4. *Maximum Lot Coverage.* 90%
5. *Maximum Building Height.* 35 feet

150.55 INDUSTRIAL DISTRICT

(A) *Purpose.* The purpose of the Industrial District is to provide for industrial development outside of the other districts authorized by this ordinance.

(B) *Permitted uses and structures.* There are no permitted uses and structures within this district. All desired structures or activity within the Industrial District will be required to submit an application for a Conditional Use Permit.

(C) *Conditional uses.*

1. Production, processing, cleaning, servicing, testing, repair or storage of material, goods or products and other industrial uses. All storage within 500 feet of any other district or. The fence and gates shall be not less than six feet in height. special area or within 500 feet of any public right-of-way shall be within a completely enclosed building or effectively screened by appropriate landscaping or a wall or fence of sufficient density to form an effective screen, including entrance and exit gates
2. Junk and salvage operations

(D) *Lot requirements, setbacks, building requirements and parking requirements.* Because of the variety of industrial activities that may occur in this district, reasonable lot requirements, setbacks, building requirements and parking requirements may be established by the City Council in the conditional use permit.

150.56 AGRICULTURAL DISTRICT

(A) *Purpose*- The purpose of the Agricultural District is to provide for agricultural use within the city limits 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.

(B) *Permitted uses*

1. Any use permitted in the R-1 District
2. Any use permitted in the R-2 District

(C) *Conditional Uses.*

1. Cemeteries

(D) *Lot requirements, setbacks, and building requirements*- There are no lot requirements, setbacks, or building requirements if it is used for agricultural purposes. If the land is used, or partially used, for residential purposes, such use must follow the same guidelines as the R-1 or R-2 District, whichever applies to the use.

REQUIREMENTS FOR FENCES AND SIGNS

150.60 FENCE REQUIREMENTS

(A) All fences of more than 30 inches in height shall require a permit. No fence over seven feet high shall be permitted.

(B) No fence shall contain barbed wire or be charged with electric current.

(C) All fences shall be constructed of stone, brick, finished wood, chained link or vinyl. Fences constructed of metal or any other material will be considered by the Planning Commission as Conditional Uses.

(D) Fences in the front yard shall have the finished side, or the side without exposed supports or posts, facing the street.

(E) Fences in the front yard must be located a minimum of five feet from the edge of the street they face. There are no setback requirements for fences on the side and rear yards other than the requirement item (H) below.

(F) No fence, wall or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the

right-of-way lines at a distance along each line of 25 feet from their point of intersection.

- (G) *Maintenance*. Every fence shall be maintained in a good and safe condition at all times. Damaged or missing elements of any fence shall be repaired or replaced immediately. Fences must be maintained so as not to endanger life or property and any fence which, through lack of repair, type of construction or otherwise, that imperils health, life or property or the well-being of a neighborhood shall be deemed a nuisance.
- (H) All fences must be located on the private property of the person, firm or corporation constructing the fence.
- (I) Persons constructing fences between their property and a neighbor's property must notify the neighbor of their intention. A two-sided border fence serving both properties will be allowed provided the two parties involved supply the City Clerk with a copy of an ownership/maintenance agreement between themselves at the time of their application for a zoning permit.
- (J) All fences must comply with all other requirements of law or this ordinance as it applies to fence installation and materials. Penalty, see ordinance 150.99

150.61 SIGN REQUIREMENTS

- (A) All signs require a permit with the exception of those listed in (F) below.
- (B) Design Standards
 1. All signs must be constructed of permanent materials and be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame or structure.
 2. Sign materials and colors/design must be approved by the Planning & Zoning Commission as part of the permitting process.
 3. Maximum size for free-standing signs: 32 square feet
 4. Maximum height for free-standing signs: 25 feet
 5. Distance from roadways for free standing signs: 5 feet
 6. The lighting sources for any illuminated sign shall not cause up-light, spill light or glare above, below or alongside the sign.
- (C) Signs must be located on the property of the owner of the sign or have the express permission of the property owner to be located on their property.
- (D) All signs shall be maintained in good structural and aesthetic condition and in such a way so as not to threaten danger to persons or property.

(E) 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.

(F) The following signs are exempt from the provisions of this section:

1. Any sign erected in the discharge of any governmental function or required by law.
2. Signs that are not visible beyond the boundaries of the lot 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 incident to and are customarily associated with any national, local or religious holiday or celebration.
5. Safety and traffic control signs
6. Political signs provided they are located on private property and are removed by the property owner within one week after the date of the election to which they pertain.
7. Temporary signs provided they relate to a specific event on a specific date/time, are not displayed more than ten days prior to the event and are removed within seven days following the event to which they pertain.
8. Real estate signs provided they are less than 25 square feet and are removed within seven days following the lease or sale of the property to which they pertain.

(G) The following signs are prohibited in the City of Bigfork:

1. Signs that emit sound or have a rotating beacon or light
2. Any sign or sign structure that is unsafe or constitutes a hazard.
3. Any sign which obstructs the view of or may be confused with an official traffic or safety sign.
4. Abandoned signs
5. Signs that contain any indecent or offensive pictures or written material.
6. 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.
7. 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.
8. Animated or flashing signs
9. Any sign larger than 32 square feet.

§ 150.70 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 150.70(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 the City of Bigfork as shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe or General Flood Plain Districts. The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this ordinance. The attached material shall include the Flood Insurance Study for the City of Bigfork prepared by the Federal Insurance Administration dated April 17, 1989, and the Flood Insurance Rate Map dated April 17, 1989 therein. The Official Zoning Map shall be on file in the Office of the City Clerk.
- (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.

(C) ESTABLISHMENT OF ZONING DISTRICTS

(1) Districts:

- (a) Floodway District: The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map.
- (b) Flood Fringe District: The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe shall constitute those areas shown on the Flood Insurance Rate Map as adopted in Section 150.70(B)(1) as being within Zone AE but being located outside of the floodway.
- (c) General Flood Plain District: The General Floodplain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map adopted in Section 150.70(B)(1).

(2) Compliance:

No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance. Within the Floodway, Flood Fringe and

General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in 150.70(D), (E) and (F) that 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 150.70(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 150.70(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 150.70(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 150.70(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 150.70(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
3. As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the Itasca County Recorder.

(c) Accessory Structures:

1. Accessory structures shall not be designed for human habitation.
2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,
 - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:
 - a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
 - b. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or property flood proofed.

(d) 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.

(e) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

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

(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 150.70(E)(2) and the standards for all Flood Fringe "Permitted and Conditional Uses" listed in 150.70(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 150.70(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 150.70(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 150.70(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 150.70(E)(2) or any use of land that does not comply with the standards in section 150.70(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 150.70(E)(4-5) and 150.70(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 150.70(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 150.70(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.

(c) 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 150.70(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 150.70(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 150.70(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) GENERAL FLOOD PLAIN DISTRICT

(1) Permissible Uses:

(a) The uses listed in Section 4.1 of this ordinance shall be permitted uses.

(b) All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 6.2 below. Section 4.0 shall apply if the proposed use is in the Floodway District and Section 5.0 shall apply if the proposed use is in the Flood Fringe District.

(2) Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District:

(a) Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.

1. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development and high water information.

2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the

site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

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

1. Estimate the peak discharge of the regional flood.
2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

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

(G) 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) Requirements for Floodway/Flood Fringe Determinations in the General Flood Plain District: In the General Flood Plain District, applicants shall provide the information required in Section 6.2 of this ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.
- (3) Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

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.

(H) 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 150.70(D) and 150.70(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.

(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.

(I) MANUFACTURED 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 150.70(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 150.70(E) of this ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with section 150.70(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 150.70 (I)(1) below shall be subject to the provisions of this ordinance and as specifically spelled out in section 150.70(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 150.70(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 150.70(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 150.70(D) and 150.70 (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 150.70(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 150.70(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 150.70(H)(3) of this ordinance.

(J) 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 150.70(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 150.70(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 Planning & Zoning Commission 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 Planning & Zoning Commission 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 Planning & Zoning Commission of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Planning & Zoning Commission shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Planning & Zoning Commission 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 Planning & Zoning Commission shall arrive at a decision on such appeal or variance within sixty (60) days. In passing upon an appeal, the Planning & Zoning Commission 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 Planning & Zoning Commission may prescribe appropriate conditions and safeguards such as those specified in section 150.70(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 150.70(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 Planning & Zoning Commission may be made, and as specified in Section 150.03(J)(3)(a) 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 150.70(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 150.70(L). A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(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) 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.

(K) NON-CONFORMING 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 150.70(D) or 150.70(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 150.70(D) or 150.70(E) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

(L) 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.

(M) 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.

§ 150.80 SHORELAND MANAGEMENT PROVISIONS

(A) STATUTORY AUTHORIZATION AND POLICY

(1) Statutory Authorization

- (a) This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103G, Minnesota Regulations, Parts 6120.2500 – 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

(2) Policy

- (a) 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. This responsibility is hereby recognized by the City of Bigfork.

(B) GENERAL PROVISIONS AND DEFINITIONS

(1) Jurisdiction

- (a) The provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Section 150.80(D)(1) 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 to 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.

(2) Compliance

- (a) 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.

(3) Enforcement

- (a) The City of Bigfork is responsible for the administration and enforcement of this ordinance. Any 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 of conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 150.80(C)(1) of this ordinance.

(4) Interpretation

- (a) 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.

(5) Severability

- (a) 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.

(6) Abrogation and Greater Restrictions

- (a) 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 this inconsistency only.

(C) ADMINISTRATION

(1) Permits Required

A permit is required for the construction of buildings or building alterations that change the exterior dimensions of the structure, including such related activities as construction of decks and signs, parking lots, fences and other miscellaneous site improvements, and those grading and filling activities not exempted by Section 150.80(E)(4) of this ordinance. Application for a permit shall be made to the City Council on the forms provided. The application shall include the necessary information so that the City Council can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

- (2) A permit authorizing any change to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 150.80(E)(9)(b)2., shall be reconstructed or replaced in accordance with the provisions of this ordinance.

(3) Certificate of Zoning Compliance

- (a) The City Council shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 150.80(C)(1) of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 150.80(B)(3) of this ordinance.

(4) Variances

- (a) Variances may only be granted in accordance with Minnesota Statutes, Chapter 462. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Planning & Zoning Commission must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.
- (b) 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 150.80(C)(5)b. below shall also include the Planning & Zoning Commission's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- (c) 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.

(5) Notifications to the Department of Natural Resources

- (a) 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 subdivisions/plats must include copies of the subdivision/plat.
- (b) A copy of approved amendments and subdivisions/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.

(D) 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.

- (a) The shoreland area for the waterbodies listed in sections 150.80(D)(1)(b) and (c) below shall be as defined in Section 150.03(D) and as shown on the Official Zoning Map.

(b) Lakes

- 1. Natural Environment Lakes:
Cemetery Lake (37-712)
- 2. Recreational Development Lakes:
Bustic Lake (31-713)

(c) Rivers and Streams

- 1. Big Fork River: Refer to Big Fork River Management Ordinance for additional development standards within the Big Fork River corridor
- 2. Tributary Streams:
Unnamed to Big Fork River (BFR) (Coon Ck)
from 4 61N 26W to 27 61N 26W
Rice River: from 25 60N 26W to 27 61N 26W
Unnamed to BFR from 26 61N 26W to 23 61N 26W

(2) Land Use District Descriptions

- (a) Criteria for Designation. The land use districts in Table 4, 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 (when available) and the following criteria, considerations, and objectives.

- 1. General consideration 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
- (b) Land Use District Descriptions. The land use districts provided in Table 4, and the allowable land uses therein for the given classifications of waterbodies, 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 Regulation, Part 6120.3200, Subp. 3:
- (c) Use and Upgrading of Inconsistent Land Use Districts
1. If the land use districts adopted in the City of Bigfork Zoning Ordinance as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified in Table 4. These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown

on the Official Zoning Map or to modify the boundary of an existing land use district shown on the Official Zoning Map.

2. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:
 - a. For Lakes. When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this ordinance on said lake must be revised to make them substantially compatible with the framework in Sections 150.80(D)(2)(a) and Table 4 of this ordinance.
 - b. For Rivers and Streams. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance must be revised to make them substantially compatible with the framework in Sections 150.80(D)(2)(a) and Table 4 of this ordinance. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.
3. When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by 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.
4. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The Planning & Zoning Commission will provide such additional information for this waterbody as is necessary to satisfy Sections 150.80(D)(2)(c)1. and 2.
5. The Planning & Zoning Commission must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district

designations on said waterbody, are consistent with the enumerated criteria and use provisions of Section 150.80(D)(2).

(E) ZONING AND WATER SUPPLY/SANITARY PROVISIONS

(1) Lot Area and Width Standards.

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this ordinance for the lake and river/stream classifications are shown in Table 5.

(2) Additional Special Provisions

(a) Residential subdivisions with dwelling unit densities exceeding those for sewerred lakes and rivers and streams in Table 5 can only be allowed if designed and approved as residential planned unit developments under Section 150.80(H) 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 lot area dimensions for sewerred lakes in Table 5 can only be used if publicly owned sewer system service is available to the property.

(b) Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:

1. Each building must be set back at least 200 feet from the ordinary high water level;
2. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
4. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.

(c) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Section 150.80(E)(1) (a-c), provided the following standards are met:

1. 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;

2. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
3. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

(d) 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:

1. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
2. 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 (acres/mile) | Required increase in frontage (percent) |
| Less than 100 | 25 |
| 100-200 | 20 |
| 201-300 | 15 |
| 301-400 | 10 |
| Greater than 400 | 5 |

3. they must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
4. 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 nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must 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.

(3) Placement, Design, and Height of Structures.

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

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

| Classes of Public Waters | Setbacks* Structures | | |
|--------------------------|-------------------------|---------|-------------------------|
| | Unsewered | Sewered | Sewage Treatment System |
| Lakes | | | |
| Natural Environment | 150 | 150 | 150 |
| Recreational Development | 100 | 75 | 75 |
| Rivers/Stream | 100 | 50 | 75 |

*One water-oriented accessory structure designed in accordance with Section 150.80(E)(3)(b) of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

2. Additional Structures Setback. The following additional structure setbacks apply, regardless of the classification of the waterbody.

| Setback From: | Setback (in feet) |
|--|-------------------|
| (1) top of bluff; | 30 |
| (2) unplatted cemetery; | 50 |
| (3) right-of-way line of federal, state, or county highway; and | 50 |
| (4) right-of-way line of town road, public street, or other roads or streets | |
| not classified | 20 |

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

4. Uses Without Water-oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, 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.

(b) Design Criteria for Structures.

1. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where there 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 flood or records, 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 Minnesota Rules 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 this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
2. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 150.80(E)(3) of this ordinance if this

water-oriented accessory structure complies with the following provisions:

- a. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. 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 general development and 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 recreational properties, and planned unit developments;
- b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet 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 landing may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- f. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

4. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

5. Steep Slopes. The Planning & Zoning Commission must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(c) Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

(4) 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.

(a) Vegetation Alterations.

1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 150.80(E)(5) of this Ordinance are exempt from the vegetation alteration standards that follow.
2. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 150.80(E)(7)(b) and (c), respectively, is allowed subject to the following standards:
 - a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land 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.
 - b. 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:
 - (i) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - (ii) along rivers, existing shading of water surfaces is preserved; and
 - (iii) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(b) Topographic Alterations/Grading and Filling

1. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
2. Public roads and parking areas are regulated by Section 150.80(E)(5) of this ordinance.
3. Notwithstanding Items 1. and 2. above, a grading and filling permit will be required for:
 - a. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - b. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
4. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
 - a. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland.*
 - (i) Sediment and pollutant trapping and retention;
 - (ii) Storage of surface runoff to prevent or reduce flood damage;
 - (iii) Fish and wildlife habitat;
 - (iv) Recreational use;
 - (v) Shoreline or bank stabilization; and
 - (vi) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

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

- b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
- d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United State Soil Conservation Service;
- f. Fill or excavated material must not be placed in a manner that creates an unstable slope;
- g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- h. Fill or excavated material must not be placed in bluff impact zones;
- i. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 105.42;
- j. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

- k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted 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.

5. Connections to public waters. Excavations where the intended purpose is connection to a 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.

(5) Placement and Design of Roads, Driveways, and Parking Areas

- (a) 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.
- (b) 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 there areas, and must be designed to minimize adverse impacts.
- (c) 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 150.80(E)(4)(b) of this Ordinance must be met.

(6) Stormwater Management.

The following general and specific standards shall apply:

- (a) General Standards:
 - 1. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(b) Specific Standards

1. Impervious surface coverage of lots must not exceed 25 percent of the lot area.
2. 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.
3. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(7) Special provisions for commercial, industrial, public/semipublic, agricultural, forestry and extractive uses and mining of metallic minerals and peat.

(a) Standards for commercial, industrial, public, and semipublic uses.

1. 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:
 - a. 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;

- b. 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
- c. 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:
 - (i) 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;
 - (ii) 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 thirty two (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
 - (iii) 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.

- 2. 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.

(b) Agriculture Use Standards.

- 1. 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 fifty (50) feet from the ordinary high water level.

2. Animal feedlots must meet the following standards:

- a. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred (300) feet from the ordinary high water level of all public waters basins; and
- b. Modifications or expansions to existing feedlots that are located within three hundred (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.

(c) 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.”

(d) Extractive Use Standards.

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

- (e) 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.

(8) 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:

- (a) Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:
 1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 2. The visibility of structures and other facilities as viewed from public waters is limited;
 3. The site is adequate for water supply and on-site sewage treatment; and
 4. 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.
- (b) Conditions attached to conditional use permits. 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.

(9) Water Supply and Sewage Treatment

(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 and the Minnesota Pollution Control Agency.

(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.
2. 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.
3. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 150.80(E)(3)(a) of this ordinance.
4. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems a.-d. below. 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:

- a. Depth to the highest known or calculated ground water table or bedrock;
 - b. Soil conditions, properties, and permeability;
 - c. Slope;
 - d. The existence of lowlands, local surface depressions, and rock outcrops;
5. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 150.80(F)(3) of this ordinance.

(F) 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 150.80(E)(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 Planning & Zoning Commission 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 150.80(E)(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 150.80(E)(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 150.80(E) of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 150.80(C)(4).
 - (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 setback of the structure or does not encroach closer than thirty (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.

(G) SUBDIVISION/PLATTING PROVISIONS

- (1) Land suitability. Each lot created through subdivision, including planned unit developments authorized under Section 150.80(H) 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 150.80(E)(3) and 150.80(E)(9) can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 150.80(E), 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 150.80(E)(2) of this ordinance.

(H) PLANNED UNIT DEVELOPMENTS (PUD'S)

(1) Types of PUDs Permissible

- (a) 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 150.80(D)(2) of this ordinance and the Official Zoning Map.

(2) Processing of PUDs

- (a) 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 150.80(H)(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

- (a) The applicant for a PUD must submit the following documents prior to final action being taken on the application request:
 1. 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.
 2. A property owners association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of Section 150.80(5)(a)4. of this ordinance.
 3. 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 150.80(5)(a)4. of this ordinance.

4. When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
5. 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

- (a) 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 150.80(H)(5).
- (b) 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 |

- (c) 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

- (a) 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.

1. Residential PUD “Base” Density Evaluation:

- a. 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.

2. Commercial PUD “Base” Density Evaluation:

- a. 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.
- b. 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 segments | | Second and additional tiers on unsewered general development lakes; transitions and forested river segments |
| | and 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. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1000 square feet.

- c. 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.
- d. 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.
- e. 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 150.80(5)(a)4.

3. Density Increase Multipliers:

- a. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 150.80(E) are met or exceeded and the design criteria in Section 150.80(5)(a)4. 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.
- b. 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 |

4. Maintenance and Design Criteria

a. Maintenance and Administration Requirements.

- (i) 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.
- (ii) 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:
 - i. Commercial uses prohibited (for residential PUDs)
 - ii. Vegetation and topographic alterations other than routine maintenance prohibited
 - iii. Construction of additional building or storage of vehicles and other materials prohibited; and
 - iv. Uncontrolled beaching of watercraft prohibited
- (iii) 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:
 - i. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
 - ii. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;

- iii. Assessments must be adjustable to accommodate changing conditions; and
 - iv. 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:
- (i) At least 50 percent of the total project area must be preserved as open space;
 - (ii) 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;
 - (iii) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - (iv) 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;
 - (v) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
 - (vi) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
 - (vii) 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

- (viii) 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:
 - (i) 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
 - (ii) 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 PUDs 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 150.80(E)(4).

- d. Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:
 - (i) 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 150.80(E)(3) and 150.80(E)(9) 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;

- (ii) 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 150.80(H)(5)(a)3. of this ordinance for development with density increases;
- (iii) 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;
- (iv) 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;

(v) Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and

(vi) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 150.80(E)(3) of this ordinance and are centralized.

e. 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:

(i) 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.

(ii) 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.

(iii) 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:

i. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

- ii. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
 - iii. 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.
- (b) Existing dwelling unit or dwelling site densities that exceed standards in Section 150.80(H)(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.

150.99 ENFORCEMENT.

A notice of a violation shall be mailed by the Clerk to any person who in the opinion of the City is in violation of the provisions of the zoning ordinance. The notice shall state the nature of the violation and the penalty for the violation. If the person to whom the notice of violation is directed fails to comply with the applicable provisions of the zoning ordinance, that person is guilty of a misdemeanor and shall be punished as provided by in Ordinance 10.99. Each day the violation continues is a separate offense. The city may also enforce any provision of this zoning ordinance by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction. A person who is issued a notice of violation may appeal the issuance to the City Council under the provisions of section 150.09.