

CHAPTER V

LAND USE REGULATION

SECTION 500 – ZONING: PURPOSE, AUTHORITY AND JURISDICTION.

500.01. Purpose. The purpose of sections 500 to 560 is to ensure the public health, safety, morals and general welfare of the city in accordance with the development goals, plans and policies as stated in the city’s comprehensive plan.

500.03. Title. Sections 500 to 560 are the zoning ordinance of the city, and may be referred to as “the zoning code” or “this code.”

500.05. Use districts. This code divides the city into use districts and establishes regulations pertaining to the location, erection, construction, reconstruction, alteration and use of structures and land within the City.

500.07. Authority. This code is enacted pursuant to Minnesota Statutes, chapter 462.

500.09. Geographic jurisdiction. Except as otherwise provided herein, the geographic jurisdiction of this code is the area within the corporate limits of the city.

500.11. Effective date. The code is effective on the effective date of the Kenyon Ordinance Code of 1999.

SECTION 505 – RULES AND DEFINITIONS

505.01. General. Subdivision. 1. The language set forth in the text of this code is to be interpreted in accordance with the following rules and definitions, except when the context clearly indicates otherwise.

Subd. 2. Where a word or term defined in subsection 505.03 appears in the text of this code, its meaning is to be construed as set forth in its definition.

Subd. 3. Terms not defined in subsection 505.03 have the meanings given them elsewhere in the city code or by law.

Subd. 4. Measured distances expressed in feet are to the nearest tenth of a foot.

Subd. 5. In the event of conflicting provisions, the more restrictive provisions apply.

Subd. 6. The word “lot” includes the words “plot” or “site” as required by the context.

Subd. 7. The words “if pertinent” and “if deemed necessary” pertain to discretionary decisions of the planning commission or council.

505.03. Definitions. Subdivision 1. The terms defined in this subsection have the meanings given them.

Subd. 3. Accessory use - A use subordinate to the principal use on a lot and exclusively used for purposes incidental to those of the principal use.

Subd. 5. Accessory structure - A structure or portion of a structure subordinate to and serving the principal use structure on the same lot and customarily incidental thereto.

Subd. 7. Agricultural use - The use of land for the production of field crops, livestock, and livestock products for the production of income, including the following:

- a) field crops, including but not limited to: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
- b) livestock, including but not limited to: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.
- c) livestock products, including but not limited to: milk, butter, cheese, eggs, meat, fur and honey.

Subd. 9. Alley - A public right-of-way usually 20 feet in width which normally affords a secondary means of access to abutting property.

Subd 11. Animal units - A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this code, animal unit equivalents shall be as set forth in Minnesota Rules, chapter 7020, as it may be amended from time to time. For animals not specifically listed in this subdivision, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

Subd. 13. Apartment - A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. The term includes a unit in buildings with three or more dwelling units.

Subd. 15. Automobile service station - A building designed primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles.

Subd. 17. Barn - A building used for shelter of farm equipment, horticultural products, or not more than 20 animal units.

Subd. 19. Basement - A portion of a building located partly underground, with such portion having half or more of its floor-to-ceiling height below the average grade of the adjoining ground.

Subd. 21. Bed and breakfast establishments - A residential structure, other than a hotel or motel where room, breakfast and hospitality are provided and all costs are included in the room price.

Subd. 23. Board of adjustment - An officially constituted body whose principal duties are to hear appeals and, where appropriate, grant variances from the strict application of the zoning code.

Subd. 25. Building - A structure built for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land.

Subd. 27. Building height - The vertical distance to be measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs, or to the deck line of a mansard roof.

Subd. 29. Building setback - The minimum horizontal distance between a building and any lot line of the lot on which the building is located.

Subd. 31. Business - An occupation, employment, or enterprise wherein merchandise is exhibited or sold, or services are offered for compensation.

Subd. 33. Church - A building, together with its accessory building and uses, where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

Subd. 35. Clustering/cluster housing - A development pattern and technique whereby structures are arranged in closely related groups to make efficient use of the natural amenities of the land.

Subd. 37. Comprehensive plan - A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the city and its environs, as defined in the Minnesota municipal planning act, and including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Subd. 39. Conditional use - A use that may be appropriate in a given zoning district, but which requires special planning considerations in each instance, and which will only be allowed in a specific location under conditions specified by this code and by the city council.

Subd. 41. Condominium, residential - A building, portions of which are owned separately and the remainder of which is subject to common ownership, and which is intended for residential use.

Subd. 43. Day care center - A facility in which a child care program is operated (that is not otherwise excluded from the regulation of municipal zoning ordinances as provided by law).

Subd. 45. Drive-in - An establishment that by design, physical facilities, service, or packaging procedures permits customers to receive service, obtain goods, or be entertained while remaining in their motor vehicles.

Subd. 47. Dwelling, detached - A dwelling that entirely surrounded by open space on the same lot with no common party walls.

Subd. 49. Dwelling unit - A residential building or portion thereof not including hotels, motels, or apartments, and intended for occupancy by a single family. There are three principal types of dwelling units:

- a) Single-family detached - A residential structure designed for or occupied by one family only.
- b) Single-family attached - A residential building containing two or more dwelling units with one common wall, and constituting one of the following:
 - (i) Duplex: A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.
 - (ii) Townhouse: A one-family dwelling attached to two or more one-family dwellings by a common vertical wall.

Subd. 51. Easement - A grant by a property owner of the use of a tract of land for the purpose of constructing and maintaining walkways, roadways, utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

Subd. 53. Exterior storage (includes open storage) - The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Subd. 55. Family - One or more persons related by blood, marriage or adoption or a group of not more than five persons not so related, maintaining a common household in a dwelling unit.

Subd. 57. Farm - A tract of land that is principally used for agricultural activities such as the production of cash crops, livestock, poultry, or fish farming. A farm may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

Subd. 59. Feedlot, livestock - A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) are animal feedlots. Stables, pastures and barns are not animal feedlots.

Subd. 61. Fence - A structure constructed of wood, metal, wire mesh or masonry erected to provide enclosure but not protection from the elements.

Subd. 63. Flag lots - A large lot or lots that are accessed by the public road by a narrow, private right-of-way, or driveway. The private right-of-way is known as the "stem."

Subd. 65. Floor area, gross - The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings.

Subd. 67. Floor area, habitable - The area of all floor space measured from the exterior surface of outside walls, but excluding garages, porches and non-habitable basements.

Subd. 69. Garage, private - An accessory building or accessory portion of a principal building which is intended for the storage of private passenger vehicles.

Subd. 71. Garage sale - The sale by property residents at resident's address, or at non-profit institutions such as a church or school, of personal property of a kind usually and customarily found in and about residential property. The term does not include the sale of personal property purchased for the purpose of resale.

Subd. 73. Grade - The average finished level at the center of the exterior walls of a building.

Subd. 75. (Deleted per Ord. No. 72, Third Series)

Subd. 77. Home extended business - An occupation operated out of a dwelling unit in a residential area that may generate traffic or customers visiting the premises, or have other impacts on the neighborhood not associated with the home.

Subd. 79. Home occupation - An occupation operated out of a dwelling unit in a residential district as a secondary use, including but not limited to such occupations as dressmaking and alterations, preparation of foodstuffs and confectionery, handicraft, professional offices, artist's studio, studio for music or dancing teacher where not more than one student is taught at any one time.

Subd. 81. Hotel - A building offering transient lodging accommodations to the general public and providing additional services, including but not limited to restaurants, meeting rooms, entertainment and recreational facilities.

Subd. 83. Interim use - A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it as determined by the city council.

Subd. 85. Landscaping - Plantings, including trees, grass, ground cover, shrubs and other natural materials such as rock and wood chips and decorative features including sculpture, patterned walks, and fountains.

Subd. 87. Loading space - An off-street space on the same lot as a building or contiguous to a group of buildings used for the temporary parking of commercial vehicles while loading or unloading merchandise or materials and abutting on a street or other appropriate means of access.

Subd. 89. Lot - A parcel or portion of land in a subdivision or plat of land, separate from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

Subd. 91. Lot area - The area of a horizontal plane bounded by the front, side, and rear lot lines, measured within the lot boundaries.

Subd. 93. Lot of record - Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an auditor's subdivision or a registered land survey that has been recorded in the office of the county recorder for Goodhue County, Minnesota prior to the effective date of this code.

Subd. 95. Lot, corner - A lot situated at the intersection of two streets.

Subd. 97. Lot coverage - The area of the zoning lot occupied by the principal buildings and accessory buildings. Earth berms are not to be included in calculating lot coverage. Only the above grade portions of an earth sheltered building are to be included in lot coverage calculations.

Subd. 99. Lot depth - The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Subd. 101. Lot, double frontage - An interior lot having frontage on two streets.

Subd. 103. Lot, interior - A lot other than a corner lot.

Subd. 105. Lot line, front - That boundary of a lot that abuts an existing or dedicated public street. In the case of a corner lot or a double frontage lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot line must be designated by the owner and filed with the Goodhue County recorder.

Subd. 107. Lot line, rear - That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line is a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Subd. 109. Lot line, side - A boundary of a lot that is not a front lot line or a rear lot line.

Subd. 111. Lot, substandard - A lot or parcel of land for which a deed has been recorded in the office of the Goodhue County recorder upon or prior to the effective date of this code, and which does not meet the minimum lot area, structure setbacks, or other dimensional standards of this code.

Subd. 113. Lot width - The maximum horizontal distance between the side lot lines of a lot measured within the first 30 feet of the lot depth.

Subd. 115. Manufactured home - A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein: the term includes any structure which meets all the requirements, and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under Minnesota Statutes, sections 327.31 to 327.36.

Subd. 117. Manufactured home park - A site, lot, field, or tract of land designed, maintained or intended for the placement of two or more occupied manufactured homes. The term includes a building, structure, vehicle, or enclosure intended for use as part of the equipment of such manufactured home park.

Subd. 119. Manufactured home stand - That part of an individual manufactured home lot which has been reserved for placement of the manufactured home, appurtenant structures, or additions.

Subd. 121. Material, durable - A hard surfaced material such as concrete or asphalt but not including gravel or crushed rock.

Subd. 123. Metes and bounds - A method of property description by means of using directions and distance from easily identifiable points.

Subd. 125. Motel - A building or group of detached, semi-detached or attached buildings on a lot containing guest rooms or dwellings each of which has a separate outside entrance leading directly from the outside of the building, with garage or parking space conveniently located to each unit and which is designed, used or intended to be used primarily for the accommodation of automobile transients. This term does not include hotels, rooming houses, or manufactured home parks.

Subd. 127. Parking space - A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

Subd. 129. Pedestrian way - A public or private right-of-way across or within a block, to be used by pedestrians.

Subd. 131. Planning commission - The planning commission of the city.

Subd. 133. Planned unit development - A form of development characterized by unified site design that includes the clustering of units, mixing of housing types and the development of common elements and open space.

Subd. 135. Principal structure or use - The predominant purpose or activity for which the land, structure or building thereon is designed, arranged, or intended or for which it is occupied or maintained.

Subd. 137. Property line - The legal boundaries of a parcel of property.

Subd. 139. Public land - Land owned or operated by a municipal, school district, county, state or other governmental unit.

Subd. 141. Recreation, commercial - Uses including but not limited to bowling alleys, roller and skating rinks, driving ranges, and movie theaters, and other uses that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

Subd. 143. Recreation, public - Uses including but not limited to tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

Subd. 145. Registered land survey - A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts with a registered land survey number.

Subd. 147. Rooming house - A building designed for use as a single family or two-family dwelling, which contains rooming units which accommodate three or more persons who are not members of the keeper's family. Rooms or meals, or both, are provided for compensation on a weekly or monthly basis.

Subd. 149. Setback - The minimal horizontal distance between a building and a street or lot line.

Subd. 151. Sign - A stationary or movable device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including a flag, badge or insignia of any government or governmental agency, or of a civic, charitable, religious, patriotic, fraternal or similar organization.

Subd. 153. Sign area - An area that is framed either physically or visually by the construction, design, or layout of a sign itself but excluding the sign's structure.

Subd. 155. Sign, awning - A sign that is painted on or attached to an awning.

Subd. 157. Sign, construction - A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.

Subd. 159. Sign, directional - A sign that contains no advertising of any kind and provides direction or instruction to guide persons or vehicles to facilities intended to serve the public.

Subd. 161. Sign, electrical - A sign or display using electrical power.

Subd. 163. Sign, farm product - A sign that advertises the sale of farm products.

Subd. 165. Sign, flashing - An illuminated sign on which the light is not stationary and constant in intensity and color at all times when it is in use.

Subd. 167. Sign, freestanding - Any stationary, self-supporting sign standing on the ground not affixed to any other structure, including but not limited to monument, ground and pedestal signs.

Subd. 169. Sign, governmental - A sign erected by a governmental unit for identification, traffic, or other purposes.

Subd. 171. Sign, illuminated - A sign upon which artificial light is directed for purposes of illuminating the sign or which has an interior light source.

Subd. 173. Sign, nameplate - A sign that states the name or address or both of a business, industry or occupant.

Subd. 175. Sign, projecting - A sign, other than a wall sign, that projects from and is supported by a wall of a building or structure.

Subd. 177. Sign structure - The supports, uprights, braces, and framework of a sign.

Subd. 179. Sign, temporary - A sign that is erected or displayed for a limited period of time including any sign, banner, pennant, valance, or display constructed of cloth, canvass, light fabric, cardboard, wallboard, or other light material with or without frames.

Subd. 181. Sign, wall - A sign attached to, or erected against the wall of a building with the exposed face of the sign plane parallel to the plane of the said wall.

Subd. 183. Stable - A structure containing not more than 20 animal units and used for the shelter and care of horses and cattle.

Subd. 185. Street - A public right-of-way which affords primary means of access to abutting property, and including but not limited to avenues, highways, or roadways.

Subd. 187. Street, arterial - A street that provides for the movement of heavy traffic on relatively long trips with a secondary function of providing access to abutting land.

Subd. 189. Street, collector - A street that collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets and provides access to abutting property.

Subd. 191. Street, local - A street of little or no continuity, designed to provide access to abutting property.

Subd. 193. Street line - The dividing line between the lot and the street.

Subd. 195. Street pavement - The wearing or exposed surface of the roadway used by vehicular traffic.

Subd. 197. Street width - The width of the right-of-way, measured at right angles to the centerline of the street.

Subd. 199. Structure - Any thing erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground.

Subd. 201. Story - That portion of a building included between the surface of any floor and the surface of the floor next above, including below-ground portions of earth sheltered buildings.

Subd. 203. Subdivision - The division or redivision of a lot, tract, or parcel of land into two or more lots either by plat or by metes and bounds description.

Subd. 205. Townhome - A one-family dwelling attached to two or more one family dwellings by a common vertical wall.

Subd. 207. Use, accessory - A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

Subd. 209. Use, non-conforming - A use of land, buildings, or structures legally existing at the time of adoption of this code which does not comply with all the regulations of this code governing the zoning district in which such use is located.

Subd. 211. Use, incompatible - A use which is incapable of direct association with certain other uses because it is contradictory, incongruent or discordant.

Subd. 213. Use, permitted - A public or private use that conforms with the purposes, objectives, requirements, regulations, and performance standards of the zoning district in which the use is located.

Subd. 215. Use, principal - The main use of land or buildings.

Subd. 217. Variance - A modification or variation of the provisions of this code where it is determined that by reason of unique circumstances relating to a specific lot, that strict application of this code would cause practical difficulties. (Amended, Ord. No. 72, Third Series)

Subd. 219. Wetland - An area with a predominance of hydric soils that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soils.

Subd. 221. Yard - An open space on a lot, which is unobstructed by a structure or a building from the lowest level to the sky, except as hereinafter permitted. A yard extends along a lot line and at right angles to such lot lines to a depth or width specified in the yard regulations for the district in which such lot is located.

Subd. 223. Yard, front - A yard extending along the full width of the front lot line between the side lot lines and extending from the abutting street right-of-way line to the depth required in the setback regulations for the zoning district in which such lot is located.

Subd. 225. Yard, rear - The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

Subd. 227. Yard, side - The yard extending along the side lot line between the front yard and rear yards to the depth and width required by setback regulations for the zoning district in which such lot is located.

Subd. 229. Zoning administrator - The city administrator or other official or agent of the city who is charged with enforcement of this code.

Subd. 231. Zoning amendment – An amendment to this code.

Subd. 233. Zoning district - An area or areas within the limits of the city for which the regulations and requirements governing use are uniform as defined by this code.

SECTION 510 – GENERAL PROVISIONS

510.01. Subdivision 1. Application. This code is to be applied and construed according to the rules set forth in this subsection.

Subd. 2. The provisions of this code are the minimum requirements for the promotion of the public health, safety, morals, and general welfare.

Subd. 3. No building or land within the city may be used or occupied and no building or part thereof may be erected, moved, or altered unless in conformity with this code.

Subd. 4. No part of the yard or open space required for a given building may be included as a part of the yard or other space required for another building, and no lot may be used for more than one principal building.

Subd. 5. Every part of a required yard must be open to the sky unobstructed by buildings or structures, except for accessory buildings and the ordinary projections of sills, cornices and ornamental features projecting no more than 48 inches from the building or structure on which they are located; except that in commercial areas a permanent awning and its accessory columns or struts may project no more than five feet into a required front or side yard.

Subd. 6. Open or enclosed fire escapes may project into a required yard not more than five feet and into a required court not more than three and one-half feet, provided they are so located as not to obstruct light or ventilation.

Subd. 7. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, silos, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts or aerials, and necessary mechanical appurtenances are excepted from the height regulations of this code and may be erected in accordance with other regulations or ordinances of the city. Such structures may not exceed the height limitation in the district they are located in by more than 50 percent without a conditional use permit.

Subd. 8. In order to determine setbacks, lot area, and other yard requirements, measurements are to be based upon a lot's property line. A certified survey will be required if a property line cannot be duly established.

Subd. 9. Where the conditions imposed by any provision of this code are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations that are more restrictive or which impose higher standards or requirements will prevail.

510.03. Non-conforming uses and structures. Subdivision 1. General rule. Any structure or use lawfully existing upon the effective date of this section which does not conform to the provisions of this chapter shall be deemed a nonconforming use and may be continued subject to the conditions set forth in this subsection.

Subd. 2. Alterations. A nonconforming building or structure may be expanded, improved or reconstructed provided the work does not increase the nonconformance or create a new non-conformance.

Subd. 3. Extension. A nonconforming use may not be extended to any portion of a building or structure that was not previously subject to the nonconforming use.

Subd. 4. Changes. A nonconforming building, structure or use may not be changed to another nonconforming use, building, or structure.

Subd. 5. Construction approved prior to ordinance. Nothing in this code requires any change in plans, construction or designated use of a building or structure for which a building permit has been issued and the construction of which has been diligently pursued and where the entire building is completed according to the plans as filed within one year from the effective date of this code.

Subd. 6. Restoration. Nothing in this code prevents the reconstruction, repair, rebuilding, or continued use of any nonconforming building or structure damaged by fire, collapse, explosion or acts of God subsequent to the date hereof, provided the expense of the work does not exceed 50 percent of the replacement cost of the building or structure at the time the damage occurred. The value of the building is its current assessed value as of the date immediately preceding the date of the damage thereto.

Subd. 7. Wear and tear. Nothing in this code prevents the normal maintenance of a nonconforming building, structure, or part thereof, including necessary nonstructural repairs and incidental alternations that do not extend or intensify the nonconforming uses provided that the cost of the work does not exceed 50 percent of the building's assessed value prior to commencement of the maintenance.

Subd. 8. Abandonment. (a) A nonconforming use of a building or premises that has been abandoned ceases to be a lawful nonconforming use.

(b) Time of abandonment. A nonconforming use is abandoned upon the earliest of the following occurrences:

- (i) the intent of the owner is to discontinue the use if apparent or one year after the use is discontinued;
- (ii) the characteristic equipment and the furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within one year;
- (iii) the nonconforming use has been replaced by a conforming use;
- (iv) the nonconforming use has been changed to a permitted use.

Subd. 9. Unlawful use not authorized. Nothing in this code is to be interpreted as authorization for, or approval of, the continuance of the use of a building or premises in violation of this code.

Subd. 10. Zoning district changes. Whenever the boundaries of a district are changed to transfer an area from one district to another district of a different classification, the provisions of this subsection apply to any use that becomes nonconforming thereby.

510.05. Existing lots. A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the Goodhue County recorder or registrar of titles, on or before the effective date of this code may be used for single family detached dwelling purposes. provided (i) the area and width thereof are within 60 percent of the minimum requirements of this code but not less than 3,000 square feet, and (ii) all applicable setbacks are met.

510.07. Planned unit development (PUD). Subdivision 1. Purpose: The purposes of this section are to:

- a) Encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements such as lot sizes and building setbacks, while at the same time meeting the standards and purposes of the comprehensive plan and preserving the health, safety, and welfare of the citizens.
- b) Allow for a mixture of residential units in an integrated and well-planned area.
- c) Ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes and scenic areas.
- d) Allow more flexibility and imaginative design in redevelopment projects.

Subd. 2. Permitted uses. Permitted uses in a PUD are residential dwelling units in a clustered, semi-detached, attached, or multi-storied structures or combination thereof, commercial-office uses if integrated with the residential uses.

Subd. 3. Density. The maximum density of development of a PUD may not exceed that of the zoning district in which it is located.

Subd. 4. General requirements. A conditional use permit is required for a PUD. Unless a variance is otherwise approved, the city may approve the PUD only if it finds that the development satisfies all of the following standards in addition to meeting the requirements of subsection 560.07, except for the time limit:

- a) The planned unit development is consistent with the comprehensive plan of the city.
- b) The planned unit development is an effective and unified treatment of the development possibilities in the project site and the development plan provides for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.
- c) The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.
- d) Financing is available to the applicant on conditions and in an amount which is sufficient to assure completion of the planned unit development.

- e) A minimum of five or more dwelling units are proposed.
- f) The tract under consideration is under single control.
- g) The tract is at least five acres in size for undeveloped areas and two acres for redevelopment of existing, developed areas of the city.

Subd. 5. Coordination with subdivision regulations. It is the intent of this code that subdivision review under the subdivision regulations be carried out simultaneously with the review of a planned unit development. The plans required under this subsection must be submitted in a form that will satisfy the requirements of the subdivision regulations for the preliminary and final plans required under those regulations.

Subd. 6. Pre-application meeting. Prior to the submission of a PUD plan to the planning commission, the applicant must meet with the zoning administrator, and if necessary, with the planning commission to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps for a conditional use permit and a preliminary plat. The applicant may submit a simple sketch plan at this stage for informal review and discussion.

Subd. 7. Preliminary development plan. An applicant must make an application for a PUD conditional use permit following the procedural steps set forth in subsection 560.07. In addition to the criteria and standards set forth in that subsection, the following additional findings must be made before the approval of the outline development plan.

- a) The proposed PUD is in conformance with the comprehensive plan.
- b) The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to potential surrounding uses.
- c) Each phase of the proposed PUD, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
- d) The PUD will not create an excessive burden on parks, schools, streets, and other facilities and utilities which are proposed to serve the district.
- e) The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.

Subd. 8. Preliminary development plan documentation. The following exhibits must be submitted to the zoning administrator by the proposed developer as part of the application for a PUD conditional use permit:

- a) An explanation of the character and need for the planned development and the manner in which it has been planned to take advantage of the planned development regulations.
- b) A statement of proposed financing of the PUD.
- c) A statement of the present ownership of all the land included within the planned development and a list of property owners within 350 feet of the outer boundaries of the property.
- d) A general indication of the expected schedule of development including sequential phasing and time schedules.
- e) A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easement, street rights of way, utilities, and buildings for the property, and for the area 350 feet beyond.
- f) Natural features map or maps of the property and area 350 feet beyond the PUD showing contour lines at no more than two foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil condition.
- g) A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.
- h) A full description as to how all necessary governmental services will be provided to the development including sanitary sewers, storm sewers, water system, streets and other public utilities.

Subd. 9. Final development plan.

- a) Within 60 days of city council approval of the preliminary development plan and the preliminary plat, the applicant must file a final development plan and final plat for all or that portion to be platted with the administrator. The final development plan must contain those changes as recommended by the planning commission and approved by the council during the preliminary review process.
- b) The administrator must submit the final development plan to the planning commission for review.

- c) The planning commission must review the final development plan and make its recommendation to the city council within 60 days of receiving the final development plan.
- d) The city council must review the final outline plan and act within 30 days of receiving the recommendation of the planning commission.
- e) If the final development plan is approved by the council, the administrator must issue a conditional use permit to the applicant.
- f) Once the final development plan has been approved, the administrator may issue the building permit for the area complying with the plan and other laws of the city without further hearings or review of the plan by the city council.

Subd. 10. Enforcing development schedule. The construction and provision of all common open spaces and public and recreational facilities shown on the final development plan must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan, the administrator must review all of the building permits issued for the planned development and examine the construction that has taken place on the site. If the rate of construction of dwelling units is faster than the rate at which common open spaces and public and recreational facilities have been constructed and provided, the administrator must forward this information to the council, which may revoke the conditional use permit. If the developer or landowners fail to complete the open spaces and recreation areas within 60 days after the completion of the remainder of the project, the city may finish the open space areas and assess the cost back to the developer or landowner.

Subd. 11. Conveyance and maintenance of common open space.

- a) Land shown on the final development plan as common open space must be conveyed under one of the following methods at the option of the city:
 - (i) It may be conveyed to a public agency which will agree to maintain the common open space and any building, structures, or improvements which have been placed on it.
 - (ii) It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the trustees subject to the covenants to be approved by the council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

- b) If the common open space is conveyed to a homeowners association, and the common open space is not maintained properly to standards established by the city, the city may maintain the property and assess the costs back to the homeowners association.

Subd. 12. Standards for common or public open space. Open space may not be accepted as common open space under the provisions of this subsection unless it meets the following standards:

- a) The location, size and character of the common open space must be suitable for the planned development.
- b) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the character of the planned development, considering the size, density, expected population, topography, and the number and type of dwellings to be provided.
- c) Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvement which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

Subd. 13. PUD review and amendments.

- a) Annual review. The administrator and planning commission must review all PUDs within the city at least once each year during construction and make a report to the council on the status of the development of each PUD under construction. If the council finds that the development has not occurred within a reasonable time after the original approval of the conditional use for the PUD, the planning commission may recommend that the conditional use permit be revoked.
- b) Revisions to the PUD.
 - (i) Minor changes in the location, placement, and heights of buildings or structures may be authorized by the administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved.
 - (ii) Approval of the planning commission and council is required for other minor changes such as rearrangement of lots, blocks and building tracts. These changes must be consistent with the purpose and intent of the approved final development plan.

c) Amendments to a PUD.

An amendment to a PUD requires the same procedure for the application of a conditional use permit as set forth in this code.

510.09. Zoning coordination. A zoning district change on land adjacent to or across a public right-of-way from an adjoining political subdivision must be referred to the planning commission and the adjacent political subdivision or county, as appropriate, for review and comment prior to action by the city council granting or denying the zoning district classification change. A period of at least ten days must be provided for receipt of comments and such comments will be considered as advisory only.

510.11. Flag lots. Flag lots are permitted in the A district with a conditional use permit. The following standards apply to flag lots:

- a) Minimum lot area is at least twice the area of standard lots in the district where located, exclusive of the stem connecting the lot to the public road.
- b) Minimum setbacks are from property lines and driveway stem. The definition of a front setback is the shortest dimension abutting the stem. The minimum front setback from the property line is 35 feet.
- c) Driveway stems must be a minimum of 25 feet wide and a maximum of 50 feet wide and no longer than 500 feet in length.
- d) No more than three lots may be served by one driveway stem.

510.13. Opt-Out of Minnesota Statutes, Section 462.3593. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Kenyon opts-out of the requirements of Minnesota Statutes, Section 462.3593, which defines and regulates Temporary Family Health Care Dwellings. (Added, Ord. No. 82, Third Series)

SECTION 515 – ZONING DISTRICTS

515.01. Subdivision 1. General rule. It is unlawful to use or permit the use of a building or premises within the city for any purpose other than as described in this section.

Subd. 2. Districts. In order to carry out the purpose of this code, the city is divided into the following use districts:

- a) Agricultural district. A - Agriculture/one family.
- b) Residential districts.
 - (i) R-1 - One and two family residence.

- (ii) R-2 - One and two family residence.
 - (iii) R-3 - Multi-family residence.
 - (iv) R-4 - Manufactured homes.
- c) Commercial districts.
 - (i) C-1 - Downtown commercial.
 - (ii) C-2 - General commercial.
- d) Industrial districts. I-1 - General industry.
- e) Adult establishment overlay district. Adult establishments, as defined by and subject to the provisions of section 1125 of the city code. (Added, Ord. No. 11, Third Series)

Subd. 3. Map. The location and boundaries of the zoning districts are set forth on the zoning use district map which is incorporated as a part of this code.

Subd. 4. Boundaries. The boundaries of the land use districts defined in this section are hereby established as indicated on a map entitled "City of Kenyon Official Zoning Map", dated the 13th day of April, 1999, which accompanies and is made a part of this chapter as if the same were all fully described herein. (Amended, Ord. No. 16, Third Series)

Subd. 5. Annexed territory. Land that is annexed to the city is to be placed in the A - Agriculture/one family residence district until the council assigns such land to another district.

Subd. 6. Garage sales. Garage sales are permitted in all zoning districts, being limited to two per calendar year per dwelling unit.

515.03. Zoning districts: exception for certain single-family detached structures. A single-family detached dwelling unit may be erected on a lot having less than the minimum required area and width provided that the lot exists by virtue of a previously recorded plat, provided that the lot is not less than 40 feet in width and provided further that the dwelling in all other ways complies with the provisions of this code.

515.05. A - Agriculture/one family residence. Subdivision 1. The purpose of this district is to allow existing agricultural operations and low density residential development in the outlying parts of the city that does not have central sewer services.

Subd. 2. Permitted uses.

- a) Farmsteads and farming operations, except animal feedlots.

- b) Single family non-farm detached dwelling units provided they is located on soils that are suitable for the use of septic tanks.
- c) Public parks and other recreational uses of a non-commercial nature.
- d) Roadside stands for the sale of agricultural products.
- e) Farm drainage and irrigation systems.
- f) Customary accessory uses incidental to the foregoing principal uses, such as private garages, screen houses, signs and play equipment.

Subd. 3. Conditional uses

- a) Cemeteries.
- b) Nurseries and greenhouses.
- c) Sanitary waste disposal facilities.
- d) Golf courses and attendant country club facilities.
- e) Day care centers.
- f) Churches and schools (public and private).
- g) Interim uses.
- h) Home extended businesses.

Subd. 4. Lot standards.

- a) Height regulations:
 - (i) The maximum height of all buildings is 35 feet.
 - (ii) Height limitations do not apply to grain elevators, silos, windmills, elevator lags, cooling towers, chimneys and smoke stacks, church spires.
- b) Minimum setback yard requirements:
 - (i) Front yard: 30 feet.

- (1) Where a lot is located at the intersection of two or more roads or highways, there must be a front yard setback from each road or highway.
 - (2) If a lot has been established using metes and bounds, the front setback is measured from the end of the right-of-way.
 - (ii) Side yard: 30 feet.
 - (iii) Rear yard: 50 feet.
 - (iv) Yard width: 250 feet.
 - (v) Lot area: 2-1/2 acres.
- c) Location of structures: Structures must be so located on each lot as to permit re-subdivision if and when central sewer and water systems become available.

Subd. 5. General requirements. Additional requirements for parking, signs, sewage systems, and other regulations as set forth in this code.

515.07. R-1 - One and two family residence. Subdivision 1. The purpose of the R-1 district is to allow low-density single family and two-family dwelling units in the developing portions of the city where city sewer and water is available.

Subd. 2. Permitted uses.

- a) Single-family detached dwelling units and duplexes.
- b) Farmsteads and farming operations subject to the performance standards of this code.
- c) Public recreation, including parks and playgrounds.
- d) Churches.
- e) The renting of rooms by a resident family for lodging purposes only, and for not more than two roomers in a one family dwelling.
- f) Home occupations.

- g) Customary accessory uses incidental to the foregoing principal uses such as private garages, screen houses, signs and play equipment.

Subd. 3. Conditional uses.

- a) Parks, athletic fields, swimming pools, and other recreational uses of a non-commercial nature that are greater than 20 acres in size.
- b) Cemeteries.
- c) City buildings including police and fire stations.
- d) Public and private schools.
- e) Nursing homes, convalescent, assisted living, and senior citizen housing, and congregate care facilities and rest homes.
- f) Interim uses.
- g) Home extended businesses.

Subd. 4. Lot standards.

- a) Height regulations:
 - (i) The maximum height of all buildings is 35 feet.
 - (ii) Height limitation do not apply to grain elevators, silos, windmills, elevator lags, cooling towers, chimneys and smoke stacks, church spires.
- b) Minimum setback yard requirements:
 - (i) Front yard: 30 feet.
 - (1) Where a lot is located at the intersection of two or more roads or highways, there must be a front yard setback from each roadway.
 - (2) Where adjacent structures have front yard setbacks different from those required, the minimum front yard setback is the average setback of such structures, but in no case shall the front yard setback be less than 20 feet.

- (ii) Side yard: 15 feet.
 - a. Detached garages must have a minimum setback of ten feet.
 - b. Storage sheds of 144 square feet or less and other accessory uses must have a minimum setback of five feet.
- (iii) Rear yard: 30 feet.
 - a. Detached garages and other accessory uses must have a minimum setback of ten feet. (Amended, Ord. 16, Third Series)
- (iv) Yard width: 75 feet for one family dwellings.
90 feet for two family dwellings.
- (v) Lot area: 10,000 square feet for one family dwellings.
6,000 square feet for each two family dwelling unit.

Subd 5. General requirements. Additional requirements for parking, signs, sewage systems, and other regulations as set forth in this code.

515.09. R-2 - One and two family residence. Subdivision 1. The purpose of the R-2 district is to allow the continuation of existing residential development of existing lots in the older residential core of the city and also new areas to be developed.

Subd. 2. Permitted uses.

- a) Single-family detached dwelling units and duplexes.
- b) Parks, playgrounds and other recreational uses of a non-commercial nature.
- c) Churches.
- d) The renting of rooms by a resident family for lodging purposes only, and for not more than two roomers in a one family dwelling.
- e) Home occupations.
- f) Customary accessory uses incidental to the foregoing principal uses such as private garages, screen houses, signs and play equipment.

Subd. 3. Conditional uses.

- a) Public and private schools.
- b) Nursing homes, convalescent, assisted living, and senior citizen housing, and congregate care facilities and rest homes.
- c) Cemeteries.
- d) City buildings including police and fire stations.
- e) Parks, athletic fields, swimming pools, and other recreational uses of a non-commercial nature that are greater than 20 acres in size.
- f) Rooming or boarding houses.
- g) Townhomes.
- h) Interim uses.
- i) Home extended businesses.

Subd. 4. Lot standards

- a) Height regulations:
 - (i) The maximum height of all buildings is 35 feet.
- b) Minimum setback yard requirements:
 - (i) Front yard: 25 feet.
 - (1) Where a lot is located at the intersection of two or more roads or highways, there must be a front yard setback from each road or highway.
 - (2) Where adjacent structures have front yard setbacks different from those required, the minimum front yard setback is the average setback of such structures, but in no case shall the front yard setback be less than 20 feet.

- (ii) Side yard: seven feet for one and two family dwellings.
ten feet for townhomes, boarding and rooming houses.
 - (1) Detached garages and other accessory uses must have a minimum setback of five feet.
- (iii) Rear yard: 30 feet. (Amended, Ord. No. 16, Third Series)
 - (1) Detached garages and other accessory uses must have a minimum setback of ten feet. (Amended, Ord. No. 16, Third Series)
- (iv) Yard width: 55 feet for one family dwellings.
75 feet for two family dwellings.
90 feet for townhomes.
- (v) Lot area: 6,600 square feet for one family dwellings.
4,500 square feet for each two family dwelling unit.
3,600 square feet for each townhome, rooming or boarding

Subd. 5. General requirements. Additional requirements for parking, signs, sewage systems, and other regulations as set forth in this code.

515.11. R-3 - Multi-family residence. Subdivision 1. The purpose of the R-3 district is to provide areas within the city for multiple-family residential development.

Subd. 2. Permitted uses.

- a) Apartments, condominiums and townhouses.
- b) Duplexes.
- c) Nursing homes, convalescent, assisted living, and senior citizen housing, and congregate care facilities and rest homes.
- d) Rooming or boarding houses.
- e) Townhomes.
- f) Parks, playgrounds and other recreational uses of a non-commercial nature.
- g) Churches.
- h) Home occupations.

- i) Customary accessory uses incidental to the foregoing principal uses such as private garages, screen houses, signs and play equipment, swimming pools, and storage buildings for use of occupants of principal structures.

Subd. 3. Conditional uses.

- a) Public and private schools.

- b) City buildings including polices and fire stations.
- c) Free-standing day care centers and nurseries.
- d) Cemeteries.
- e) Funeral homes.
- f) Interim uses.
- g) Home extended businesses.

Subd. 4. Lot standards.

- a) Height regulations:
 - (i) The maximum height of all buildings is 45 feet.
- b) Minimum setback yard requirements:
 - (i) Front yard: 30 feet.
 - (1) Where a lot is located at the intersection of two or more roads or highways, there must be s front yard setback from each road or highway.
 - (2) Where adjacent structures have front yard setbacks different from those required, the minimum front yard setback is the average setback of such structures, but in no case may the front yard setback be less than 20 feet.

- (ii) Side yard: eight feet for duplexes.
ten feet for all apartments and condominiums.
 - (1) Detached garages and other accessory uses must have a minimum setback of five feet.
- (iii) Rear yard: 30 feet.
 - (1) Detached garages and other accessory uses shall have a minimum setback of ten feet. (Amended, Ord. No. 16, Third Series)
- (iv) Yard width: 75 feet for duplexes.
75 feet for apartments and condominiums.
- (v) Lot area: 4,500 square feet for each duplex.
2,700 square feet for each unit within an apartment or condominium building.

Subd. 5. General requirements. Additional requirements for parking, signs, sewage systems, and other regulations as set forth in this code.

515.13. R-4 - Manufactured homes. Subdivision 1. The purpose of the R-4 district is to allow manufactured homes on separate lots where city sewer and water is available.

Subd. 2. Permitted uses.

- a) Manufactured homes on private lots.
- b) Single-family detached dwelling units.
- c) Churches.
- d) Public recreation including parks and playgrounds.
- e) Home occupations.
- f) Customary accessory uses incidental to the foregoing principal uses such as private garages, screen houses, signs and play equipment, swimming pools, and storage buildings for use of occupants of principal structures.

Subd. 3. Conditional uses.

- a) Schools (public and private).
- b) City buildings, including police and fire stations.
- c) Manufactured home parks.
- d) Day care centers.

Subd. 4. Lot standards.

- a) Height regulations:
 - (i) The maximum height of all buildings may not exceed 35 feet.
- b) Minimum setback yard requirements:
 - (i) Front yard: 25 feet.
 - (1) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback from each road or highway.
 - (2) Where adjacent structures have front yard setbacks different from those required, the minimum front yard setback shall be the average setback of such structures, but in no case shall the front yard setback be less than 20 feet.
 - (ii) Side yard: 8 feet.
 - (1) Detached garages and other accessory uses shall have a minimum setback of 4 feet.
 - (iii) Rear yard: 20 feet.
 - (1) Detached garages and other accessory uses shall have a minimum setback of 8 feet. (Amended, Ord. No. 16, Third Series)
 - (iv) Yard width: 50 feet.
 - (v) Lot area: 5,000 square feet per unit.

Subd. 5. General requirements. Additional requirements for parking, signs, sewage systems, and other regulations as set forth in this code.

515.15. C-1 - Downtown commercial. Subdivision 1. The purpose of the C-1 district is to encourage the continuation of a viable downtown area by allowing retail, service, office, and entertainment facilities as well as public and semi-public uses.

Subd. 2. Permitted uses.

- a) Commercial establishments offering merchandise or services to the general public in return for compensation. Such establishments may include but are not limited to the following:
 - (i) Retail establishments such as grocery, hardware, drug, clothing and furniture stores, eating and drinking places; auto and farm equipment dealers, and gasoline service stations.
 - (ii) Personal services such as laundry, barber, shoe repair shop and photography studio.
 - (iii) Banks, finances, insurance, and real estate services.
 - (iv) Professional services such as medical and dental clinic, and attorney's office.
 - (v) Repair services such as auto, jewelry and radio and television repair shop.
 - (vi) Entertainment and amusement services such as motion picture theatre and bowling alley.
 - (vii) Lodging services such as hotel and motel.
- b) Public and semi-public buildings such as post office and fire station.
- c) Private clubs.
- d) Automobile parking lots.
- e) Accessory uses incidental to the foregoing principal uses such as off-street parking and unloading areas, signs, storage of merchandise, and wholesaling and manufacturing when incidental to a permitted use.

Subd. 3. Conditional uses.

- a) Apartments, provided they are located on the second story of a building.
- b) Bars, liquor stores, and combination on and off-sale liquor establishments.
- c) Day care centers.
- d) Interim uses.

Subd. 4. Lot standards.

- a) Height regulations:
 - (i) The maximum height of buildings may not exceed 45 feet.
- b) Minimum setback yard requirements:
 - (i) Front yard: None.
 - (ii) Side yard: None, provided that no building shall be located within five feet of any side lot line abutting a lot in any residential district.
 - (iii) Rear yard: 10 feet.
 - (iv) Yard width: 20 feet.
 - (v) Lot area: 2,000 square feet.
- c) Screening and fencing: The city may require the screening or fencing of commercial uses on side and rear yards that face residential districts.

Subd. 5. General requirements. Additional requirements for parking, signs, and other regulations.

515.17. C-2 - General commercial. Subdivision 1. The purpose of the C-2 district is to allow commercial establishments of a service, office, retail, or wholesale nature, together with certain public and semi-public uses with the purpose of providing goods and services to the community and the traveling public.

Subd. 2. Permitted uses.

- a) Professional service establishments such as medical and dental clinic, mortuary, attorney and accountant's office.
- b) Public and semi-public buildings.
- c) Churches.
- d) Establishments which are oriented to the highway motorist such as eating places, gasoline service stations, auto repair shops, car wash, motel and hotels.
- e) Establishments requiring outdoor display and sales of merchandise such as auto dealers and farm equipment.
- f) Accessory uses incidental to the foregoing principal uses such as off-street parking and signs.

Subd. 3. Conditional uses.

- a) Bars, liquor stores, and combination on and off-sale liquor establishments.
- b) Day care centers.
- c) Apartments and residential condominiums.
- d) Amusement establishments such as bowling alleys, dance halls, pool halls, swimming pools, motion picture theaters, mini-golf courses, and skating rinks. (Added, Ord. 50, Third Series).

Subd. 4. Lot standards:

- a) Height regulations:
 - (i) The maximum height of buildings is 35 feet.
- b) Minimum setback yard requirements:
 - (i) Front yard: 30 feet.
 - (1) Where a lot is located at the intersection of two or more roads or highways, there must be a front yard setback from each road.

- (ii) Side yard: ten feet.
 - (1) A building may be located within 15 feet of any side lot line abutting a lot in any residential district.
 - (iii) Rear yard: 20 feet.
 - (iv) Yard width: 60 feet.
 - (v) Lot area: 8,500 square feet for commercial uses.
3,600 square feet per unit for residential uses.
- c) Screening and fencing: The council may require the screening or fencing of commercial uses on side and rear yards which face residential districts.

Subd. 5 General requirements. Additional requirements for parking, signs, and other regulations contained in this code.

515.19. I-1 - General industrial. Subdivision 1. The purpose of the I-1 district is to allow industrial uses to locate in designated areas of the city. Outdoor storage of raw materials or finished products must be screened from public view.

Subd. 2. Permitted uses.

- a) All fabricating, manufacturing, or processing of materials, goods, and products.
- b) Wholesaling, all commodities except live animals.
- c) The storage of materials, goods and products.
- d) Accessory uses incidental to the foregoing principal uses.

Subd. 3. Conditional uses.

- a) Manufacturing, refining and processing of chemicals.
- b) Junk yards and salvaging yards.
- c) Extracting processing, and storage of sand, gravel, stone, or other raw materials.
- d) Distillation of bone, coal, tar petroleum, grain or wood.

- e) Fertilizer manufacturing, compaction or storage processing of garbage.
- f) Recycling centers and impound lots.
- g) Demolition debris land disposal facility.

Subd. 4. Lot standards.

- a) Height regulations:
 - (i) The maximum height of all buildings is 45 feet.
 - b) Minimum setback yard requirements:
 - (i) Front yard: 30 feet.
 - (1) Where a lot is located at the intersection of two or more roads or highways, there must be a front yard setback from each road.
 - (ii) Side yard: 20 feet.
 - (1) A building may not be located within 25 feet of a side lot line abutting a lot in a residential district.
 - (iii) Rear yard: 20 feet.
 - (iv) Yard width: 100 feet.
 - (v) Lot area: 10,000 square feet.
 - c) Screening and fencing: The council may require the screening or fencing of industrial uses on side and rear yards which face residential districts.
- (4) General requirements. Additional requirements for parking, screening, fencing, signs, and other regulations contained in this code.

515.20. Adult establishment overlay district. Subdivision 1. The purpose of the Adult establishment overlay district is to allow the location of adult establishments as defined by section 1125 of the city code as an additional permitted use in defined areas of certain other zoning districts within the City. (Added, Ord. No. 11, Third Series)

Subd. 2. Permitted uses. In addition to other uses permitted in the underlying districts, adult establishments as defined in section 1125 of the city code. (Added, Ord. No. 11, Third Series)

Subd. 3. Other requirements. An adult establishment must comply with all lot standards and other requirements applicable to other permitted uses in the underlying zoning district, provided, however, that a building containing an adult establishment may not be located within 100 feet of the boundary of any zoning district. (Added, Ord. No. 11, Third Series)

SECTION 520 – PERFORMANCE STANDARDS

520.01. Purpose. Subdivision 1. The performance standards established in this code are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to environment. Future development in all districts must meet these standards, and the standards apply to existing development where so stated.

Subd. 2. These standards apply to all districts, unless otherwise noted. Before a zoning permit is approved, the administrator must determine whether the proposed use will conform to the performance standards. The developer or landowners must supply data necessary to demonstrate such conformance. Such data may include a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage.

520.03. Property standards. The owner of any premises must comply with the following requirements:

- a) Sanitation. Exterior property areas must be maintained free from any accumulation of garbage, animal feces or refuse.
- b) Grading and draining. Premises must be graded and maintained so as to minimize the accumulation of water on said premises.
- c) Ground cover. A residential premise must be maintained in a condition to control erosions, dust and mud by suitable landscaping with grass, trees, shrubs, or other planted ground cover or by paving with asphalt, or concrete or by other suitable means as shall be approved by the enforcement officer.
- d) Insect and rodent infestation. The owner must exterminate any infestation of insects, rodents, vermin or other pests, in exterior areas and accessory structures on the premises.
- e) Accessory structures. Accessory structures including, but not limited to, detached garages, sheds, and fences must be maintained structurally sound and in good repair. Exterior wood surfaces, other than decay-resistant woods must be protected from the elements and decay by paint that is not lead-based paint or by other protective covering or treatment.
- f) Stored materials. It is unlawful to accumulate and store building material, lumber, boxes, cartons, or other containers, machinery, scrap metal, junk, raw material, fabricated goods and other items in such manner as to constitute a nuisance or rodent harborage.

- g) Refrigerators and accessible containers. It is unlawful to permit a refrigerator or other container, sufficiently large to retain a child and with doors that fasten automatically when closed, to be exposed and accessible to children without removing the doors, lids, hinges, or latches.

- h) Foundations, walls, roof and other exterior surfaces. Foundations, exterior walls, roofs, and other exterior surfaces must be maintained in a workmanlike state of maintenance and repair.
 - (i) The foundation elements must adequately support the building at all points.

 - (ii) Exterior walls must be free of holes, breaks, loose or rotting boards or timbers, and any other conditions that might admit dampness to the interior portions of the walls or the interior spaces of the structure.

 - (iii) Exterior wood surfaces, other than decay-resistant woods, must be protected from the elements and decay by paint that is not lead-based paint or by other protective covering or treatment.

 - (iv) The roof must be tight and have no defects that admit rain, and roof drainage must be adequate to prevent rainwater from causing dampness in the walls.

- i) Stairs, porches, decks, and railings.
 - (i) Outside stairs, porches and decks must be constructed safely and capable of supporting a load as determined by the building code, and kept in sound condition and good repair. Stairways, porches, decks, or steps that are more than 30 inches above grade must provide guardrails and intermediate rails in accordance with the building code or maintained in accordance with the building code in effect when originally constructed.

 - (ii) A flight of stairs that is more than three risers high must have hand rails in accordance with the building code or maintained in accordance with the building code under which it was originally constructed.

 - (iii) Stairs, steps, porches, decks, handrails, balustrades and guardrails deemed hazardous by the administrator must be corrected in accordance with the building code.

- j) Windows, doors and hatchways. Windows, exterior doors and basement hatchways must be substantially tight and kept in sound condition and repair.
- (i) Windows must be fully supplied with window panes that are without open cracks or holes.
 - (ii) Exterior doors and hardware must be in sound condition and fit reasonably well within its frame.
 - (iii) Basement hatchways must be so constructed and maintained as to prevent the entrance of rodents, rain and drainage water into the residential structure.

520.05. Exterior storage. Subdivision 1. In residential districts, materials and equipment must be stored within a building or be fully screened so as not be visible from adjoining properties, except for the following in good order: laundry drying, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials, if these are used or intended for use on the premises, off-street parking of passenger automobiles and pickup trucks and firewood.

Subd. 2. Existing uses must comply with this provision within six months after the effective date of this code..

Subd. 3. In all districts, the city may require a conditional use permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impairs scenic views or constitutes a nuisance.

Subd. 4. Recreational vehicles.

- a) For purposes of this subdivision, recreational vehicles include but are not limited to boats, boat trailers, pickup campers and coaches, motorized dwellings, fish houses, tent trailers, cars licensed as pioneer or classic vehicles, race cars, all-terrain vehicles, and similar vehicles.
- b) Recreational vehicles must not be used as a dwelling unit for a period exceeding 14 days.
- c) Recreation vehicles and equipment parked or stored outside must be in a safe, operable condition and exhibit current license or registration plates or tags if the vehicle is one for which a license or registration plate is required by law for its operation.
- d) Recreational vehicles must not be parked or stored over or upon a bikeway, pathway, or sidewalk.

- f) The storage of fish houses must meet all district setbacks.

Subd. 5. Off-street parking on land within a residential district shall be utilized only for the parking of currently licensed and operable passenger vehicles having a lawful capacity of nine passengers or less, for the parking of one commercial usage vehicle per dwelling unit provided that it is parking in the driveway and is used by the occupant of the residence; for the parking of one public utility vehicle registered to a company that provides emergency repair services and is used by the occupant of the residence; for the parking of currently licensed recreational vehicles and equipment, and for the parking of snowmobiles from November 1 to April 30.

Subd. 6. Refuse. In all districts, all waste material (with the exception of crop residue), debris, refuse, or garbage must be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse. All refuse containers must be fenced in or placed within an enclosed building. Existing uses must comply with this provision within six months after the effective date of this code. Passenger vehicles and trucks in an inoperative state may not be parked in residential districts for a period exceeding 30 days; inoperative shall mean incapable of movement under their own power and in need of repairs or to be turned over to a junkyard. All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a special use permit, or otherwise permitted by provisions of this code, is considered refuse.

Subd. 7. Glare. In all districts, lighting used to illuminate an off-street parking area, sign, or other structure, must be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights must be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs may not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street may not exceed one foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property may not exceed 0.4 candles (meter reading) as measured from said property.

Subd. 8. Bulk storage (liquid). All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids require a conditional use permit in order that the city council may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare). Existing, above-ground liquid storage tanks having a capacity in excess of 10,000 gallons shall secure a conditional use permit within 12 months following the effective date of this code. The city council may require the development of diking around said tanks. Diking must be suitably sealed and must hold a leakage capacity equal to 115 percent of the tank capacity. Any existing storage tank that, in the opinion of the city council, constitutes a hazard to the public safety must discontinue operations within one year following the effective date of this code.

Subd. 9. Nuisances. Noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other such adverse influences are not permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts must be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities. The following standards apply to all districts.

a) Noise

- (i) Noise prohibited. It is unlawful to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth unless such noise be reasonably necessary to the preservation of life, health, safety or property.
- (ii) Measurement of noise. Any activity not expressly exempted by this section which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property by more than six decibels above the ambient noise levels as designated in the following table at the time and place and for the duration then mentioned, is a violation of this code, but any enumeration herein is not be deemed to be exclusive.

Kenyon City Code

520.05, Subd. 9 b)

Duration of Sound	COLUMN I	COLUMN II	COLUMN III
	7:00 am – 6:00 pm (all districts)	6:00 PM – 9:00 PM (residential districts) and 6:00 pm – 7:00 am (nonresidential districts)	9:00 pm – 7:00 am (residential districts)
Less than 10 minutes	70db	75db	55db
Between 10 minutes and 2 hours	60db	55db	45db
In excess of 2 hours	50 db	45db	40db

In determining whether a particular sound exceeds the maximum permissible sound level in the above table: (1) sounds in excess of the residential district limitations as measured in a residential district are violative of this section whether the sound originates in a residential district or any other district; (2) during all hours of Sundays and state and federal holidays, the maximum allowable decibel levels for residential districts are as set forth in column III of the table.

Sounds emanating from the operation of (1) motor vehicles on a public highway; (2) aircraft; (3) outdoor implements such as power lawn mowers, snow blowers, power hedge clippers, and power saws; and (4) pile drivers or jackhammers and other construction equipment are exempt from the provisions of this section except during the hours of 9:00 pm to 7:00 am. Sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places wherein athletic contests take place are exempt from the provisions of this code.

- b) Vibration. The following vibrations are prohibited:
- (i) A vibration discernible (beyond property line) to the human sense of feeling for three minutes or more duration in any one hour.
 - (ii) A vibration resulting in any combination of amplitudes and frequencies beyond the "safe" range of current standards of the United States Bureau of Mines on any structure.
- c) Toxic or noxious matter. A use must be so operated so as not to discharge across the boundaries of any lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located, toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort, or welfare or cause injury or damage to property or business.

- d) Air pollution. A use must be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to the public health, safety, comfort, or general welfare of the public.
- e) Explosives. Activities involving the storage, utilization or manufacture of materials, goods or products there could decompose by detonation are not permitted except such as are specifically licensed by the city council.
- f) Miscellaneous nuisances.
 - (i) It is unlawful to store or keep any vehicle of a type requiring a license to operate on the public highway; but, without a current license attached hereto, whether such vehicle be dismantled or not, outside of an enclosed building.
 - (ii) It is unlawful to create or maintain a junkyard or vehicle dismantling yard except as provided herein.
 - (iii) The following is a nonexclusive list of nuisances affecting public health or safety:
 - (1) The effluence from any cesspool, septic tank, drainfield or human sewage disposal system discharging upon the surface of the ground, or dumping the contents thereof at any place except as authorized.
 - (2) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
 - (3) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, to be exposed and accessible to the public without removing the doors, lids, hinges, or latches or providing locks to prevent access by the public.

520.07. Commercial and industrial design, screening and landscaping. Subdivision 1. Intent: It is the intent of this section to promote high standards of design and construction for the commercial and industrial uses in the city. These standards are set forth in order to enhance the visual appearance of the commercial and industrial areas within the city, to increase the taxable value of the city, and to promote the community public health, safety, and welfare.

Subd. 2. Exterior building materials. The exterior surface of all buildings in the commercial and industrial zones shall be one of, or a combination of, the following materials:

a) Permitted materials

- (i) face brick, stone, glass or similar material;
- (ii) architecturally treated concrete; and
- (iii) stucco or other cementitious coating applied in a manner so as to create a harmonious design with other exterior materials.

If the any of the following materials are used, they may constitute no more than 80 percent of the building elevation facing a roadway. The remaining 20 percent must be of a different color, material, or architectural relief provided that the visual effect of this relief is deemed substantially similar to a change in color or material.

- (iv) decorative concrete block whose color and texture is integral to the material.
- (v) textured or architecturally treated concrete masonry units, or panels, if either sealed or painted in a manner guaranteed by the manufacturer against blistering, peeling, cracking, flaking, checking, or chipping for a minimum of five years.
- (vi) metal panels with interlocking, concealed, or tongue-and-groove seams and approved fasteners, if the exterior surface finish is warranted by the manufacturer for 20 years against blistering, peeling, cracking, flaking, checking, or chipping.

b) Acceptable accent materials: To satisfy the requirements of the remaining 20 percent of a building surface area, the following accent materials are acceptable:

- (i) any of the permitted materials listed above,
- (ii) wood if sealed or treated in manner guaranteed for a minimum of five years.

c) Prohibited materials: Plain, flat, unpainted concrete block, or any metal not meeting the standards outlined in (a)(vi) above.

Subd. 3. Accessory structures. Garages and accessory structures, must be of a similar material, quality and appearance as the principal structure. The height of the accessory structure may not exceed that of the principal structure. Screen walls and exposed areas of retaining walls must be constructed of a permanent material and finish and must be of a compatible color and material as the principal structure.

Subd. 4. Rooftop utilities. The ground level view of all rooftop equipment, including rooftop structures related to elevators and other mechanical utilities must be completely screened from contiguous properties and adjacent streets with materials of similar type, quality, and appearance as that of the principal structure. If due to factors unique to the property or the project, it is either physically impossible or impracticable to completely screen these utilities, the council may approve alternative solutions that renders them aesthetically compatible with the principal structure.

Subd. 5. Loading and service areas/outdoor storage. The perimeter views of all external loading and service areas and any areas of outdoor storage must be screened from residential uses and adjacent public streets and the public front and office sides of all commercial and industrial uses, except at access points. Such screening can be accomplished through the placement of the building on the lot or the placement of a building on an adjacent lot. Screening can also be accomplished through the use of berming, landscaping (80 percent opaque at the time of maturity) or existing vegetation. If screen walls are proposed then the materials used shall be of similar type, quality, and appearance as that of the principal structure. If due to factors unique to the property or the project, it is either physically impossible or impracticable to completely screen these areas, the council may approve alternative solutions that renders them aesthetically compatible with the principal structure.

Subd. 6. Trash handling. Trash and trash handling equipment must be stored within the principal structure or within an attached structure accessible from within the principal structure or within an accessory structure totally screened from eye level view from public streets and adjacent residential properties. Such structures shall be constructed of the same building material as the principal structure. If due to factors unique to the property or the project, it is either physically impossible or impracticable to completely screen these structures, the council may approve alternative solutions that render them aesthetically compatible with the principal structure.

Subd. 7. Landscaping.

- a) Applicability. The provisions of this subdivision shall apply to any property in a C-1, C-2, or I-1 district within the city.
- b) General provisions. All areas of land other than that occupied by building and/or hardstand (parking areas and driveways) must be landscaped with sod and/or mulch and/or rock material in planting beds. There must be a minimum of one tree per 800 square feet of the landscaped green area. If rock material is used on the boulevard, the streets department must approve the plan.

All trees used in site developments must be indigenous to the appropriate hardiness zone and physical characteristics of the site. Deciduous trees proposed to satisfy the minimum requirements of this policy shall be long-lived hardwood species. The complement of trees fulfilling the requirements of this policy may be not less than 25 percent overstory deciduous.

All area not otherwise improved in accordance with approved site plans must be sodded or seeded. Exceptions are:

- (i) undisturbed areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material;
 - (ii) areas designated as open space or future expansion areas properly planted and maintained;
 - (iii) use of mulch material such as rock or wood chips in support of shrubs and foundation plantings and the use of a weed inhibitor, such as plastic;
- c) Slopes and berms. Final manmade slope grades steeper than the ratio of 3:1 will not be permitted without special landscaping treatments such as terracing, retaining walls, or ground cover. Berming used to provide screening of parking lots shall be three feet in height and shall have a maximum slope ratio of 3:1.
- d) Woodland preservation credit. The retention of existing trees meeting the species, size and location requirements of this ordinance may be used to satisfy the minimum number requirements set forth in this code.
- e) Parking Lot Requirements. Parking lots of 30 or more spaces must landscape five percent of the parking lot surface area within the parking setback. The landscaped area could be in the form of landscape islands or as setback areas that are incorporated into the parking lot. The landscaped area must adhere to the size and material requirements of this section. Parking lots shall be screened from the public right-of-way except when doing so will create a safety hazard. Such screening must be 80 percent opaque and a height of three feet. The screen may be:
- (i) plant materials;
 - (ii) wood, concrete, masonry or ornamental iron; or

- (iii) a combination of these materials.

If due to factors unique to the property or the project, it is either physically impossible or impracticable to completely adhere to these landscape requirements, the council may approve alternative solutions that meet the intent of this code.

- (e) Plant size requirements. Plant size requirements for landscaping areas are as follows:

- (i) Deciduous trees must be at least 2-1/2 inches in diameter.
- (ii) Ornamental trees must be a minimum of 1-1/2 inches in diameter.
- (iii) Evergreen trees must have a minimum height of three feet.
- (iv) Potted shrubs must be in a five gallon pot or larger.
- (v) Evergreen shrubs used for screening purposes must be at least one foot in height at planting. Such shrubs must have a minimum spread of 24 inches.

Landscape screening plantings must be completed within one year from the date of building permit.

Subd. 8. Site lighting. Exterior lighting must be designed and arranged to direct illumination away from contiguous residential district property. Exterior lighting may not be arranged and designed to create direct viewing angles of the illumination source by pedestrian or vehicular traffic in the public right-of-way. Lenses, deflectors, shields, louvers and prismatic control devices must be used to eliminate nuisance and hazardous lighting. The light cast by these fixtures is restricted to 0.5 lumens at the property line. Such lighting may be no greater than 25 feet in height.

520.09. Fencing - residential and commercial. Subdivision 1. Permit not required. Building permits are required to construct fences six feet or more in height.

Subd. 2. Locations.

- a) Fences may be located entirely upon the private property of the persons constructing the fence unless the owner of the adjacent property agrees, in writing, that such fence may be erected on the division line of the respective properties. If adjacent neighbors cannot agree that such fence be placed on the property line, such fence must be placed one foot from property line. The city may require the owner of the property with an existing fence to establish the boundary line of his property by a survey.

- b) Where any business or industrial use (structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening must also be provided where a business, parking lot or industry is across the street from a residential zone, but not on the side of a business or industry considered to be the front.
- c) All exterior storage must be screened. The exceptions are (a) merchandise being displayed for sale; (b) materials and equipment currently being used for construction on the premises; and (c) merchandise located on service station pump islands.
- d) The screening required must consist of earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object.

Subd. 3. Construction and maintenance. Fences must be constructed in a workmanlike manner and of substantial material reasonably suited for its intended purpose. Fences must be constructed such that the attractive side of the fence is visible to the public. A fence must be maintained on both sides in a condition of good repair and not allowed to become or remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any fence which is, or has become dangerous to the city health and welfare is a public nuisance, and the city may commence proper proceedings for the abatement thereof. Electrical fences are not permitted except for agricultural purposes. Barbed wire fences are permitted on farms or for special security requirements by conditional use permit.

Subd. 4. Residential fencing and screening.

- a) Except as provided herein, fences outside the buildable area of a lot may not exceed six feet in height.
- b) Except as provided herein, fences within the buildable area of a lot may not exceed eight feet in height.
- c) Fences extending across front yards shall not exceed 3-1/2 feet in height and must be at least 50 percent open for the passage of air and light.

Subd. 5. Business and industrial fencing.

- a) Business and industrial fences may be erected up to eight feet in height. Fences in excess of eight feet require a conditional use permit.

- b) Business and industrial fences with barbed wire security arms a minimum of six feet in height (measured without the security arm) may be allowed by conditional use permit. The security arm must be angled in such a manner that it extends only over the property of the permit holder and does not endanger the public.

520.11. Permitted encroachments. The following are permitted encroachments on setback and height requirements except as otherwise provided in this code.

- a) In any yard. Posts, off-street open parking spaces, flues, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, open canopies, steps, chimneys, brick patios, flag poles, ornamental features, open fire escapes, sidewalks and fences, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter amended. Such encroachments must setback a minimum of three feet from the property line.
- b) Encroachments not permitted. Attached porches and decks that are covered and are integral to the principal structure must meet all setback and height requirements.

520.13. Accessory building and structures. Subdivision 1. In residential districts.

- a) An accessory structure may not exceed the height of the principal building.
- b) Accessory structures may not be located in the front yard setback area.
- c) An accessory structure or structures that are attached to the principle structure and are separated from the principal structure by a wall may be permitted upon approval of a building permit.
- d) A garage may be located in front of the principal structure if attached to the principle structure and separated from the principal structure by a wall, upon approval of a building permit.
- e) Detached garages must comply with the state building code regarding distance from principal structure and the use of fire walls.
- f) Such structures must meet the district side and rear setback requirements. Such structures may locate on that part of a front yard on a corner lot that is not the same from the front of the house, provided that it is within the front yard setback area.
- g) The total ground coverage of the accessory building or buildings may not exceed the ground coverage of the principal building.

- h) A residential lot may have no more than two accessory structures. If there are two, the smaller one may be no more than 144 square feet. (Amended, Ord. No. 41, Third Series)
- i) A detached garage or an accessory structure shall occupy no more than 30 percent of the area of any side or rear yard. (Amended, Ord. No. 41, Third Series)
- j) Garages and accessory structures, must be of a similar material, quality and appearance as the principal structure. Screen walls and exposed areas of retaining walls must be constructed of permanent material and finish and must be of compatible color and material as the principal structure. (Added, Ord. No. 38, Third Series)

Subd. 2. In commercial and industrial districts.

- a) An accessory building may not exceed the height of the principal building except by conditional use permit.
- b) Accessory buildings may be located any place to the rear of the principal building, subject to the fire zone regulations except where prohibited by other sections of this code.

520.15. Soil erosion and sediment control. Subdivision 1. General rule. The following standards apply to all development and activity that necessitates grading, stripping, cutting, filling or exposure of soils.

Subd. 2. General standards.

- a) Development must conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
- b) Development on slopes with a grade between 12 and 18 percent must be reviewed by the city to insure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- c) Erosion and siltation control measures must be coordinated with the different stages of development. Appropriate control measures must be installed prior to development when necessary to control erosion.
- d) Land must be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land must be exposed at any one period of time.

- e) Where the topsoil is removed, sufficient arable soil must be set aside for re-spreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
- f) The natural drainage system must be used as far as is feasible for storage and flow of runoff. Storm water drainage must be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps may be considered for existing or planned surface drainage. Marshlands and swamps used for storm water must provide for natural or artificial water level control. If constructed, temporary storage areas or retention basins scattered throughout developed areas must be constructed to reduce peak flow, erosion damage, and construction cost.
- g) Public and private properties adjacent to the development site must be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the city within five days of receiving notification of such. If the violation is not remedied within the time period specified, the city may correct the problem and assess the costs incurred to the property owner.

Subd. 3. Exposed slopes. The following control measures must be taken to control erosion during construction:

- a) An exposed slope may not be steeper in grade than four feet horizontal to one foot vertical.
- b) At the foot of each exposed slopes, a channel and berm should be constructed to control runoff. The channeled water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
- c) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures must be taken to prevent erosion. Such measures consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron a gravel energy dissipater should be installed to prevent erosion at the discharge end.

- d) Exposed slopes must be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length off exposure. Slope protections must consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedlings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes, and netting, or should be worked into the soil to provide additional slope stability.
- e) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

520.17. Preservation of natural drainageways. Subdivision 1. Waterways.

- a) Every effort must be made to retain the natural drainage systems in the city including existing wetlands and ponds. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.
- b) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-year storm. Adequacy is determined by the expected runoff when full development of the drainage area is reached.
- c) Fences or structures may not be constructed across the waterway that will reduce or restrict the flow of water.
- d) The banks of the waterway must be protected with permanent vegetation or rip-rap and should not exceed four feet horizontal to one foot vertical in gradient.
- e) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- f) The bed of the waterway should be protected with turf, sod, or concrete. If turf or sod will not function properly, rip-rap may be used. Rip-rap shall consist of quarried limestone, fieldstone (if random rip-rap is used) or construction materials of concrete. The rip-rap shall be no smaller than two inches square nor no larger than two feet square. Construction materials must be used only in those areas where the waterway is not used as part of recreation trail system.
- g) If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip-rap will be allowed to prevent erosion at these points.

Subd. 2. Sediment control of waterways

- a) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures must be incorporated throughout the contributing watershed.
- b) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction state of development. Development of housing and other structures are restricted from the area on either side of the waterway required to channel a 25 year storm.
- c) Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and must be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

520.19. Tree and woodland preservation. Subdivision 1. General. Structures and other amenities must be located in such a manner that the optimum number of trees is preserved.

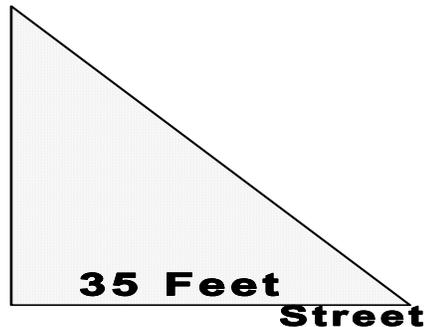
Subd. 2. Prior to the granting of a building permit, the person seeking the permit must demonstrate that there are no feasible or prudent alternatives to the cutting of trees. If trees are cut, they must be restored to the density of trees to that which existed before development but in no case may the density be compelled to be raised above ten trees per acre. Trees may be replanted either on project property or, pending approval from the city, on the public boulevard.

Subd. 3. Forestation, reforestation or landscaping must utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted must be hardy under local conditions and compatible with the local landscape.

Subd. 4. Development including grading and contouring must take place in such a manner that the root zone aeration stability of existing trees shall not be affected and will provide existing trees with a watering equal to one-half the crown area.

Subd. 5. The removal of trees seriously damaged by storms and other acts of God, or diseased trees is permitted.

520.21. Traffic control. The traffic generated by any use must be channeled and controlled in a manner that will avoid: (a) congestion on the public streets; (b) traffic hazards; and (c) excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas must, to the extent possible, be forward moving with not backing into streets. On corner lots (including rural areas), nothing shall be placed or allowed to grow with the exception of seasonal crops in such a manner as materially to impede vision between a height of 2-1/2 and ten feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision of the intersecting street is possible. Except in the C-1 District, no obstruction is allowed in the shaded area of clear sight



triangle illustrated below.

520.23. Vacated streets. If a street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the the vacated area shall not be affected by such preceding.

520.25. Access drive and access. Subdivision 1. Access drives may be placed adjacent to property lines except that drives consisting of crushed rock, other non-finished surfacing may be no closer than five feet to any side or rear lot line. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow

Subd. 2. Access drives onto county roads require a review by the county engineer. The county engineer will determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

Subd. 3. Access drives to principal structures which traverse wooded, steep, or open field areas must be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The administrator must review all access drives (driveways) for compliance with accepted community access drive standards. Driveways must have a minimum width of ten feet with a road strength capable of supporting emergency and fire vehicles.

Subd. 4. Lots or parcels must have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the city council.

520.27. Private sewer systems. The standards in Minnesota Pollution Control Agency's Standards for Sewage Treatment Systems are adopted by reference. If there are any inconsistencies between the standards found in this code and state standards, the state standards govern. Proof of a certified inspection of an individual sewage treatment system is required prior to the issuance of a building permit. Any such system judged to be of an imminent health hazard must be upgraded and pass a certified inspection before a building permit will be issued.

520.29. Manufactured homes. Subdivision 1. Standards: R-2 district. Manufactured homes are permitted in the R-2 and R-4 districts provided they.

- a) exceeds 24 feet in width;
- b) have a minimum floor area of 960 square feet; and
- c) are placed on a permanent foundation.

Subd. 2. R-4 district. Manufactured homes are permitted in the R-4 district if they meet current building code standards on manufactured home.

Subd. 3. Federal and state standards. All manufactured homes permitted under this code must meet all the appropriate federal laws dealing with health and safety for manufactured homes as well as the appropriate state building and health codes for manufactured homes including the state building code.

520.31. Manufactured home parks. Subdivision 1. Intent. The intent and purpose of this subsection is to assure quality development equal to that found in other types of residential areas throughout the city.

Subd. 2. Application: permit. The application for a building permit or conditional use permit, in addition to other requirements, must include the name and address of the developer and a general description of the construction schedule and construction cost. The application must be accompanied by plans which indicate the following.

- a) Location and size of the manufactured home park.
- b) Location, size, and character of all manufactured home lots, manufactured home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites, and all setback dimensions.
- c) Detailed landscaping plans and specifications.
- d) Location and width of any sidewalks.

- e) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service, and gas service.
- f) Plans for an overhead street lighting system shall be submitted for approval by the city engineer.
- g) The method of disposing of garbage and refuse.
- h) Location and size of all streets abutting the manufactured home park and all driveways from such streets to the park.
- i) Plans and specifications for all road construction either within the park or directly related to park operation.
- j) Floor plans of all service buildings to be constructed within the manufactured home park.
- k) Other information as may be required or requested by the administrator.

Subd. 3. Performance standards for manufactured home parks

- a) Manufactured homes must be properly connected to a central water supply and a central sanitary sewer system in conformance to standards adopted by the Minnesota Pollution Control agency. Water and sewer systems must be constructed in accordance with plans and specifications approved by the county engineer. Where a public water supply is available to the manufactured home park or at the boundary of the park, a connection to the public water supply must be provided for each manufactured home.
- b) A manufactured home park must maintain an off-street overload parking lot for guests of occupants in the amount of one space for each three sites.
- c) All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the city engineer, and there may be no overhead wire or support poles except those essential for street or other lighting purposes. Plans for the disposal of surface storm water must be approved by the city engineer.
- d) A properly landscaped area must be adequately maintained around each manufactured home park. Manufactured home parks adjacent to industrial, commercial or residential land uses must be provided with screening, such as fences or natural growth, along the property boundary lines separating the park from such adjacent uses.

- e) Every structure in the manufactured home park must be developed and maintained in a safe, approved, and substantial manner. The exterior of every structure shall be kept in good repair. All of said structures must be constructed to meet existing state codes. Portable fire extinguishers rate for electrical and liquid fires must be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.
- f) The area beneath all manufactured homes must be enclosed with a material that must be generally uniform through the entire manufactured home park, except that such an enclosure must be so constructed that it is subject to reasonable inspection. An obstruction that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment is prohibited. Manufactured homes moved into the park must be skirted within 30 days.
- g) Manufactured home parks must have an area or areas set aside for dead storage, boats, boat trailers, hauling trailers, and all other equipment not generally stored within the manufactured home or within the utility enclosure, that may be provided, must be stored in a separate place provided by the park owner. This storage place must be screened. The equipment may not be stored upon a lot which is occupied by a manufactured home nor upon the streets within the manufactured home park.
- h) Signs are limited to one nameplate or identification sign not to exceed 25 square feet, with lighting, height and location as approved by the administrator and have a 15 foot setback from the front line.
- i) A manufactured home park must have one or more central community buildings for public safety during storms with central heating, which must be maintained in a safe, clean, and sanitary condition. The buildings must be adequately lighted during all hours of darkness and must contain laundry washers, dryers and drying areas, public telephones, and public mail boxes, in addition to public toilets and lavatory. For each 100 manufactured home lots or fractional part thereof, there must be one flush toilet and one lavatory for each sex.
- j) Structures being placed in the park require a permit.
- k) A recreation area consisting of 100 square feet per manufactured home site must be provided, but in no instance may less than 5,000 square feet be provided for such purpose.
- l) The minimum width of streets is 24 feet.

Subd. 4. Manufactured home park lots

- a) A manufactured home site must contain at least 5,000 square feet of land area for the exclusive use of the occupant and at least 50 feet wide.
- b) Manufactured homes and auxiliary structures must be placed upon manufactured home lots so that there is at least five feet from the side lot line, 20 feet between the front of the manufactured home and the front lot line, and 20 feet between the rear of the manufactured home and the rear lot lines.
- c) The area occupied by a manufactured home may not exceed 50 percent of the total area of a manufactured home site; land may be occupied by a manufactured home, a building, a cabana, a carport, an awning, or any structure. No other building or structure may be attached to the manufactured home other than one open carport, dimensions not to exceed 12 feet x 20 feet and one enclosed or covered entryway. The entryway covered or enclosed may not exceed 12 feet x 14 feet. In addition to the above, one utility shed eight feet x ten feet or with dimensions not to exceed 80 square feet is permissible at a designated location on the lot, provided that the utility shed may not be attached to the manufactured home.
- d) The yards must be landscaped except for necessary driveway and sidewalk needs, which may not exceed one-half the width of the site.
- e) Each manufactured home lot must have off-street parking space for at least two automobiles. Each space must be nine feet by 20 feet minimum.
- f) The corners of each manufactured home lot must be clearly marked and each site shall be numbered.

Subd. 5. Manufactured home stands. The area of the manufactured home stand must be imposed to provide adequate support for the placement and tie-down of the manufactured home, thereby securing the superstructure against uplift, sliding, rotation, and overturning.

- a) Manufactured home stands may not heave, shift, or settle unevenly under the weight of the manufactured home, due to the frost action, inadequate drainage, vibration, or other forces acting upon the structure.
- b) Manufactured home stands must be provided with anchors and tie-downs, such as cast-in-place concrete foundations or runways, screw augers, arrowhead anchors or other devices providing for stability of the manufactured home.
- c) Anchors and tie-downs must meet current Minnesota State Uniform Manufactured Home Standards Code.

Subd. 6. Park management.

- a) The person to whom a permit for a manufactured home park is issued must operate the park in compliance with this code and shall adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
- b) The park management must notify park occupants of all applicable provisions of this code and inform them of their duties and responsibilities under this code.
- c) An adult caretaker must be present at all times and is responsible for the maintenance of the park.
- d) A park must have an office for the use of the operator distinctly marked "OFFICE" and such marking must be illuminated during all hours of darkness.
- e) The operator of a manufactured home park must maintain a registry in the office of the manufactured home park indicating the name and address of each permanent resident. Home number must be placed on the manufactured home and be at least three inches in height and visible from the street.
- f) The limits of each manufactured home lot must be clearly marked on the ground by permanent flush stakes, markers, or other suitable means, and the lot limits must be approximately the same as shown on the accepted plans.
- g) A map of the manufactured home park must be displayed at the manufactured home park office and be illuminated during all hours of darkness.
- h) Public address or loudspeaker systems are prohibited.
- i) Dogs and animals are not be permitted to run at large within the manufactured home park.
- j) It is unlawful to erect, place, construct, reconstruct, relocate, alter, maintain, use, or occupy a cabana or structure in a manufactured home park without the written consent of the owner or operator of the manufactured home park.

520.33. Apartments, townhouses and other multi-family use. Subdivision 1. Location. Multi-family units including apartments and townhouses are a permitted use in the R-3 district.

Subd. 2. Standards for multi-family buildings. Requests for a building permit must be accompanied by a series of site plans and data showing:

- a) building locations, dimensions and elevations, sign structures, entry areas, storage sites, and other structural site improvements;
- b) circulation plans for both pedestrian and vehicular;
- c) fences and screening devices, if required;
- d) solid waste disposal provisions and facilities;
- e) storm drainage plans;
- f) fire fighting and other public safety facilities and provisions such as hydrant locations and fire lanes;
- g) data pertaining to numbers of dwelling units, sizes, and lot areas;
- h) exterior wall materials and design information;
- i) a two-foot contour topographical map of the existing site;
- j) a grading plan illustrating the proposed grade changes, from the original topographical map. All site area, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, storm water and ground water in such a manner as to preclude large scale erosion, unwanted ponding and surface chemical runoff;
- k) a recreation plan illustrating in detail all recreational facilities and structures;
- l) a landscape plan. The site, when fully developed, must be landscaped according to a plan approved by the council. The landscaping plan must specify the size, type and location of all trees and shrubbery and the location of all seeded and sodded areas; and
- m) a soil erosion control plan for the construction period. Areas within the construction zone must be fenced with construction limit fencing as per the plan to prohibit heavy machinery or materials, or both, from being placed on areas not be disturbed during construction. This, at a minimum, includes all slopes in excess of 18 percent.

Subd. 3. Parking requirements.

- a) Two parking spaces per unit must be provided. Each space may not be less than nine feet wide and 20 feet in length and served adequately with access drives. One parking space must be in a garage. Nursing homes, convalescent, assisted living, and senior citizen housing, and congregate care facilities and rest homes must provide one stall per dwelling unit either in a garage or in an off-street surface lot.
- b) Parking spaces may not be within six feet of the side lot line, or within five feet of the rear lot line.
- c) Bituminous hot mix or concrete driveways and parking areas.

Subd. 4. Landscape provisions

- a) The design must make use of all land contained in the site. All of the site must be related to circulation, recreation, screening, building, storage, and landscaping.
- b) A minimum of 20 percent of the site must be landscaped.

Subd. 5. Screening

- a) Screening to a height of at least five feet is required where: (i) any off-street parking area contains more than six parking spaces and is within 30 feet of an adjoining residential zone, and (ii) where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential zone.
- b) Exterior storage must be screened. The exterior storage screening required consists of a solid fence or wall not less than five feet high, but not extending within 15 feet of any street. The screening must be compatible in look and design with the principal structure.

520.35. Parking. Subdivision 1. Surfacing and drainage. Off-street parking areas, except for single-family dwelling units, must be paved with Portland cement concrete or plant hot mixed bituminous surface. Such areas must be so graded and drained as to dispose of all surface water accumulation within the area.

Subd. 2. Location. Accessory off-street parking facilities must be located as follows:

- a) Spaces accessory to one and two-family dwellings on the same lot as the principal use served.

- b) Spaces accessory to multiple family dwellings on the same lot as the principal use served or within 400 feet of the main entrance to the principal building served.
- c) There may be no off-street parking lot within a street right-of-way.
- d) An off-street open parking area containing more than four parking spaces may not be located closer than six feet from an adjacent lot zoned or used for residential purposes.

Subd. 3. General provisions.

- a) A parking space may not be less than nine feet wide and 20 feet in length.
- b) When required, accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property use must file a recordable document with the city council requiring the owner and the owner's heirs and assigns to maintain the required number of off-street spaces during the existence of the principal use.
- c) Required off-street parking space in any district may not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or rent.
- d) Parking is not allowed in areas that are not designated for off-street parking.
- e) Off-street handicap spaces must adhere to the provisions of the American with Disabilities Act (ADA).

Subd. 4. Design and maintenance of off-street parking areas.

- a) Parking areas must be designed so as to provide adequate means of access to a public alley or street. Such driveway access may not exceed 30 feet in width and shall be so located so as to cause the least interference with traffic movement.
- b) Open off-street parking areas designed to have head-in parking along the property line must provide a bumper curb not less than five feet from the side property line or a guard of normal bumper height not less than three feet from the side property line.

- c) When a required off-street parking space for six cars or more is located adjacent to a dwelling unit, a fence approved by the administrator must be erected along the residential property line.
- d) It is the joint and several responsibility of the operator and owner of the principal use, uses or building, or both, to maintain, in a neat and adequate manner the parking space accessways, landscaping and required fences.
- e) A parking space may not be less than 300 square feet per vehicle of standing and maneuvering area.

Subd. 5. Truck parking in residential areas. A commercially licensed trailer may not be parked or stored in a residential district or a public street except when loading, unloading, or rendering a service. Recreation vehicles and pickups are not restricted by the terms of this provision.

Subd. 6. Other parking in residential areas. Parking in residential areas (off-street and on-street) is limited to the use of the residents of those homes. Except for short-term parking (eight hours or less) and guest parking, the number of vehicles parked on or in front of a residential lot may not exceed double the number of persons residing on the premises and having automobile drivers' licenses.

Subd. 7. Off-street spaces required (except for C-1 district unless otherwise required) (one space equals 300 square feet).

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|----|--|--|
| a) | Single-family detached dwelling units and duplexes | Two spaces per dwelling |
| b) | Apartments and condominiums | Two spaces per dwelling unit |
| c) | Congregate housing for the elderly | One space per unit |
| d) | Business and professional offices | One space for each 200 square feet of gross floor space |
| e) | Medical and dental clinics | Five spaces per doctor or dentist plus one space for each employee |
| f) | Hotel or motel | One space per rental unit plus one space per full-time employee |
| g) | Elementary school | Three spaces for each classroom |

- h) High school At least one parking space for each four students based on design capacity, plus one additional space for each classroom
- i) Drive-in food establishment floor One space for each 15 square feet of gross space in building allocated to drive-in operation
- j) Bowling Alley spaces Six spaces for each alley, plus additional as may be required herein for related uses such as a restaurant
- k) Automobile Service Station At least two off-street parking spaces plus four off-street parking spaces for each service stall
- l) Retail shopping At least one off-street parking space for each 250 square feet of gross floor area
- m) Restaurants, Cafes, Bars, Taverns, Night Clubs At least one space for each three seats based on design capacity
- n) Industrial, Warehouse, Storage Handling of Bulk Goods At least one space for each employee on maximum shift or one space for each 2,000 square feet of gross floor area, which ever is larger
- o) Theaters, auditoriums, mortuaries, stadiums, arenas, dance halls, and other places of assembly Spaces equal in number to 1/3 of the capacity in persons
- p) Churches Spaces equal in number to 1/3 of the capacity in persons of the main sanctuary or auditorium plus provisions for supplementary parking space needs for other portions of the church facilities as determined by final site and building plans as determined by the city council following review by the planning commission
- (q) Uses not specifically noted As determined by the city council following review by the planning commission

Subd. 8. Off-street loading and unloading areas

- a) Required loading berths must be off-street and located on the same lot as the building or use to be served. A loading berth must be located at least 25 feet from the intersection of two street rights-of-way and at least 50 feet from a residential district unless within a building. Loading berths may not occupy the required front yard space.
- b) Unless otherwise specified in this code, a required loading berth may be not less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.
- c) The number of spaces is determined by the council following review by the planning commission.
- d) A required loading berth must be located with appropriate means of vehicle access to a street or public alley in a manner that will least interfere with traffic.
- e) Loading berths and accessways must be improved with a durable material to control the dust and drainage.
- f) A space allocated as a loading berth or maneuvering area so as to comply with the terms of this code may not be used for the storage of goods, inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.
- g) In connection with any structure which is to be erected or substantially altered, and which requires the receipt of distribution of materials or merchandise by trucks or similar vehicles, there must be provided off-street loading space.
- h) Where noise from loading or unloading activity is audible in a residential district, the activity must terminate between the hours of 7:00 p.m. and 7:00 a.m.

SECTION 525 – SIGNS

525.01. General provisions. Subdivision 1. Application. The provisions of this section apply to signs located in all zoning districts.

Subd. 2. Signs and sign structures must be properly maintained and be constructed of sufficiently permanent materials so as not succumb to deterioration from weathering. An existing sign or sign structure that is rotted, unsafe, deteriorated, defaced or otherwise altered, must be repainted, repaired, replaced or removed as necessary.

Subd. 3. When electrical signs are installed, the installation is subject the state electrical code. Overhead electrical wiring is prohibited.

Subd. 4. Only governmental signs may be erected or temporarily placed within any street right-of-way or upon public lands or easements or right-of-ways unless the council approves such location.

Subd. 5. A sign or sign structure may not be erected or maintained if it prevents free ingress or egress from any door, window, or fire escape. A sign or sign structure may not be attached to a standpipe or fire escape.

Subd. 6. Temporary signs are allowed for special business events such as business openings and closings, change in management, district wide shopping events or other special occasions for a maximum period of 30 consecutive days.

Subd. 7. Sign and sign structures not used for signage for 12 consecutive months must be removed.

Subd. 8. The city may grant a permit to locate signs or decorations on, over or within the right-of-way for a specified period of time.

Subd. 9. A sign that obstructs the vision of drivers or pedestrians or detracts from the visibility of an official traffic control device is prohibited.

Subd. 10. A sign that contains or imitates an official traffic sign or signal, except for private, on-premises directional signs, is prohibited.

Subd. 11. A sign that moves or rotates including electronic reader board signs, except approved time and temperature informational signs and barber poles, is prohibited.

Subd. 12. A sign may not display any moving parts, be illuminated with any flashing or intermittent lights or be animated, except time and temperature information. Displays must be shielded to prevent any light to be directed at oncoming traffic in such brilliance as to impair the vision of any driver. A device may not be illuminated in such a manner as to interfere with or obscure indoor signs that are visible from public streets.

Subd. 13. Roof signs, including signs that project over the eave line are prohibited.

Subd. 14. A sign may not be erected, placed or maintained on rocks, fences, or trees.

Subd. 15. A sign that interferes with any electric light, power, telephone wires or the supports thereof is prohibited.

Subd. 16. A sign may not contain more than two surface areas or facings fronting along the public right-of-way.

525.03. Permitted signs. Subdivision 1. The signs specified in this subsection are allowed without a permit in all zoning districts but must comply with all other applicable provisions of this code.

- a) Public signs. Signs of a public, noncommercial nature including safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historic points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.
- b) Integral signs. Names on buildings, date of construction, commemorative tablet and the like, which are of permanent construction and which are an integral part of the building or structure.
- c) Political signs. Signs or posters announcing candidates seeking political office or issues to be voted upon at a public election.
- d) Holiday signs. Signs or displays which contain or depict messages pertaining to a national, state or local holiday and no other matter and which are displayed for a period not to exceed 60 days. The term includes holiday lights.
- e) Construction signs. A non-illuminated sign announcing the names of architects, engineers, contractors or other individuals or firms involved with the construction, alteration or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise or the purpose for which the building is intended. Such signs must be confined to the site of the construction, alteration or repair and shall be removed within two weeks after the project is completed. One sign is permitted for each major street the project abuts. No sign may exceed 32 square feet in R-3, R-4, C-1, C-2, and I-1 districts and 12 square feet in A, R-1, and R-2 districts.
- f) Individual property sale, lease or rental sign. An on-premise sign announcing the name of the owner, manager, realtor or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered. Such signs are limited to six square feet in residential districts and 32 square feet in commercial districts. Signs must be removed within ten days after sale or rental of property and must be located on the property exclusive of the public right-of-way.
- g) Rummage sale signs. Signs advertising a rummage sale not exceeding four square feet located on private property which conform to the applicable provisions of this code and are removed at the termination of the sale.

- h) Real estate development project signs. For the purpose of selling or promoting a development project of up to 25 acres, one sign not to exceed 32 square feet may be erected on the project site. For projects over 25 acres, one or two signs not to exceed 32 square feet of advertising surface per sign may be erected. The signs may not remain after 95 percent of the project is developed. The permit for such sign must be renewed annually by the council. If the signs are lighted, they must be illuminated only during those hours when business is in operation or when the model homes or other development are open for conducting business.
- i) Farm product signs. Signs that are located on farm property containing a dwelling unit and related to farm products, merchandise or services sold, produced, manufactured or furnished on such farm. The signs may not exceed 32 square feet in area.
- j) Church directional signs. Provided that they are no greater than 12 square feet.
- k) Decorative lighting. Decorative lighting is permitted provided that it meets all other requirements of this code.

Subd. 2. Permitted signs in residential districts. The following signs are permitted in residential districts:

- a) Professional nameplate wall signs not exceeding two square feet in area.
- b) Memorial signs or tablets, names of buildings and the date of erection when cut into a masonry surface or when constructed of bronze or other incombustible material.
- c) Political signs.
- d) Individual property sale, lease or rental signs.
- e) Construction signs.
- f) Bulletin boards or public information signs not over 32 square feet located only on the premises of public, charitable or religious institutions.

Subd. 3. Permitted signs in business and industrial districts: The following are permitted with a sign permit:

- a) Number: One of each of the following signs are allowed per business: wall sign, awning, and canopy. When a building or business abuts two or more public streets, an alley or a parking lot, each such additional abutting face may also have one of the above-described signs located on it. (Amended, Ord. No. 14, Third Series)

- b) Sign plan: When there is more than one business or use in a building with more than one sign, the operator of each use may install a wall sign for their particular use, a building sign plan must be provided with the sign permit application.
- c) Building signs: Total building signage, including wall signs, canopies, awnings, projecting signs, and banners may not exceed 15 percent of the building face or 250 square feet whichever is greater. In multi-tenant buildings, each tenant may have one business sign but the cumulative total sign area shall not exceed 15 percent of the total building face.

Wall signs may not project more than 16 inches from the wall to which the sign is to be affixed and may not be located lower than eight feet from the ground. Such signs may not project over the roofline of the building wall to which the sign is affixed.

- d) Freestanding signs: Such signs shall not exceed 25 feet in height, measured from the ground to the top of the sign or sign pylon, whichever is greater and may not exceed 90 square feet on any sign surface area.
- e) Awning and canopy signs: The gross surface of an awning or canopy sign may not exceed 50 percent of the gross surface area of the smallest face of the awning or canopy to which the sign is to be affixed and may not project higher than the top of the awning or canopy or below the awning or canopy.
- f) Projecting signs: The total area of a projecting sign may not exceed 36 square feet and shall be located above street level and easily visible from the sidewalk. Such signs, if lighted must be internally illuminated.
- g) Noncommercial signs: A noncommercial sign that contains or consists of pennants, ribbons, streamers, spinners or similar devices.

Subd. 4. Conditional uses. The following signs are allowed in commercial and industrial districts upon the issuance of a conditional use permit:

- a) A sign that contains or consists of pennants, ribbons, streamers, spinners or similar devices.
- b) Signs painted directly on building walls.
- c) Spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light, revolving beacons, beamed lights or similar devices.

525.05. Permits. In cases where a sign permit is required, a sign permit application containing the following information must be filed with the administrator:

- a) A drawing of the proposed sign, or signs, showing dimensions and describing materials, lettering, colors, illumination and support systems.
- b) Photographs of the building face and the building faces abutting both adjacent buildings.
- c) A drawing of the building face and site plan showing the location of the proposed sign(s) as necessary.
- d) A cross section of the building face showing how the sign will be attached and how far it will extend from the building.
- e) Any pictorial proof or other information showing how the sign will be attached and how far it will extend from the building.
- f) A building sign plan for a building with more than one use or business, showing all signs.

525.07. Nonconforming uses: Nonconforming signs that are lawful on the effective date of this code may be altered, extended, restored or abandoned in the same manner as other nonconforming uses under this code.

525.09. Sign maintenance:

- a) All signs must be constructed of high quality materials in a professional and workmanlike fashion.
- b) The owner of any sign must have such sign properly maintained, including all parts and supports of the sign, unless such supports are galvanized or otherwise treated to prevent rust.
- c) The owner or lessee of any sign or the owner of the land on which the sign is located must keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also for a distance of six feet behind and at the ends of the sign.

525.11. Obsolete signs. A sign that ceases to advertise a bona fide business conducted or a product sold must be taken down and removed by the owner, agent or person having the beneficial use of the building, or land upon which the sign found within ten days after written notice from the zoning administrator.

525.13. Unsafe or dangerous signs. A sign that becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, must be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which the sign is located within ten days after written notification from the administrator.

SECTION 530 – AGRICULTURAL PERFORMANCE STANDARDS

530.01. Agricultural operations. Subdivision 1. Existing farms. Agricultural uses in existence upon the effective date of this code are a permitted use where the operator can conduct a farming operation. However, all regulations contained in these performance standards apply to all changes of the farming operation that will cause all or part of the area to become more intensively used or more urban in character. Any structure exceeding \$500 in value to be erected on a farm requires a building permit and must conform to all requirements of the building code. The council may require any farm operator to secure a conditional use permit to expand or intensify said operations in the event of the following:

- a) The farm is adjacent to or within 400 feet of any dwelling unit and may be detrimental to living conditions by creating safety hazards or by emitting noise, odor, vibrations or similar nuisances.
- b) The farming operations are so intensive as to constitute an industrial type use consisting of the compounding, processing and packaging of products for wholesale or retail trade.
- c) Any expansion which would increase the number of animal units on the operation or increase the total agricultural acreage by ten percent or more.

Subd. 2. Animals in the A district. The keeping of animals is permitted according to the following regulations. (Amended, Ord. 37, Third Series)

- a) Dogs, cats, and other domestic animals customarily kept as pets are not subject to these regulations.
- b) On lots less than two acres, only dogs, cats, and other domestic animals customarily kept as pets are permitted.

- c) On lots of two acres and over, the following types of animals shall be permitted at the following densities.

<u>Animal Type</u>	<u>Animals Per Acre</u>
Equine (horses, mules, etc)	1.0
Cattle	1.0
Pigs, swine	2.0
Sheep, goats, or similar	5.0
Large poultry (turkeys, ducks, etc.)	25.0
small poultry (chickens, rabbits, etc)	50.0

Subd. 3. Animal feedlots. Animal feedlots are prohibited in all zoning districts.

SECTION 535 – HOME OCCUPATION STANDARDS

535.01. Home occupations. Subdivision 1. Home occupations allowed under conditions. A home occupation may not adversely affect the character of the uses permitted in the zoning district in which the property is located.

Subd. 2. Principal structure. For purposes of this section, the term "principal structure" includes only that portion of the structure used for living purposes, excluding attached garages and other related storage areas with outside entrances, seasonal porches, decks and breezeways.

535.03. Permitted home occupations. Permitted home occupations are those occupations where no customers visit the premises. The following criteria must be met for a permitted home occupation.

- a) Not more than 25 percent of the square footage of the principal structure as measured by using the horizontal perimeter of the principal structure, may be used for a home occupation. Not more than 25 percent of the square footage of an attached or detached garage, as measured by using the horizontal perimeter of the garage, may be used for a home occupation. No part of the home occupation area may displace the original purpose of the garage, that is, the parking of vehicles. No part of any accessory structure, whether attached to or detached from the principal structure or garage, may be used for a home occupation, except a garage as herein before allowed.
- b) Only articles made or originating on the premises may be sold on the premises, unless such articles are incidental to a permitted commercial service.

- c) Articles for sale may not be displayed so as to be visible from any street.
- d) No person is employed other than a member of the household residing on the premises.
- e) Mechanical or electrical equipment may be used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered.
- f) A person having a home occupation must provide proof of meeting the aforementioned requirements of this section if complaints are received by the administrator.
- g) Signs pertaining to permitted home occupations are not allowed on the premises.

535.05. Home extended businesses. A home-extended business is that of a business profession that would generate traffic or customers visiting the premises. The following criteria must be met for a special conditional use home occupation.

- a) Not more than 25 percent of the square footage of the principal structure as measured by using the horizontal perimeter of the principal structure, may be used for a home-extended business. Not more than 25 percent of the square footage of an attached or detached garage, as measured by using the horizontal perimeter of the garage, may be used for a home-extended business. No part of the home-extended business area shall displace the original purpose of the garage, that is, the parking of vehicles. No part of any accessory structure, whether attached to or detached from the principal structure or garage, may be used for a home occupation, except a garage as herein before allowed.
- b) Only articles made or originating on the premises may be sold on the premises, unless such articles are incidental to a permitted commercial service.
- c) Articles for sale may not be displayed so as to be visible from any street.
- d) No person is employed other than a member of the household residing on the premises.
- e) No mechanical or electrical equipment is used if the operation of such equipment interferes unreasonably with the desired residential environment of the neighborhood or if the health and safety of the residents is endangered.
- f) Such occupation does not generate more than two vehicles at one time.

- g) A person having a home-extended business must provide proof of meeting the aforementioned requirements of this section if complaints are received by the council.
- h) A sign on the premises may consist of not more than one, single faced, unlighted wall sign installed flush to the structure with a maximum area of two square feet.

535.07. Procedures and permits.

- a) If the home occupation or home extended business is discontinued or abandoned for six consecutive months, the home occupation must conform to the then present home occupation standards of this code, if the occupation is proposed to be recommenced.
- b) Home extended business permits do not run with the land and are not transferable or handed down from generation to generation.
- c) If the structure in which the home occupation is located is destroyed to an extent of more than 50 percent of the replacement cost at the time of destruction, and if the occupation is proposed to be continued upon reconstruction, the occupation must conform to the then present home occupation standards, of this code.

SECTION 540 – AUTO SERVICE STATION STANDARDS

540.01. Basic standards. Subdivision 1. Lot size. A service station site must be a minimum of 15,000 square feet in size.

Subd. 2. Setbacks. The building or buildings must be set back at least 35 feet from the street right-of-way. Adjacent to residential districts, the service station buildings, and signs shall be a minimum of 25 feet from adjoining property. In commercial areas, the structures must be set back at least ten feet from adjoining property. Service station pumps may not encroach on setbacks and shall meet all district setbacks and height requirements.

Subd. 3. Curbs and gutters. Curbs and gutters must be installed on all streets giving access to the station. There must be a six-inch curb along all interior driveways.

Subd. 4. Fencing and screening. When adjacent to residential property, there must be a screening fence. When adjacent to commercial property, there must be a bumper-type or screening fence 18 inches high between the station and the adjacent commercial property.

Subd. 5. Vehicles. Vehicles may not be parked on the premises other than those utilized by employees or awaiting service. A vehicle may not be parked or be waiting service longer than 15 days.

Subd. 6. Exterior storage. Exterior storage besides vehicles must be limited to service equipment and items offered for sale. Exterior storage of items offered for sale must be within yard setback requirements and must be located in containers such as the racks, metal trays, and similar structures designed to display merchandise.

Subd. 7. Screening. All areas utilized for the storage or disposal of trash, debris, discarded parts, and similar items must be fully screened. All structures and grounds must be maintained in an orderly, clean and safe manner.

Subd. 8. Outdoor displays. The storage of used tires, batteries, and other such items for sale outside the building must be controlled; such items shall be displayed in specially designed containers and be limited to one or two areas well back from the street right-of-way line. Junk cars, empty cans, and other unsightly materials are not permitted in an area subject to public view.

Subd. 9. Architecture. The station must be of a design that is compatible with the surroundings.

Subd. 10. Other activities. Business activities not listed in the definition of auto service stations in this code and not incidental to the business are not permitted on the premises of an auto service station unless a conditional use permit or license is obtained specifically for such business. Such activities include but are not limited to the following: (a) automatic car and truck wash; (b) rental of vehicle, equipment or trailers; and (c) general retail sales.

Gas pumps located at and a part of other types of business establishments require a conditional use permit.

SECTION 545 – DRIVE - IN STANDARDS

545.01. Drive-in business standards. Subdivision 1. The following standards apply to drive-in businesses.

Subd. 2. Design standards.

- a) The entire area of any drive-in business must have a drainage system approved by the city engineer.
- b) The entire area other than that occupied by structures or planting must be surfaced with a hot mix hard surface material that will control dust and drainage.

- c) A fence or screen of acceptable design not over six feet in height or less than four feet must be constructed along the property line abutting a residential district and such fence or screen must be adequately maintained. The screen must be compatible in design and color with the principal structure.

Subd. 3. General.

- a) A drive-in business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service seating area.
- b) The earliest and latest hours of operation will be setting forth as a condition of any building permit for drive-in business.
- c) A drive-in business serving food may have outside seating.
- d) Each food or beverage drive-in business must place refuse receptacles at all exits as well as one refuse receptacle per ten vehicle parking spaces within the parking area.
- e) Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments may not be located within 300 feet of any residential zone.
- f) No service may be rendered, delivery made, or sale conducted within the required front yard; customers served in vehicles must be parked to the side or rear, or either of them, of the principal structure.

Subd. 4. Location. A drive-in business serving food or beverage may not be located within 250 feet of a public or private school, church, or any residential dwelling unit.

Subd. 5. Site plan.

- a) The site plan must clearly indicate suitable storage containers for all waste material. All commercial refuse containers must be screened.
- b) A landscaping plan must be included and setting forth complete specifications for plant materials and other features.
- c) Adequate area must be designated for snow storage such that clear visibility must be maintained from the property to any public street.
- d) The design of any structure must be compatible with other structures in the surrounding area.

- e) Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments may not be located within 300 feet of any residential zone.
- f) No service may be rendered, delivery made, or sale conducted within the required front yard; customers served in vehicles must be parked to the side or rear, or either of them, of the principal structure.
- g) A plan will not be approved that will in any way constitute a hazard to vehicular or pedestrian circulation.

Subd. 6. Lighting. The lighting must be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential zone.

SECTION 550 – PRIVATE SWIMMING POOLS, SPAS, AND HOT TUBS - SAUNAS

550.01 Definition. Subdivision 1. For purposes of this code, a swimming pool, spa, and hot tub, means any pool or open tank not located within a completely enclosed building and with a surface area of 50 square feet or more than 100 gallons of water, as the case may be, excluding natural bodies of water.

Subd. 2. Standards for swimming pools, spas and hot tubs. The following conditions and requirements must be followed for swimming pools, spas and hot tubs.

- a) A swimming pool, spa or hot tub, is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.
- b) A swimming pool, spa or hot tub, and any walks, paved areas or accessory structures adjacent thereto, may not be located closer than ten feet to any property line on the property on which the swimming pool, spa, or hot tub is located.
- c) All swimming pools and hot tubs with a surface area of 50 square feet or more than 100 gallons of water must be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure, or any combination thereof, of sufficient density as to be impenetrable. If fences are employed, they must be at least four feet in height. The bottoms of the fences must not be more than four inches from the ground. Fences must be of a noncorrosive material and must be constructed so as to be not easily climbable. All fence openings or points of entry into the pool enclosure must be equipped with gates or doors. All gates or doors to swimming pools and hot tubs must be equipped with self-closing and self-latching devices placed at sufficient height so as to be inaccessible to small children.

- d) Rented portable hot tubs are exempt from b) and c) of this section for a period not to exceed 48 hours, provided they are rendered inaccessible when not in use.
- e) Pools, hot tubs, spas, and saunas must meet the structure setbacks listed for the district in which they are located.

SECTION 555 – OTHER PERFORMANCE STANDARDS

555.01. Animal hospitals. Animal hospitals may be located no closer than 100 feet to any residential district, restaurant, hotel or motel in any district. The owner must take adequate measures and controls to prevent offensive noise and odor. Incineration of refuse is prohibited on the premises.

555.03. Cemeteries. Cemeteries, crematories, mausoleums and columbiums must provide entrance on a major street or road with ingress and egress so designed as to minimize traffic congestion on city streets. Required off-street parking space must be provided and a minimum six-foot high evergreen hedge or a minimum 20 feet of permanently maintained planting strip on all property lines abutting any residential district or residential street.

555.05. Stables. Private stables and paddock must be located on the rear half of the lot and not closer than 20 feet to any property line, nor closer than 40 feet from any dwelling on the same or adjoining property. The minimum lot area upon which a horse may be kept is two acres, and two horses may be kept on such area. One additional horse may be kept for each additional acre of land greater than two acres.

555.07. Amusements. Amusement centers, bowling alleys, dance halls, and similar places of amusement must provide parking with ingress and egress designed so as to minimize traffic congestion. They must not be less than 20 feet from any property line. They must provide a minimum six-foot solid board fence or masonry wall separating parking area from abutting residential property. Proponents must show that adequate controls or measures will be taken to prevent offensive noise and vibration.

555.09. Day care centers.

- a) The minimum lot size for a day care center is 20,000 square feet and the minimum width is no less than 100 lineal feet.
- b) Off-street parking must be provided for all of the center's employees, with a minimum of ten parking stalls. Adequate stacking areas for drop-off and pick-up must also be provided.

- c) The outdoor activity area or the entire property, on which the day care center is located, must be so walled or fenced as to prevent uncontrolled ingress and egress by children.

555.11. Bed and breakfast establishments. Subdivision 1. Conditional use. Bed and breakfast establishments are allowed as a conditional use in all residential and commercial districts.

Subd. 2. Applicable city standards.

- a) The number of lodging rooms in any building may not exceed ten unless in the opinion of the council, following review by the planning commission, conditions warrant additional rooms.
- b) All other standards related to conditional uses and applicable standards in this code including those for signs, parking, etc., are applicable to bed and breakfast establishments.

SECTION 560 - ADMINISTRATION

560.01. Administration. Subdivision 1. Enforcing officer. The city administrator or other officer designated by the council is the zoning administrator. The zoning administrator must enforce this code and perform the following duties:

- a) Issue zoning permits pertaining to this code and make and maintain records thereof.
- b) Conduct inspections of buildings and use of land to determine compliance with the terms of this code.
- c) Maintain permanent and current records of this code, including but not limited to: all maps, amendments, and conditional uses, variances, appeals, and applications.
- d) Receive, file, and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies.
- e) Institute in the name of the city and under the direction of the city council proceedings against a violator as provided for in this code.

Subd. 2. Duties of the planning commission. The planning commission is to provide assistance to the city council and zoning administrator in the administration of this code. The recommendation of the planning commission are advisory in nature. Specifically, the planning commission must review, hold public hearings, and make recommendations to the city council on all applications for zoning amendments and conditional use permits.

560.03. Appeals and the board of zoning adjustment. Subdivision 1. The board of zoning adjustment is established and continued. The board consists of the planning commission.

Subd. 2. The board of adjustment acts upon all questions that arise in the administration of this code, including the interpretation of zoning maps. It hears and decides appeals from, and reviews any order, requirement, decision, or determination made by the administrator. Such appeal may be made by any person aggrieved or by any officer, department, board or bureau of the city. The board of adjustment may grant variances to the provisions of this code under certain conditions.

Subd. 3. Hearings by the board of adjustment are held within such time and upon such notice to interested parties as is provided in this code and its adopted rules for the transaction of its business. The board must, within a reasonable time, make its order deciding the matter and must serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent.

Subd. 4. The board of adjustment may reverse or affirm wholly or partly, or may modify an order, requirement, decision or determination as in its opinion ought to be made. The reasons for the board's decision must be stated in writing. A majority vote of the board is necessary to reverse any decisions of an administrative office of the city or to decide in favor of the applicant.

560.05. Zoning amendments. Subdivision 1. Criteria for granting zoning amendments. The city council may adopt amendments to this code and the zoning map in relation to land uses within a particular district or to the location of the district line. Such amendments will only be made as a means to reflect changes in the goals and policies of the city as reflected in the comprehensive plan or changes in conditions in the city.

Subd. 2. Kinds of amendments. The following types of zoning amendments are governed by this subsection:

- a) a change in a district's boundary (rezoning);
- b) a change in a district's regulations; and
- c) a change in any other provision of this code.

Subd. 3. Initiation of proceedings Proceedings for amending this code may be initiated by:

- a) petition of an owner or owners of property that is proposed to be rezoned, or for which district regulation changes are proposed.
- b) recommendation of the planning commission.
- c) action of the city council.

Subd. 4. Required exhibits for rezoning or district regulation changes initiated by property owners. A boundary description and preliminary building and site development plan subject to approval of the zoning administrator is required. The city council may require a certified survey. The property must be properly monumented with metal stakes and caps. Evidence of ownership or enforceable option on the property is required.

Subd. 5. Procedure. The procedure for a property owner to initiate a rezoning or district regulation change applying to property is as follows:

- a) The property owner or the owner's agent, must meet with the zoning administrator to explain the situation, learn the procedures, and obtain an application form.
- b) The applicant must file the completed application form together with the required exhibits with the administrator and pay the required filing fee as established by the city council.
- c) The administrator must transmit the application and required exhibits to the planning commission within 30 days after receipt, and notify all property owners within the affected zone and within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification will not invalidate the proceedings.
- d) The administrator must set the date for a public hearing and have notices of such hearing published in the legal newspaper at least once, not less than ten days and not more than 30 days prior to the hearing. The council may waive the mailed notice requirements for a city-wide amendment to this code initiated by the planning commission or the city council.
- e) The planning commission must hold the public hearing and then shall recommend to the council within 30 days, one of three actions; approval, denial, or conditional approval.

- f) The city council must act upon the application within 60 days after the completed application has been received by the city.
- g) An application of a property owner for an amendment to the text of this code or the zoning map may not be considered by the planning commission within the one year period following a denial of such request, except the planning commission may permit a new application, if in the opinion of the planning commission, new evidence or a change of circumstances warrant it.

560.07. Conditional use permits. Subdivision 1. Purpose. Conditional use means a land use or development that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (i) certain conditions as detailed in this code exist, and (ii) the use or development conforms to the comprehensive land use plan of the community and (iii) is compatible with the existing neighborhood.

Subd. 2. Application, public hearing, notice and procedure. The application, public hearing, public notice and procedure for conditional use permits is the same as those for zoning amendments, except that the permit is issued on the affirmative vote of a majority of the city council. Although specific submission required to complete an application for a conditional use permit may vary with the specific use and the district in which it is located, all applications for such permits must include at minimum a site plan that clearly illustrates the following: proposed land use, building mapping and functions, circulation and parking areas, planting areas and treatment, sign locations and type, basic lighting concerns, the relationship of the proposed project to neighboring uses, environmental impacts and demand for municipal services.

Subd. 3. Standards. The planning commission may recommend a conditional use permit and the council will issue such conditional use permits only if the council finds that such use at the proposed location will:

- a) not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.
- b) be harmonious with the general and applicable specific objectives of the comprehensive plan and this code.
- c) be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
- d) not be hazardous or disturbing to existing or future neighboring uses.

- e) be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools, or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
- f) not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the city.
- g) not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, or odors.
- h) have vehicular approaches to the property that do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
- i) not result in the destruction, loss or damage of a natural, scenic or historic features of major importance.
- j) not depreciate surrounding property values.

Subd. 4. Conditions. In reviewing applications for conditional use permits, the planning commission and council may attach whatever reasonable conditions deemed necessary to mitigate anticipated adverse impacts associated with these uses, to protect the value of property within the district, and to achieve the goals and objectives of the comprehensive plan. Such conditions may include, but are not limited to, the following:

- a) Controlling the number, area, bulk, height and location of such uses.
- b) Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
- c) Regulating off-street parking and loading areas where required.
- d) Utilities with reference to location availability and compatibility.
- e) Berming, fencing, screening, landscaping or other means to protect nearby property.
- f) Compatibility of appearance.

In determining such conditions, special consideration is to be given to protecting immediately adjacent properties from objectionable views, noise, traffic and other negative characteristics associated with such uses.

Subd. 5. Denial for noncompliance. If the planning commission recommends denial of a conditional use permit or the council orders such denial, it must include in its recommendation or determination findings as to the ways in which the proposed use does not comply with the standards required by this code.

Subd. 6. Permittee. A conditional use permit is issued for a particular use and not for a particular person, except in the case of a permit granted for the uses of land reclamation, mining or soil or mineral processing. In such cases, a permit shall be issued to the particular person making application for such permit and such permit may not be transferred or assigned for use by another without the written consent of the city. Consent by the city may not be unreasonably withheld.

Subd. 7. Periodic review, term of permit. A periodic review of the use may be attached as a condition of approval of a conditional use permit. Unless otherwise stipulated, the term of the permit is the life of the use.

Subd. 8. Revocation. Failure to comply with any condition set forth in a conditional use permit, or any other violation of this code, is a misdemeanor and constitutes sufficient cause for the termination of the conditional use permit by the council following a public hearing.

Subd. 9. Expiration. If substantial construction has not taken place within six months of the date on which the conditional use permit was granted, the permit is void except that, on application, the council, after receiving recommendation from the planning commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six months, the conditional use permit becomes void. This provision applies to conditional use permits issued prior to the effective code, but the six-month period does not commence until the effective date of this code.

560.09. Variances. Subdivision 1. Criteria for granting variances. A variance to the provision of this code may be issued by the board of adjustment to provide relief to the landowner in those cases where this code imposes practical difficulties to the property owner in the use of the property owner's land. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. No variances shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. A variance may be granted only in the event that all of the following circumstances exist: (Amended, Ord. No. 72, Third Series)

- a) The variance is in harmony with the general purposes and intent of this Chapter;

- b) The variance is consistent with the comprehensive plan;
- c) The applicant proposes to use the property in a reasonable manner not permitted by this code;
- d) Unique circumstances apply to the property, which do not apply to other properties in the same zone or vicinity and result from lot size or shape, topography, or other circumstances over which the owner of the property since the enactment of this Chapter has had no control. The unique circumstances do not result from the actions of the applicant;
- e) That the variance requested is the minimum variance which would alleviate the practical difficulties. Economic conditions alone do not constitute practical difficulties.
- f) The variance does not alter the essential character of the neighborhood; and
- g) The board of adjustments may impose such conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this code, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. No. 72, Third Series)

Subd. 2. Required exhibits for variances.

- a) A boundary description and preliminary building and site development plan subject to approval of the administrator. The council may require a certified survey.
- b) Evidence of ownership or enforceable option on the property.

Subd. 3. Procedures. The procedure for obtaining a variance are as follows:

- a) The property owner or the owner's agent must meet with the zoning administrator to explain the situation, learn the procedures and obtain an application form.
- b) The applicant must file the completed application form together with the required exhibits with the administrator and must pay a filing fee as established by the council.

- c) The administrator must transmit the application to the board of adjustment for review and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification does not invalidate the proceedings.
- d) The board of adjustment must hold a public hearing on the proposed variance and must make a decision on the proposal within 60 days; one of three actions -- approval, denial or conditional approval.
- e) The applicant may appeal the decision of the board of adjustment to the city council within ten days after the decision by the board.
- f) An application by a property owner for a variance may not be submitted to the board within a six month period following a denial of such a request, except the board may permit a new application if, in the opinion of the board, new evidence of change or circumstances warrant it.
- g) A variance authorizes only one particular use and expires if work does not commence within six months of the date of granting such variance or if that use ceases for more than six consecutive months.
- h) The board of adjustment may revoke a variance if any conditions established by the board as part of granting the variance request are violated.

560.11. Interim use permit. Subdivision 1. Purpose. The purpose and intent of allowing interim uses is (i) to allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in comprehensive plan; and (ii) to allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future.

Subd. 2. Application, public hearing, notice and procedure. The application, public hearing, public notice and procedure requirements for interim use permit the same as those for rezoning amendments.

Subd. 3. Standards. The planning commission may recommend an interim use permit and the council shall issue such interim use permits only if it finds that such use at the proposed location:

- a) Meets the standards of a conditional use permit.
- b) Will terminate upon a date or event that can be identified with certainty;
- c) Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future; and,

- d) Will be subjected to, by agreement with the owner, any conditions that the city council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

Subd. 4. Termination. An interim use permit terminates upon the earliest occurrence of any of the following events:

- a) the date stated in the permit;
- b) a violation of conditions under which the permit was issued;
- c) a change in the this code that renders the use nonconforming; or
- d) the use has been discontinued for a minimum of six months.

560.13. Enforcement. Subdivision 1. Enforcing officer. The administrator must enforce provisions of this code.

Subd. 2. Building and zoning permit.

- a) It is unlawful to construct, or alter a structure or building or part thereof without first securing a building permit. It is unlawful to wreck or move any kind of a structure without first securing a demolition or moving permit.
- b) Applications for building permits must be accompanied by the following exhibits unless waived by the planning commission.
 - (i) Boundary description of an area including the property in question and 100 feet beyond its outer boundaries showing existing utilities, lot boundaries and dimensions, buildings, easements, foliage, and topography and waterways if pertinent. Soil tests may be required. A certified survey may also be required.
 - (ii) Preliminary building and site development plan showing building's location, dimensional parking and loading arrangement, vehicular and pedestrian access and egress, surface drainage plan, landscaping, utility plan, screening, size and location of all signs, building floor plans of all floors, elevations of all sides of buildings, sections and outline material specifications as appropriate.

Subd. 3. Procedure.

- a) Persons requesting a building permit must fill out a building permit form available from the administrator.
- b) Completed building permit forms and fees must be submitted to the zoning administrator. If the proposed development conforms in all respects to the zoning code, a building permit will be issued by the administrator, after review by the planning commission, within a period of 60 days.
- c) If the proposed development involves a zoning amendment, variance, or conditional use permit, the application, together with a building permit, must be submitted either to the commission or Board of adjustment for review and appropriate action.

Subd. 4. Occupancy permit. Vacant land may not be occupied or used and new buildings hereafter erected, altered or moved may not occupied until a certificate of occupancy has been issued by the building official. Such certificate must show that the building or premises or part thereof and the use thereof are in conformity with the provisions of this code. Such certificate may be issued only when the building or premises and the use thereof conform to all the requirements of this code.

Subd. 5. Violations and penalties. Violation of this code is a misdemeanor. Each day that the violation is permitted to exist is a separate offense. Violation of any condition of a conditional use permit may result in immediate termination of such permit by the council, following public hearing. Notice and public hearing of violations and termination proceedings on all nonconforming, any conditional, incompatible, accessory or conditional uses or home occupation uses, must be given by the city council to the interested party or parties by certified mail or in lieu thereof by one legal published notice at least ten days before the hearing date.

SECTION 565 - SUBDIVISION REGULATIONS (PLATTING)

565.01. Purpose, authority and jurisdiction. Subdivision 1. Purpose. The purpose of this section is to regulate the subdividing of land within the city area so that new additions will be integrated with the comprehensive plan for the city and will contribute to an attractive, stable and wholesome community environment. The process of dividing raw land into separate parcels for other uses including residential, industrial and commercial sites, is one of the most important factors in the growth of any community. Once the land has been subdivided and the streets, homes and other structures have been constructed, the basic character of this permanent addition to the city has become firmly established. It is, therefore, to the interest of the general public, the developer, and the future landowners that subdivisions be conceived, designed, and developed in accordance with the highest possible standards of excellence. Subdivisions of land submitted for approval must comply with the regulations set forth in this section. It is the purpose of these regulations to:

- a) encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction;
- b) provide for the health and safety of residents by requiring the necessary services such as properly designed streets and adequate sewage and water service;
- c) place the cost of improvements against those properties benefiting from their construction;
- d) secure the rights of the public with respect to public lands and waters;
- e) improve land records by establishing standards for surveys and plats;
- f) protect the environmentally sensitive areas in the city.

Subd. 2. Legal authority. This section is adopted pursuant to Minnesota Statutes, section 462.358.

Subd. 3. Geographic jurisdiction. This section applies to the area within the corporate limits of the city and the area extending two miles beyond the corporate limits of the city.

565.03. Definitions. Subdivision 1. The following terms have the meanings given them:

Subd. 3. Alley. A public right-of-way of 20 feet or less in width which normally affords a secondary means of vehicular access to abutting property.

Subd. 5. Attorney. The city attorney.

Subd. 7. Block. The enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.

Subd. 9. Boulevard. The portion of the street right-of-way between the curb line and the property line.

Subd. 10. Buildable land. The net land area available for development determined by taking the gross land area in its pre-development condition and subtracting all wetlands, areas below the 100-year ordinary high water elevation, rights-of-way, and easements. (Added, Ord. No. 53, Third Series)

Subd. 11. Cluster development. A subdivision development planned and constructed so as to group housing units into patterns while providing a unified network of open space and wooded areas, and meeting the overall density regulations of this section and the zoning code.

Subd. 13. Community, city. The city of Kenyon.

Subd. 15. Comprehensive plan. That policy document which serves as a guide for the future physical development of the city and entitled "Comprehensive Plan, Kenyon, Minnesota."

Subd. 17. Contour map. A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

Subd. 19. Copy. A print or reproduction made from a tracing.

Subd. 21. Corner lot. A lot bordered on at least two sides by streets.

Subd. 23. Concept plan or sketch plan. A generalized plan of a proposed subdivision indicating lot layouts, streets, park areas, and water and sewer systems presented to the city officials at the pre-application meeting.

Subd. 25. County. Goodhue County, Minnesota.

Subd. 27. County board. Goodhue County board of commissioners.

Subd. 29. Development. The act of building structures and installing site improvements.

Subd. 31. Double frontage lots. Lots that have a front line abutting on one street and a back or rear line abutting on another street.

Subd. 33. Drainage course. A water course or indenture for the drainage of surface water.

Subd. 35. Easement. A grant by an owner of land for a specific use by persons other than the owner.

Subd. 37. Engineer. The registered engineer employed by the city unless otherwise stated.

Subd. 39. Final plat. The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the city council for approval and which, if approved, will be submitted to the county recorder.

Subd. 41. Governing body. The city council.

Subd. 43. Key map. A map drawn to comparatively small scale which definitively shows the area proposed to be platted and the areas surrounding it to a given distance.

Subd. 45. Lot. A piece, parcel or plot of land intended for building development or as a unit for transfer of ownership.

Subd. 47. Metes and bounds description. A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

Subd. 49. Minimum subdivision design standards. The guides, principles and specifications for the preparation of subdivision plats indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

Subd. 51. Owner. An individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Subd. 52. Pedestrian way. A public right-of-way across or within a block intended to be used by pedestrians.

Subd. 53. Plat. The map, drawing or chart on which the subdivider's plan of subdivision is presented to the council for approval.

Subd. 55. Preliminary plat. The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the planning commission and council for their consideration.

Subd. 57. Preliminary approval. Official action taken by the city on an application to create a subdivision which establishes the rights and obligations set forth by law and the applicable subdivision regulation. In accordance with law, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks, and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

Subd. 59. Private street. A street serving as vehicular access to one or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

Subd. 61. Protective covenant. A contract entered into between private parties and constituting a restriction on the use of private property within a subdivision for the benefit of the property owners, and providing mutual protection against undesirable aspects of development that would tend to impair stability of values.

Subd. 63. Right-of-way. The publicly owned land along a street or highway corridor a portion of which is covered by the street pavement.

Subd. 65. Streets:

- a) Street - a public way for vehicular traffic, whether designed as a street, highway, thoroughfare, arterial parkway, throughway road, avenue, lane, place or otherwise designated.
- b) Collector street (residential) - a street located in a residential neighborhood that carries traffic from local streets to arterials.
- c) Collector street (commercial) - a street located in a commercial or industrial area that carries traffic from local streets to arterials.
- d) Cul-de-sac - a street turn-around with only one outlet.
- e) Service street - marginal access street, or otherwise designated, as a minor street, that is parallel and adjacent to a thoroughfare and that provides access to abutting properties and protection from through traffic.
- f) Local street - a street of limited continuity used primarily for access to the abutting properties and the local need of a neighborhood.
- g) Arterial street - a street or highway with access restrictions designed to carry large volumes of traffic between various sections of the city and beyond.

- h) Half street - A street having only one-half of its intended roadway width developed to accommodate traffic.

Subd. 67. Street width. For the purpose of this code, the shortest distance between the lines delineating the right-of-way.

Subd. 69. Subdivider. A person commencing proceedings under this section to effect a subdivision of land hereunder.

Subd. 71. Subdivision. The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development; or, if a new street is involved, any division of a parcel of land; provided that:

- a) A division of land for agricultural purposes into lots or parcels of five acres or more and not involving a new street is deemed to be a subdivision;
- b) The parcel is co-extensive with a separate parcel of record at the effective date of this section;
- c) An agreement to convey such a parcel has been entered into prior to such time and the instrument showing the agreement to convey is recorded in the office of the Goodhue county recorder within one year thereafter;
- d) The parcel is co-extensive with a lot unit or units described with reference to a plat or auditor's subdivision duly filed and of record in the office of the Goodhue county recorder prior to the effective date of this section.

The term includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.

Subd. 73. Tracing. A plat or map drawn on transparent paper or cloth that can be reproduced by using regular reproduction procedure.

565.05. Plat presentation procedures. Subdivision 1. Real property within the jurisdiction of this section may not be subdivided and offered for sale or a plat recorded until a pre-application meeting has been held and a preliminary plat and a final plat of the proposed subdivision have been received by the planning commission and its technical assistants and until the final plat has been approved by the council.

Subd. 2. Pre-application meeting. Prior to the submission of a plat for consideration to the planning commission, the subdivider must meet with the planning commission, or any individual to whom the planning commission may delegate this responsibility, to become familiar with these procedures.

Subd. 3. Preliminary plat approval procedure.

- a) The subdivider must engage a qualified land planner or registered land surveyor to prepare a preliminary plat of the area to be subdivided.
- b) The subdivider must submit six copies of the preliminary plat to the administrator three weeks prior to the next regular planning commission meeting.
- c) The administrator must submit one copy of the preliminary plat each to the planning commission, the city consulting engineer and, if desired, to any other technical assistant no later than three days after its receipt.
- d) The city engineer and any other technical assistant must review the preliminary plat and submit a report to the planning commission before its next regularly scheduled meeting.
- e) The planning commission must hold a public hearing, after ten days published notice thereof, and review the preliminary plat considering the reports of the engineer and planning consultant. Within 30 days of the date on which it was filed with the administrator, the planning commission must either reject, approve subject to revision, or approve the proposal and forward that decision to the city administrator. If disapproved, the commission must set forth the grounds for such refusal in its proceedings and transmits them to the subdivider. If approved by the city council, the design will be accepted as a basis for the preparation of a final plat.

Subd. 4. Final plat approval procedure.

- a) The subdivider must engage a registered land surveyor to prepare a final plat which may constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time.
- b) The subdivider must submit six copies of the final plat to the administrator at least two weeks before the next regularly scheduled planning commission meeting and within one year of preliminary plat approval. The subdivider must submit an attorney's opinion based on a current abstract or Torrens title certificate that establishes ownership of the tract contained in the proposed plat.
- c) The planning commission must study the final plat and transmit its recommendation to the council within 30 days from the date on which it was filed with the city administrator.
- d) If deemed necessary, the council may hold a public hearing on the final plat after having given ten days published notice.

- e) The council must act on the final plat within 30 days of filing, whereupon the city administrator must notify the subdivider of the council's action.
- f) The subdivider must file the final plat with the city administrator within 30 days of final plat approval.
- g) The subdivider must record the final plat with the Goodhue County recorder within 30 days of final plat approval; otherwise, the approval of the final plat is void.
- h) The subdivider must furnish a duplicate and five paper prints of the final plat as recorded, to the city administrator.

565.07. Plat presentation requirements. Subdivision 1. Preliminary plat.

- a) Scale: one inch equals 100 feet.
- b) Identification and description:
 - 1. Proposed name of subdivision which may not duplicate or be similar in pronunciation or spelling to the name of any plat heretofore recorded in Goodhue County.
 - 2. Location by section, town, range or other legal description.
 - 3. Name and address of the owner, subdivider, surveyor and designer of the plan.
 - 4. Key map including area within one mile radius of plat.
 - 5. Graphic scale.
 - 6. North-point.
 - 7. Date of preparation.
 - 8. A current abstract of title or a registered property certificate along with any unrecorded documents and an opinion of title by the subdivider's attorney.

- c) Existing conditions in tract and in surrounding area of a distance of 300 feet:
 - (i) Boundary line of proposed subdivision, clearly indicated.
 - (ii) Existing zoning classifications for land within and abutting the subdivision including floodplain and shoreland districts, if applicable.
 - (iii) Total approximate acreage.
 - (iv) Platted streets, railroad right-of-way and utility easement, parks and other public lands.
 - (v) Boundary lines and ownership of adjoining unsubdivided land.
 - (vi) Sewers, water mains, culverts or other underground facilities.
 - (vii) Permanent buildings and structures.
 - (viii) Topography, showing water courses, marsh areas, and contours at vertical intervals of no more than two feet. Elevation data must be mean sea level.
 - (ix) Existing zoning and land use in the area within 100 feet of the boundaries of the tract.
 - (x) Other information, such as soil tests, if requested by the planning commission to aid in its review.

- d) Subdivision design features.
 - (i) Layout and width of proposed streets and utility easements showing street names, lot dimension, parks and other public areas. The street layout must include all contiguous land owner or controlled by the subdivider.
 - (ii) Proposed use of all parcels, and if zoning change is contemplated, proposed re-zoning.
 - (iii) Preliminary street grades and drainage plan must be shown on a copy of the contour map.
 - (iv) Layout, numbers and preliminary dimensions of lots and blocks.
 - (v) When lots are located on a curve, the width of the lot at the building setback line.

- e) Other information.
 - (i) Where a subdivider owns property adjacent to property that is being proposed for the subdivision, the planning commission may require that the subdivider submit a sketch of the remainder of the property so as to show possible relationships between the proposed subdivision and any future subdivision.
 - (ii) Potential resubdivision and use of excessively deep or wide (over 200 feet) lots must be indicated in a satisfactory manner.
 - (iii) A plan for soil erosion and sediment control both during construction and after development has been completed.
 - (iv) Such other information as may be requested by the city staff, planning commission or city council.

Subd. 2. Final plat.

- a) The plat must be prepared by a land surveyor who is registered in the state of Minnesota and must comply with the appropriate provisions of Minnesota Statutes and these regulations.
- b) Data required under regulation by the Goodhue County surveyor, i.e., accurate angular and lineal dimensions for all lines, angles and curvatures used to describe boundaries, streets, easements, and other important features.
- c) Identification and description data as required for preliminary plat.
- d) Boundaries of the property; lines of all proposed streets and alleys, with their width, and other areas intended for public use. Lines of adjoining streets and alleys, with their width and names.
- e) Plans for water supply, sewage disposal, drainage and flood control.
- f) Soil borings, if required by the planning commission.
- g) An identification system for all lots and blocks.
- h) Lot lines and easements, with figures showing their dimensions.
- i) Certification by a registered land surveyor to the effect that the plat represents a survey made by the surveyor and that monuments and markers thereon exist as located and that all dimensional and geodetic details are correct.

- j) Notarized certification by the owner(s) of any interest in the property, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas.
- k) Certification showing that all taxes currently due on the property to be subdivided have been paid in full.

Subd. 3. Certifications. The final plat must include the required certifications by the city and county officials, including the signature of the chair of the planning commission indicating that the plat has been reviewed by the planning commission.

- a) Form for approval by the planning commission:

Planning Commission of Kenyon, Minnesota
 This _____ day of _____ (month) _____, _____ (year) _____.

Signed _____
 Chair

Signed _____
 Secretary

- b) Form for approval by the council:

This _____ day of _____ (month) _____, _____ (year) _____.

Signed _____
 Mayor

Signed _____
 Administrator

565.09. Subdivision design standards. Subdivision 1. Generally, design standards are intended to assure that the layout of the subdivision harmonizes with existing plans affecting the development and its surroundings and is in conformity with the comprehensive plan for the development of the entire area.

Subd. 2. Circulation.

- a) General street design. The design of streets is to be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to runoff of storm waters and to the proposed uses of the area to be served. Where new streets extend existing adjoining streets, their projections must be at the same or greater width, but in no case less than the minimum required width. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions must make provision for the proper projection of streets. When a new subdivision adjoins unsubdivided land susceptible to being subdivided, then the new streets shall be carried to the boundaries of such unsubdivided land.
- b) Street width and grades. The following standards of street designs must be observed by the subdivider:

<u>Street Category</u>	<u>Minimum Width Right-of-Way</u>	<u>Minimum Width Street Pavement</u>	<u>Maximum Grade**</u>	<u>Minimum Grade</u>
Commercial Collector	80 feet	40 feet	6%	0.5%
Residential Collector	66 feet	36 feet	8%	0.5%
Local	60 feet	30 feet	8%	0.5%

** to assure a safe and reasonable sight distance at intersections a lesser maximum grade may be required.

- c) Street jogs. Street jogs with center line offsets of less than 125 feet must be avoided.
- d) Tangents. A tangent of at least 150 feet must be introduced between reverse curves on collector streets and 100 feet on local streets.
- e) Deflections. When connecting street lines deflect from each other at one point by more than ten degrees, they must be connected by a curve with a radius adequate to ensure a sight distance of no less than 500 feet for arterials, 300 feet for collectors, and 100 feet for local streets.

- f) Street intersections. Insofar as practical, streets must intersect at right angles and no intersection may be at an angle of less than 60 degrees. Intersections having more than four corners are prohibited. It must be evidenced that safe and efficient traffic flow is encouraged.
- g) Cul-de-sacs. Maximum length of permanent cul-de-sac streets must be 400 feet measured along the center line from the intersection of origin to end of right-of-way. Each cul-de-sac must be provided at the closed end with a turn around having a minimum outside roadway diameter of 80 feet, and a minimum street property line diameter of 100 feet.
- h) Half streets. Half streets are prohibited except where the council finds it to be practicable to require the dedication of the other half when the adjoining property is subdivided.
- i) Street names. Proposed streets obviously in alignment with existing and named streets must bear the names of such existing streets. The name of the proposed street may not duplicate existing street names, including phonetic similarities.
- j) Private streets. Public improvements will not be approved for a private street until it is designated as a public street.
- k) Hardship to owners of adjoining property. The street arrangements may not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.
- l) Corners. Curb lines at street intersections must be rounded at a radius of not less than ten feet.
- m) Sidewalks. The planning commission or city council or either of them may require the provision of sidewalks in proximity to public service areas such as parks, schools, shopping facilities or in other appropriate locations of a similar nature. The design of sidewalks must be considered in their relation to existing and planned sidewalks, to reasonable circulation of traffic, to topographic considerations, to storm water runoff and to the proposed uses of the areas to be served.

Subd. 3 Easements.

- a) Utilities. Where alleys are not provided, easements of at least ten feet wide centered on rear lot lines and side lot lines must be provided for utilities where necessary. Easements for storm or sanitary sewers shall be at least 20 feet wide. They must have continuity of alignment from block to block. Temporary construction easements may be required where installation depths are greater than ten feet. Utility easements must be kept free of any vegetation or structures that would interfere with the free movement of utility service vehicles.
- b) Water courses. When a subdivision is traversed by a water course, drainage way, channel or stream, there must be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water courses.

Subd. 4. Blocks.

- a) Length. Block lengths may not exceed 800 feet and may not be less than 360 feet.
- b) Width. A block must be so designed as to provide two tiers of lots of appropriate depth unless it adjoins a railroad or highway, or where the rear lot line abuts a different land use or a physical barrier such as a water course or severe topography. In these cases the lot depth must be at least 15 feet greater than minimum requirements.
- c) Pedestrian ways. In blocks longer than 600 feet, a pedestrian crossway with a minimum right-of-way of ten feet may be required near the center of the block. The use of additional access ways to schools, parks and other destinations may also be required.

Subd. 5. Lots.

- a) Layout. Where possible, side lot lines must be at right angles to straight street lines or radial to curved street lines. Each lot must front on a public street. Lots with frontage on two parallel streets are prohibited.
- b) Size and dimension. Minimum lot areas and lateral dimensions must be as set forth in the zoning code.
- c) Corner lots. Corner lots must be platted at least 15 feet wider than the minimum lot width required.

- d) Natural features. In the subdivision of land, due regard must be shown for all natural features, such as tree growth, wetlands, steep slopes, water courses, or similar conditions, which, if preserved, will add attractiveness and stability to the proposed development.
- e) Lots along arterial streets. There must be no direct vehicular access from residential lots to a county or state highway, and residential lots shall be separated from highways and railroad rights-of-way by a 25 foot buffer strip, which may be in the form of added depth or width of lots backing on or siding on the highway or railroad right-of-way.
- f) Lot remnants. Lot remnants that are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans for the future use of such remnant.
- g) Drainage. Lots must be graded so as to provide drainage away from building locations.

Subd. 6. Soil erosion and sediment control. The standards related to soil erosion and sediment control contained in the zoning code are applicable to all proposed subdivisions.

Subd. 7. Parks, open space, and public use.

- a) Where a proposed park, playground, school site, or other public site shown on an adopted comprehensive plan or official map is embraced in part or in whole by a boundary of a proposed subdivision, such public ground must be shown as reserved land on the preliminary plat to allow the council, school board, or county and state agency the opportunity to consider and take action toward acquisition of such public ground or park or school site by purchase or other means prior to approval of the final plat.
- b) It is declared general policy that in all new subdivisions, a percentage of the buildable land of all property subdivided must be dedicated for parks, playgrounds, or other public use. Such percentage must be in addition to the property dedicated for streets, alleys, waterways, pedestrian ways or other public ways. The following schedule is applicable to all subdivisions. This schedule is based upon density of the development allowed in each district and is intended to equalize the amount and value of land dedicated for parks per dwelling unit in the various districts. (Amended, Ord. No. 53, Third Series)

In areas zoned:

R-1	6% of the total buildable land
R-2	8% of the total buildable land
R-3, R-4	10% of the total buildable land
C-1, C2, I	5% of the total buildable land

Areas may not be dedicated as parks, playgrounds, or public lands until those areas have been approved for the purpose to which they are to be dedicated. The park land must be graded to the contours set forth in the preliminary plat. The developer must provide a minimum of three inches of black dirt over the entire park area and the area shall be seeded with a type of seed approved by the city. The financial guarantees by the developer to the city must be in effect at least until such time that the park land is graded and seeded. (Amended, Ord. No. 53, Third Series)

- c) At least 50 percent of the gross area dedicated for parks, open space or public use must be suitable for active recreation use. Active recreation meaning organized playground activities such as softball, football, etc. These areas to be used for organized playground activities must have a slope of less than two percent grade and be largely clear of forest vegetation. Other areas to be dedicated may be forested and may have steeper slopes.
- d) When the subdivision is small or does not include a park or public area shown on the comprehensive plan, or if in the judgment of the council the area proposed to be dedicated is not suitable or desirable for park/playground purposes because of location, size or other reason, the council may require, in lieu of land dedication, a payment to the city of a sum equal to the percentage listed above of the undeveloped market value of the land to be subdivided. The undeveloped land value will be the value of the land when ready to be platted but not including utility costs. The city council may make the final determination of the value of the land for purposes of park dedication. If requested, the city council must provide the developer or landowner with the methodology used to calculate the value of the land. Funds paid pursuant to this section shall be used only for the acquisition, development, or improvement of city parks or as may otherwise be authorized by law. (Amended, Ord. No. 53, Third Series)
- e) The dedication of land for public use must be without restrictions or reservations and must be transferred to the city by deed or by plat.

565.11. Required improvements. Subdivision 1. The subdivider must provide the following improvements for all subdivisions unless the council elects to do so under a cash escrow agreement.

Subd. 2. Monuments. Steel monuments must be placed at all block corners, angle points, points of curve in streets and at intermediate points as shown on the final plat. Such installation must be the subdivider's expense and responsibility. All federal, state, county or other official benchmarks, monuments, or triangulation stations in or adjacent to the property must be preserved in precise position.

Subd. 3. Utility, street and miscellaneous improvements. All property must be located on a street and must have access to public sewer and water infrastructure. The city will install or construct such improvements as sanitary sewer mains, storm sewer mains, water mains, streets, sidewalks and boulevard trees; however, the city may require the subdivider to pay for any or all of the costs of such improvements. The improvements are subject to the following:

- a) Grading. Streets must be graded to the full width of the right-of-way in accordance with street grades submitted to and approved by the engineer. All street grading and gravel base construction must be in accordance with specifications on file in the engineer's office. Grading must be complete prior to installation of applicable underground utilities, either private or public in nature. Gravel base construction must be undertaken after completion of the installation of underground utilities.
- b) Surfacing. Following the city engineer's approval of street grading and after utility installation, streets must be surfaced and provided with concrete curbs and gutters in accordance with the latest recommended plans and specifications prepared by the engineer, and approved by the city council, and on file in the recorder's office.
- c) Rural street section. When permanent rural street sections have been approved by the city council the subdivider must finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the city council.
- d) Sidewalks and driveways. Driveways must be constructed from the curb and gutter to the property line or property side of sidewalk. In cases where driveways are constructed after curbing and sidewalk are in place, the sidewalk shall be reconstructed in accordance with driveway specifications to the width of the driveway.
- e) Utilities.
 - (i) Installation. All utilities, whether private or public, must be installed underground so as to enhance the visual appearance of the area, unless special permission is granted by the council for other installations. Where utilities are to be installed in street or alley rights-of-way, such installations must take place prior to street surfacing. Water and sewer services must be laid to the property line.

- (ii) Sanitary sewer. Sanitary sewer facilities adequate to serve the subdivision must be installed in accordance with the latest plans and specifications of the city engineer and must meet the requirements of the master plan for sanitary sewer extensions of the city. All new construction must be connected to the municipal sanitary sewer system. If public sewer facilities are not available, the subdivider must make provisions for adequate private sewage disposal systems meeting state standards.
- (iii) Water supply. Water distribution facilities adequate to serve the subdivision must be installed in accordance with the plans and specifications of the engineer and must meet the requirements of the master plan for water main extensions of this municipality. All new construction must be connected to the municipal water system.
- f) Drainage facilities. Storm sewer or other surface drainage facilities must be installed as determined necessary by the city engineer for the proper drainage of surface waters.
- g) Other utilities. The subdivider must cause gas, electrical power, cable television, and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision. Electrical or telephone service may not be located on overhead poles along the front lot lines unless otherwise allowed due to exceptional topography or other physical barrier.
- h) Tree planting or "street trees". In areas lacking trees as determined by the city, street trees must be planted not less than forty feet apart, with a minimum of one per lot. No trees must be planted within 40 feet of the intersection of curb lines on corner lots. The minimum size must measure one and one-half inches in diameter at ground line. Only those locations approved by the council may be used.

Subd. 4. Review and inspection. The subdivider must pay for all costs incurred by the city for subdivision review and inspection. This includes preparation and review of plans and specifications by technical assistance and costs incurred by the city attorney as well as other costs of a similar nature.

565.13. Payment for installation of improvements. Subdivision 1. General. The required improvements listed in this subsection are to be furnished and installed at the sole expense of the subdivider. However, if the cost of an improvement would by general policy be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for the payment of a portion of the cost by the city. Further, if any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such lands, to be assessed against the same. In such a situation, the subdivider will be required only to pay for such portion of the whole cost of the improvement as will represent the benefit to the property within the subdivision.

Subd. 2. Agreement providing for the installation of improvements.

- a) Prior to the installation of any required improvements and prior to approval of the plat, the subdivider must enter into a contract in writing with the city requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual contract conditions. This must include provision for supervision of details of construction by the engineer and must grant to the engineer authority to correlate the work to be done by any subcontractor authorized to proceed and with any other work being done or contracted by the city in the vicinity. The agreement must require the subdivider to make an escrow deposit or, in lieu thereof, to furnish a performance bond, the amount of the deposit or penal amount of the bond to be equal to 125 percent of the engineer's estimate of the total cost of the improvements to be furnished under the contract, or such lesser amount as the council has authorized, including the cost of inspection. On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat. In such event the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat. The time for completion of the work and the several parts thereof will be determined by the governing body upon recommendation of the engineer after consultation with the subdivider. The time is to be reasonable with relation to the work to be done, the season of the year, and proper correlation with construction activities in the plat or subdivision.
- b) A subdivider may not start work on any other subdivision without special approval of the city council if the subdivider has previously defaulted on work or commitments.

Subd. 3. Financial guarantee.

- a) General. The contract provided for in subdivision 2 must require the subdivider to make an escrow deposit or, in lieu thereof, furnish a performance bond. The escrow deposit or performance bond must conform to the requirements of this section.
- b) Escrow deposit. An escrow deposit must be made with the city treasurer in a sum equal to 125 percent of the total cost as estimated by the engineer of all the improvements to be furnished and installed by the subdivider pursuant to the contract, which have not been completed prior to approval of the plat. The total costs must include costs of inspection by the community. The city may reimburse itself out of the deposit for any cost and expense incurred by the city for completion of the work in case of default of the subdivider under the contract, and for any damages sustained on account of any breach thereof. Upon completion of the work and termination of any liability, the balance remaining in the deposit must be refunded to the subdivider.
- c) Performance bond. In lieu of making the escrow deposit, the subdivider may furnish a bank letter of credit or performance bond with corporate surety in a penal sum equal to 125 percent of the total cost as estimated by the engineer of all the improvements to be furnished and installed by the subdivider pursuant to the contract that have not been completed prior to the approval of the plat. The bond must be approved as to form by the attorney and filed with the clerk.
- d) Default. In the event the subdivider defaults in the terms or conditions of the contract with the city for such improvements, the city may complete the project referred to in the contract and assess all costs of the completion incurred by the city against the real property being subdivided as a special assessment and collect it the same as if it were any other special assessment levied by the city against real property and the contract must include a provision to that effect.

Subd. 4. Construction plans and inspection.

- a) Construction plans for the required improvements conforming in all respects with this code must be prepared at the subdivider's expense by a professional engineer who is registered in the state of Minnesota. Such plans together with the quantities of construction items must be submitted to the engineer for an approval and for an estimate of the total costs of the required improvement. Upon approval, such plans must become a part of the required contract. The tracings of the plans approved by the engineer plus two prints must be furnished to the city to be filed as a public record. Record plans must be submitted following project construction.

- b) All required improvements on the site that are to be installed under the provisions of this section must be inspected during the course of construction by the city engineer at the subdivider's expense, and acceptance by the city is subject to the engineer's certificate of compliance with the contract.

Subd. 5. Improvements completed prior to approval of the plat. Improvements within a subdivision that have been completed prior to application for approval of the plat or execution of the contract for installation of the required improvements will be accepted as equivalent improvements in compliance with this section only if the engineer certifies that the engineer is satisfied that the existing improvements conform to applicable standards.

565.15. Administration and enforcement. Subdivision. 1. Responsible official. The city administrator must see that the provisions of this section are enforced.

Subd. 2. Building permit. A building permit may not be issued for the construction of any buildings, structures or improvement on any land subdivided until the requirements of this section have been complied with.

565.17. Minor subdivision - exemption. In the case of a subdivision resulting in three parcels or less situated in a locality where conditions are well defined, the council may exempt the subdivider from complying with certain of the requirements of these regulations. In the case of a request to subdivide a lot which is a part of a recorded plat, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than three new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or the zoning code, the subdivision may be approved by the council, after submission of a survey by a registered land surveyor showing the original lots and the proposed subdivision.

565.19. Miscellaneous. Subdivision. 1. Variances. Where there is unusual hardship in the way of carrying out the strict letter of the provisions of this section, the council may vary from the requirements of this section in harmony with its general purpose and interests thereof. (Amended, Ord. No. 72, Third Series)

- a) Unusual Hardship. The city council may grant a variance upon receiving a report from the planning commission in any particular case where the subdivider can show by reason of unique circumstances relating to a specific lot, that strict compliance with these regulations imposes unusual hardship to the subdivider in the use of his or her land. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.
- b) Additional criteria. In determining whether a variance is to be granted, all of the following circumstances must be found to exist:
 - (i) The variance is in harmony with the general purposes and intent of these regulations;

- (ii) The variance is consistent with the comprehensive plan;
- (iii) The subdivider proposes to use the property in a reasonable manner not permitted by these regulations or this chapter;
- (iv) Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography, or other circumstances over which the owner of the property since the enactment of these regulations has had no control. The unique circumstances must not result from the actions of the applicant;
- (v) The variance does not alter the essential character of the neighborhood;
- (vi) The variance requested is the minimum variance which would alleviate the unusual hardship. Economic conditions alone do not constitute unusual hardship; and
- (vii) The planning commission may recommend and the city council may impose such conditions upon the premises benefited by the variance, as may be necessary to comply with the standards established by this section or to reduce or minimize the effect of such variance upon the other properties in the neighborhood, and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. No. 72, Third Series)

Subd. 2. Planned unit developments. Upon receiving a report from the planning commission, the council may grant a variance from the provisions of these regulations in the case of a planned unit development, as defined in this code, provided that the council finds that the proposed development is fully consistent with the purposes and intent of these regulations.

SECTION 570 - TELECOMMUNICATIONS TOWERS AND FACILITIES.

(Added, Ord. No. 27, Third Series)

570.01. Findings. The city council finds:

Subdivision 1. The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 (“the Act”) governs the construction, placement, and modification of personal wireless service facilities. Consistent with the Act, the general purpose of this section is to manage the placement, construction, and modification of telecommunication towers, antennas and related facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city.

Subd. 2. In furtherance of the goals of the city and within the framework of the Act and state law, the city will give due consideration to the city’s comprehensive plan, zoning districts, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas. Specifically, the purposes of this section are:

- a) to manage the location of telecommunication towers and facilities;
- b) to protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;
- c) to minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;
- d) to promote and encourage shared use and collocation of telecommunication towers and antenna support structures;
- e) to avoid damage to adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound;
- f) to ensure that telecommunication towers and facilities are compatible with surrounding land uses; and
- g) to facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.

570.03. Definitions. For purposes of this section the following terms have the meanings given them, except where the context clearly indicates a different meaning:

Subdivision 1. “Antenna” means any device which is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves, of any type, for any purpose, and which does not exceed 10 feet in height. Any such device which exceeds 10 feet in height shall be deemed a “tower” as used herein.

Subd. 2. “Antenna support structure” means a building, water tower, or other structure, other than a telecommunications tower, which can be used for location of telecommunications facilities.

Subd. 3. “Applicant” means a person who applies for a permit to develop, construct, build, modify or erect a tower or antenna under this section.

Subd. 4. “Application” means the process by which the owner of a plot of land within the city or other person submits a request to develop, construct, build, modify or erect a tower or antenna upon that land.

Subd. 5. “Engineer” means an engineer licensed by the state of Minnesota.

Subd. 6. “Person” means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

Subd. 7. “Stealth” means design features that blend a structure into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees or other vertical structures as they normally appear in their existing environments.

Subd. 8. “Telecommunications facilities” means cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of telecommunications located or installed on or adjacent to a tower or antenna support structure. The term does not include:

- a) a satellite earth station antenna two meters in diameter or less located in an industrial or commercial district;
- b) a satellite earth station antenna one meter or less in diameter, wherever located; or
- c) a tower.

Subd. 9. “Telecommunications tower” or “tower” means a self-supporting lattice, guyed, or monopole structure constructed from grade that supports telecommunications facilities.

570.05. Development of towers; approvals required. Subdivision 1. General construction prohibition. Towers may not be constructed in any zoning district unless such use is a conditional use in the zoning district in which construction is proposed.

Subd. 2. Conditional use permits required. Towers may not be constructed in any zoning district unless a conditional use permit has been issued by the city council.

Subd. 3. Building permit required. Towers may not be constructed in any zoning district unless a building permit has been issued by the building official.

Subd. 4. City property. The city may authorize the use of city property for towers in accordance with the procedures of this code. The city has no obligation to allow the use of city property for this purpose.

Subd. 5. Zoning districts. A tower is not a permitted use in any zoning district. A tower is a conditional use in agricultural and industrial districts.

Subd. 6. Preferences. Towers or antenna facilities shall be proposed for construction in the zoning district of highest preference unless the applicant demonstrates that siting in such district is infeasible. The following preferences exist for the siting of towers or antenna facilities, in order of preference:

- a) Agricultural
- b) Industrial

570.07. Application process. Subdivision 1. A person desiring to construct a tower must submit an application for a building permit and a conditional use permit, to the zoning administrator.

Subd. 2. An application to develop a tower must include:

- a) name, address, and telephone number of the applicant;
- b) name, address, and telephone numbers of the owners of the property on which the tower is proposed to be located;
- c) legal description of the parcel on which the tower is proposed to be located;
- d) written consent of the property owner(s) to the application;
- e) a scaled site plan indicating the location, type and height of the proposed tower, the existing land uses and zoning of the subject parcel, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, drawings of the proposed tower showing elevation and other structures, topography, parking, and depicting the proposed tower design;
- f) a landscape plan showing specific landscape materials, method of fencing, and finished color and, if applicable, the method of camouflage and lighting;

- g) documentation such as coverage maps showing the need for a tower at the proposed site in order to close a gap in the applicant's wireless telecommunications service, or a gap in the service provided by a person intending to place telecommunications facilities on the tower;
- h) an inventory of existing towers, antennas, or sites approved for towers or antennas, that are either within the city or are sited in a location from which the applicant could provide service within the city, including specific information about the location, height and design of each tower and documentation showing that such existing facilities are unavailable or unsuitable to meet the applicant's need for a tower;
- i) separation distance of the proposed tower from the other towers described in the inventory of existing sites;
- j) a structural engineering report certifying the ability of the tower to accommodate co-location of additional wireless service provider facilities and a statement by the applicant regarding accommodation for co-location of additional antennas for future users;
- k) the setback distance between the proposed tower and the nearest platted residential property, and unplatted residentially zoned properties;
- l) proof that all necessary consents or approvals have been applied for from appropriate federal, state or other local agencies;
- m) an application fee established from time to time by resolution of the city council. In the event the city elects to consult with its attorney or a radio frequency (RF) engineer in review of the application, the applicant shall be required to fully reimburse the city for all such expenses;
- n) other information deemed by the zoning administrator to be necessary;

570.09. Performance standards. Subdivision 1. Collocation capability. A new tower may not be built, constructed or erected in the city unless the tower is capable of supporting additional telecommunications facilities comparable in weight, size, and surface area to applicant's proposed facilities.

Subd. 2. Setback requirements. A tower must comply with the following setback requirements:

- a) Setback requirements for towers are measured from the base of the tower to the property line of the parcel on which it is located.
- b) Towers shall have a minimum setback from any property line equal to the height of the tower plus 10 feet, unless otherwise provided in this section.

- c) A tower located next to a residential zone shall have a setback equaling the height of the tower plus 100 feet.
- d) The minimum spacing between tower locations is one mile.
- e) A tower setback may be reduced by variance to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.

570.11. Engineer certification. Towers must be designed and certified by an engineer to be structurally sound and in conformance with the Uniform Building Code, and any other standards set forth in this code.

570.13. Tower design. A tower shall be designed to ensure that visual intrusiveness and impacts on nearby properties is mitigated to the greatest extent feasible. Subdivision 1. Height Restriction. A tower may not exceed the lesser of 195 feet in height or the minimum height necessary to provide adequate coverage in the city by the provider of wireless service. Measurement of tower height must include the tower structure itself, the base pad, and any telecommunications facilities attached thereto. Tower height is measured from grade.

Subd. 2. Lighting. Towers may not be artificially lighted except as required by the Federal Aviation Administration. If so required, lighting shall be of a type, color and intensity so as to minimize visual intrusiveness, particularly at night.

Subd. 3. Exterior finish. Towers not requiring Federal Aviation Administration painting or marking must have an exterior finish as approved in the site plan.

Subd. 4. Fencing. Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities must be constructed as approved in the site plan.

Subd. 5. Landscaping. Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet such setback requirements as are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

Subd. 6. Accessory buildings and equipment. No more than one accessory building is permitted per tower. Accessory buildings may be no be more than 200 square feet in size.

Subd. 7. Security. Towers must be reasonably posted and secured to protect against trespass. All signs must comply with applicable sign regulations.

Subd. 8. Design. Towers must be of stealth design as approved in the site plan unless the city determines that such design is infeasible due to the lack of vertical structures in the vicinity of the proposed site.

Subd. 9. Signs and advertising. The use of any portion of a tower for signs other than warning or equipment information is prohibited.

Subd. 10. Types of towers. Towers must be self-supporting without the use of guys, wires, cables, beams or other means.

Subd. 11. Tower materials. All metal towers shall be constructed of, or treated with, corrosion-resistant material.

Subd. 12. Equipment housing. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated as to be screened from view by landscaping. All support structures shall be reasonable protected against climbing.

570.15. Non-tower facilities. Telecommunications facilities are permitted only as follows:

Subdivision 1. Telecommunications facilities are a conditional accessory use in the agricultural and industrial districts, provided that the owner of such telecommunications facilities, by written certification to the building official, establishes the following facts at the time plans are submitted for a building permit:

- a) that the height from grade of the telecommunications facilities and antennae support structure does not exceed the maximum height from grade of the antenna support structure by more than 20 feet;
- b) that the antenna support structure and telecommunications facilities comply with the Uniform Building Code; and
- c) that telecommunications facilities located above the primary roof of an antenna support structure are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement does not apply to antennas that are mounted to the exterior of antenna support structures below the primary roof; such antennas may protrude more than six inches from the side of the antenna support structure.

Subd. 2. Notwithstanding anything to the contrary contained in this section, telecommunications facilities are a permitted accessory use on antenna support structures owned or otherwise under the physical control of the city, a school district, or the state or federal government provided a conditional use permit has been issued by the city council and provided further that the owner of such a telecommunications facility, by written certification to the building official, establishes the following facts at the time plans are submitted for a building permit:

- a) that the height from grade of the telecommunications facilities and antennae support structure does not exceed the maximum height from grade of the antenna support structure by more than 20 feet;

- b) that the antenna support structure and telecommunications facilities comply with the Uniform Building Code; and
- c) that telecommunications facilities located above the primary roof of an antenna support structure are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement does not apply to antennas that are mounted to the exterior of antenna support structures below the primary roof; such antennas may protrude more than six inches from the side of the antenna support structure.

570.17. Removal of towers or telecommunication facilities. Abandoned or unused towers and associated above-ground facilities must be removed within 90 days of the cessation of operations of the telecommunications facility at the site unless an extension is approved by the city council. Any tower and associated telecommunications facilities that are not removed within 90 days of the cessation of operations at a site are declared to be public nuisances and may be removed by the city and the costs of removal assessed against the property pursuant to state law and the code. The conditional use permit shall establish an amount to be posted by bond, letter of credit, cash or equivalent by the applicant that will cover the projected cost of removal of towers or telecommunications facilities in the event of abandonment.

570.19. Additional requirements. Subdivision 1. Structural inspections. The city may conduct inspections at any time, upon reasonable notice to the property owner and the tower owner to inspect the tower for the purpose of determining if it complies with the Uniform Building Code and other construction standards provided by the city code, federal and state law. The City's expense related to such inspections will be borne by the tower owner or property owner. Based upon the results of an inspection, the building official may require repair, modification or removal of a tower.

Subd. 2. Radiation Emission Inspections. The owner of a telecommunications facility shall provide the City with current, technical evidence of compliance with FCC radiation emission requirements at the City's reasonable request.

Subd. 3. Maintenance. Towers and telecommunication facilities must be maintained in accordance with the following provisions:

- a) Tower owners must employ ordinary and reasonable care in construction and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public.
- b) Tower owners must install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations, and in such a manner that they will not interfere with the use of other property.
- c) Towers, telecommunications facilities, and antenna support structures must be kept and maintained in good condition, order, and repair.

- d) Maintenance or construction on a tower, telecommunications facilities or antenna support structure must be performed by qualified maintenance and construction personnel.
- e) All tenants on towers must comply with radio frequency emissions standards of the Federal Communications Commission.
- f) If the use of a tower is discontinued by the tower owner, the tower owner must provide written notice to the city of its intent to discontinue use and the date when the use will be discontinued.

570.21. Failure to comply; permit revocation. Subdivision 1. If the permittee fails to comply with any provision of the city code, federal or state law or the conditional use permit requirements, the city may impose penalties for noncompliance, or it may revoke the permit in accordance with the following provisions.

Subd 2. Except as provided in subdivision 3 below, a permit revocation shall be preceded by written notice to the permittee of the alleged violation(s), the opportunity to cure the violation(s) during a period not to exceed 30 days following receipt of the written notice and a hearing before the city council at least 15 days after receiving written notice of the hearing. The hearing shall provide the permittee with an opportunity to show cause why the permit should not be revoked.

Subd. 3. If the city finds that exigent circumstances exist requiring immediate permit revocation, the city may revoke the permit and shall provide a post-revocation hearing at least 15 days after permittee's receipt of written notice of the hearing.

Subd. 4. Any decision to revoke shall be in writing and supported by substantial evidence contained in a written record.

570.23. No permits required. No permits are required for the following:

Subdivision 1. Household television antennas extending less than 15 feet above the highest point of a residential structure.

Subd. 2. Satellite dish receiving antennas two meters or less in diameter.

Subd. 3. Adjustment, repair or replacement of the elements of an antenna, provided that such work does not constitute a clear safety hazard.

Subd. 4. Antennas and antenna support structures used by the city for city purposes.

Subd. 5. Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels, and provided that such work does not constitute a clear safety hazard.

Subd. 6. Two-way communication transmitters used on a temporary basis by a “911” emergency services, including fire, police and emergency aid or ambulance service.

Subd. 7. Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This includes cellular phones.

570.25. Right-of-way. Except as approved by the city, no part of any telecommunications tower or telecommunications facilities, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.

570.27. Insurance. The applicant shall provide evidence satisfactory to the city that its tower and telecommunication facilities thereon are adequately insured for injury and property damage. Upon request, the holder of a conditional use permit issued under this chapter shall submit to the city clerk a photocopy of a certificate of insurance showing that the tower or antenna facility is insured for that calendar year.

570.29. Variances. Subdivision 1. The applicant may apply for a variance from the provisions of this section to the extent expressly indicated herein.

Subd. 2. A variance may be granted if the applicant shows by clear and convincing evidence that it or its tenants cannot meet reasonable service quality needs of end users in the city without a variance from the requirements of this section.

Subd. 3. If the applicant makes the showing required by subdivision 2 the city council must consider all of the following additional factors in determining whether to grant a variance: (Amended, Ord. No. 72, Third Series)

- a) Whether the variance is in harmony with the general purposes and intent of this chapter;
- b) Whether the variance is consistent with the comprehensive plan;
- c) Whether the applicant proposes to use the property in a reasonable manner not permitted by this chapter or the city code;
- d) Whether unique circumstances apply to the property which do not apply to other properties in the same zone or vicinity and result from lot size or shape, topography, or other circumstances that were not created by the applicant or the owner of the property or their predecessors;
- e) Whether the variance would alter the essential character of the neighborhood; and
- f) Whether the variance requested is the minimum variance that would alleviate the practical difficulties. (Amended, Ord. No. 72, Third Series)

Subd. 4. A variance will be granted only in instances where the strict enforcement of the requirements of this section would cause practical difficulties. Economic conditions alone do not constitute practical difficulties.

Subd. 5 The city council may impose such conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this chapter or to reduce or minimize the effect of such variance upon other properties in the neighborhood and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

SECTION 575 – HISTORIC PRESERVATION COMMISSION

(Added, Ord. No. 36, Third Series)

575.01. Declaration of public policy and purpose. The council of the city of Kenyon hereby declares as matter of public policy that the preservation, protection, perpetuation, promotion and use of areas, places, buildings, structures, lands, districts and other objects having a special historical, community or aesthetic interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare in the community. To this end, the heritage preservation commission is created and charged with the stewardship of Kenyon's heritage. The purposes of this section are to:

- a) Safeguard the heritage of the city of Kenyon by preserving properties which reflect elements of the city's cultural, social, economic, political, visual, or architectural history;
- b) Protect and enhance the city of Kenyon's appeal and attraction to residents, visitors, and tourists, while enhancing it's economic viability through the protection and promotion of it's unique character as related to its history and heritage;
- c) Enhance the visual and aesthetic character, diversity and interest of the city of Kenyon;
- d) Foster civic pride in the beauty and notable accomplishments of the past;
- e) Promote the preservation and continued use of historic properties for the education and general welfare of the people of the city of Kenyon; and
- f) Provide educational opportunities on heritage preservation, act in an advisory capacity to its citizens, accept gifts and contributions for heritage preservation, and coordinate activities with various related groups.

575.03. Definitions. As used herein. Subdivision 1. Heritage preservation site. Any area, place, building, structure, land, district, or other object, which has been duly designated as a heritage preservation site pursuant to subsection 570.07.

Subd. 2. The city of Kenyon historic design guidelines. The established criteria by which any proposed changes (within designated areas), including architectural or site modifications shall be judged.

Subd. 3. Heritage preservation landmark. Any individual property, parcel, place, building, structure, work of art, or other object that has been determined to be historically, culturally or architecturally significant and has been locally designated as a heritage preservation landmark pursuant to subsection 570.07 of this section.

Subd. 4. National register of historic places. The nation's official list of properties worthy of preservation designated by the United States Department of Interior, National Park Service. Nominations of properties within Minnesota to this list are made through the auspices of the State Historic Preservation Officer, Minnesota Historical Society.

575.05. Heritage preservation commission established. Subdivision 1. Members. There is hereby created and established a city of Kenyon heritage preservation commission (hereinafter, the "commission") which shall consist of:

- a) Seven voting members to be appointed by the mayor, by and with the advice and consent of the city council.
- b) A designated representative of the Goodhue County Historical Society, if available, pursuant to Minnesota Statutes 471.193, Subd. 5.5 shall be a non-voting advisory member of the commission. (Amended, Ord. 66, Third Series)
- c) Any member (with the exception of the advisory members) appointed to serve on the commission shall be a resident of the city of Kenyon or shall have a demonstrated interest, competence or knowledge in historic preservation. If available in the community and willing to serve, at least two members of the commission shall be preservation-related professionals, including the professions of history, architecture, architecture history, archaeology, planning, real estate, design, building trades, landscape architecture, or law. (Amended, Ord. 66, Third Series)

Subd. 2. Term. The mayor and city council shall initially appoint:

- a) Two members to serve a term of one year initially,
- b) Two members to serve a term of two years initially,
- c) Three members to serve a term of three years, and
- d) Two advisory members, one for a two year term and one for a three year term.

Terms of office shall expire the first day of January in the year following their last full year of appointment. All subsequent appointments shall be for a term of three years. Members may be re-appointed for consecutive terms.

In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. The mayor shall appoint a person to fill the vacancy for the remainder of the term within 45 days after the day on which the vacancy occurred. If a vacancy occurs in a term with less than 45 days remaining, the mayor may allow the term to expire without appointing a person to fill the vacancy; after which the mayor shall appoint a member for the full term.

Subd. 3. Membership compensation. Members will not receive a salary for their services, but will be compensated for any approved expenses incurred in the performance of their duties.

Subd. 4. Commission meetings. The commission shall meet at least once every quarter. The commission shall hold its first meeting within 45 days after the day on which this section takes effect. At the first meeting of each year the members of the board shall enact rules and regulations concerning the following business: (Amended, Ord. 66, Third Series)

- a) The time, dates and places of future meetings.
- b) Election of commission officers.
- c) Voting and quorum requirements.

Subd. 5. Organization. The commission when formed shall elect from its members such officers, as it may deem necessary. The commission shall have the power to designate and appoint from its members various committees. The commission shall make such by-laws as it may deem advisable and necessary for the conduct of its affairs and for the purpose of carrying out the intent of this section which are not inconsistent with the laws of the city of Kenyon and the state of Minnesota.

575.07. Designation of historic preservation sites. Subdivision 1. Reports. The commission shall ensure that:

- a) The annual report is prepared by October 31st of each year as required in accordance with Minnesota Statutes, section 71.193, subdivision 6 for submission to the Minnesota state historic preservation office and shall file a copy with the city administrator for distribution to the city council.
- b) An updated list of all areas, places, buildings, structures, lands, districts, or other objects which have been designated as heritage preservation sites.
- c) An updated catalogue of all known publications, articles, books, pamphlets, policies, or other materials having a direct bearing on the heritage preservation program for the city of Kenyon shall be kept and made reasonably available by city staff at city hall.
- d) The commission will work in cooperation with the Kenyon area historical society to fulfill these requirements.

The city council upon request of the commission may direct the city staff to aid in the preparation of studies which catalog areas, places, buildings, structures, lands, districts, or other objects to be considered for designation as heritage preservation sites.

Subd. 2. Criteria. All heritage preservation sites previously designated by the city of Kenyon shall continue their designation under this section unless the commission specifically finds that any such sites do not meet the designation criteria provided in this subdivision.

- a) Its character, interest, or value as part of the development, heritage, or cultural characteristics of the city of Kenyon, state of Minnesota, or the United States.
- b) Its location as a site of a significant historic event.
- c) Its identification with a person or persons who significantly contributed to the culture and development of the city of Kenyon.
- d) Its embodiment of distinguishing characteristics of an architectural style, period, form or treatment.
- e) Its identification as work of an architectural or master builder whose individual work has influenced the development of the city of Kenyon.
- f) Its embodiment of elements of architectural design, detail, material, or craftsmanship which represent a significant architectural innovation.
- g) Its unique location, scale or other physical characteristics representing an established and familiar visual feature of a neighborhood, a district, the community, or the city of Kenyon.

Subd. 3. Proposed program for preservation. For each heritage preservation site recommended to the city council, a proposed program for rehabilitation and preservation shall be created. The United States secretary of the interior standards for treatment of historic properties shall be among the standards used to create such a program. For any site within downtown Kenyon, the city of Kenyon downtown guidelines will also be used as a standard of guidance.

Subd. 4. Hearings. Prior to the commission recommending to the city council any area, place, building, structure, land, district, or other object for designation as a heritage preservation site, the commission shall hold a public hearing and seek the recommendations of all concerned citizens. Prior to such hearing, the commission shall cause to be published in the city's official newspaper a notice of the hearing at least ten days prior to the date of the hearing, and notice of the hearing shall be mailed at least days before the day of the hearing to all owners of record of the property or properties proposed to be designated as a heritage preservation site and to all owners of property situated wholly or partly within 350 feet of the heritage preservation site. The commission may make such modifications concerning the proposed designation, as it deems necessary in consideration of the comments of the citizens.

Subd. 5. Findings and recommendations. The commission shall determine if a proposed site is eligible for designation as a heritage preservation site as determined by the criteria specified in subdivision 2 of this section. In accordance with Minnesota Statutes, section 471.193, the commission shall send to the Minnesota historical society/state historic preservation office any proposed program for the preservation of the heritage preservation site. The commission may make such modifications concerning the proposed designation as it deems necessary in consideration of the comments of the Minnesota historical society/state historic preservation office.

Subd. 6. Planning commission review. If the commission recommends that the proposed site be designated as a heritage preservation site, the commission shall transmit to the city planning commission its recommendation, including boundaries, and the proposed program for the preservation of the site. The commission shall request from the planning commission its comments on the proposed designation as a heritage preservation site relative to the city zoning code and comprehensive plan of the city of Kenyon, and any other valid city planning considerations relevant to the proposed designation. The city planning commission's comments shall become part of the official record concerning the proposed designation, as it deems necessary.

Subd. 7. Council designation hearings. The city council, upon the request of the commission, may, by ordinance, designate a heritage preservation site. Such an ordinance shall require a two-thirds vote of all members of the city council to be effective.

Subd. 8. Council approval. The commission shall make no application to the national register or to the state of Minnesota for the designation of a historic property or district without the consent of the city council.

Subd. 9. Identification plaque. Those buildings or structures having been designated as historic preservation sites by the city council may be awarded a numbered plaque to be displayed on the exterior of the site in full public view with the owner's consent. The plaque is to remain the property of the city and shall be removed by request of the commission should the site be altered as to destroy the historic integrity of the site.

575.09. Review of permits. Subdivision 1. Site alteration permit. A site alteration permit shall be required for any alteration of any designated heritage preservation site. The commission shall review the city's issuance of a site alteration permit to do any of the following in a heritage preservation site in the city of Kenyon. In addition to any other specifics the zoning administrator may require, the site alteration permit application shall be accompanied by detailed plans including a property plan, building elevations and design details and materials as necessary to evaluate the request. Besides the site alteration permit, regular city permits shall be required. Once the commission has reviewed said permits, recommendation for approval or disapproval will be made to the city council. Recommendation for approval or disapproval of the site alteration permit by the city council will be accompanied with specific reasons why the alteration meet or do not meet the city's approved design guidelines and standards for reasonable rehabilitation related to the particular building or preservation site. The following are subject to a site alteration permit:

- a) Painting, architectural details and other related exterior alterations.
- b) Additions or deletion of awnings, shutters, canopies, and similar appurtenances.
- c) Application or use of exterior materials of a different kind, type, color, or texture than those already in use which will substantially cover one or more sides of the structure. This provision applies to roofing as well as siding.
- d) Signs.
- e) Construction of a new building or auxiliary structure.
- f) Any addition to or alteration of an existing structure which increases the square footage in the structure or otherwise alters its size, height, contour, or outline.
- g) Change or alteration of a structure's architectural style.
- h) Alteration of a roof line.
- i) Demolition in whole or in part. This does not apply to structures required to be demolished in accordance with Minnesota Statutes, chapter 463.

Subd. 2. City actions. The commission shall review and make recommendations to the city council concerning city activity that could change the nature or appearance of a heritage preservation site.

Subd. 3. Preservation program. All decisions of the commission with respect to this section shall be in accordance with the approved program for the rehabilitation of each heritage preservation site. The secretary of the interior's standards for treatment of historic properties shall be used to evaluate applications for site alteration permits as follows:

- a) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- b) The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided.
- c) Each property will be recognized as physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- d) Changes to a property that have acquired historic significance in their own right shall be retained and preserved.

- e) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- f) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of mission features will be substantiated by documentary and physical evidence.
- g) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- h) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- i) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.
- j) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

575.11. Findings. Before approving any permit or application required under section 575.09 of this section, the commission shall make findings based on the program for preservation of the heritage preservation site in regard to the following:

- a) In the case of a proposed alteration or addition to existing buildings, the commission shall make written findings on how the structure may be architecturally or historically affected. To be considered are the existing exterior appearance, building height, building width, depth, or other dimensions, roof style, type of building materials, ornamentation, paving and setback.
- b) In the case of the proposed demolition of a building prior to the approval of demolition, the commission shall make written findings on the following:
 - (i) Architectural and historic merit of the building.
 - (ii) The effect on surrounding buildings.
 - (iii) The effect on any new proposed construction on the remainder of the building (in case of partial demolition) and on surrounding buildings.
 - (iv) The economic value or usefulness of the building as it now exists, or if altered or modified, in comparison with the value or usefulness of any proposed structures designated to replace the present building or buildings.

- c) In the case of a proposed new building, the commission shall make written findings on:
 - (i) How the building will in itself, or by reason of its location on the property, materially affect the architectural or historic value of buildings on adjacent sites or in the immediate vicinity within the heritage preservation site.

575.13. Appeal to the city council. The applicant for a site alteration permit (or any other party) aggrieved by the decision of the commission relative to a site alteration permit, shall, have a right to appeal such order and decision to the city council, if appealed within ten working days of the date of the commission's order and decision.

The appeal shall be deemed perfected upon receipt by the city clerk of a notice of appeal and statement setting the grounds for the appeal. The city Clerk shall transmit a copy of the notice of appeal and statement to the city council and a copy to the commission. The city council may overturn the commission's order and decision by a two-thirds vote of all members of the city council. The commission, in any written order denying a permit application, shall advise the applicant of the applicant's right to appeal to the city council and shall include this section in all such orders.

575.15. Limitations. If within 45 days from the filing of a site alteration permit application, the commission has neither approved nor denied the site alteration permit application, the plans and permit application shall be deemed to have been approved by the commission. If all other requirements of the city have been met, the city shall authorize a permit for the proposed work. No permit shall be issued nor work commenced in the event the commission disapproves the site application permit application in accordance with this section.

575.17. Emergency repair. In emergency situations where immediate repair is needed to protect the safety of a building or structure and its inhabitants, the city administrator and city building official may approve the repair without prior commission action. In the case of an emergency repair permit issued pursuant to this section, the city administrator shall immediately notify the commission of its action and specify the facts or condition constituting the emergency situation.

575.19. Enforcement. In case any building or structure subject to the regulation of this section is to be erected or constructed, reconstructed, altered, repaired, converted, maintained, moved, or subjected to demolition in violation with this section, the zoning administrator, in addition to any other remedies, may:

- a) Institute civil action for injunctive relief to stop, prevent, or abate a violation of this section.
- b) Issue a stop work order to prevent a continuing violation of this section.

Work which proceeds in violation of this section, in contravention of a stop work order, or in disregard of a court ordered injunction shall be a public nuisance.

575.21. Additional powers and duties of the commission. The commission shall have the following powers and duties, in addition to those otherwise specified in this section.

- a) Maintaining informational surveys of Kenyon. The commission shall conduct a continuing survey of all areas, places, buildings, structures, lands, districts, or other objects in the city of Kenyon which the commission, on the basis of information available or presented to it, has reason to believe are significant sites regarding their preservation, restoration and rehabilitation.
- b) Community education. The commission shall work for the continuing education of the citizens of the city of Kenyon focusing on civic and architectural heritage of the city. It shall keep current a public register of designated and proposed heritage preservation sites along with the plans and programs that pertain to them.
- c) Contribution of gifts. The commission may recommend to the city the acceptance of gifts and contributions to be made of the city and to assist the city staff in the preparation of applications for grant funds to be made through the city for the purpose of heritage preservation. Any contributions or gifts will be expended in the manner provided through the fiscal policy of the city of Kenyon.
- d) Cooperation and coordination with the Kenyon area historical society. The commission will assign one member to service as a liaison to the Kenyon area historical society. The commission will coordinate and cooperate with the historical society to assure that duplication of services is avoided and that their mutual cooperation and joint ventures strengthens the preservation of the heritage and history of the city of Kenyon.
- e) City planning and development records. The commission shall select, on a continuing basis, city planning and development records, documents, studies, models, maps, plans, and drawings which represent a permanent record of the city history and development. These items shall be archived at city hall.

575.23. Repository for documents. The office of the city clerk is designated as the repository for at least one copy of all studies, reports, recommendations and programs required under this section. It is recommended that a second copy be kept with the Kenyon area historical society. These files will be maintained in accordance with Minnesota Statutes, section 138.17.

575.25. Recording of heritage preservation sites. The office of the city clerk shall record or file with the Goodhue county recorder the legal description of all properties designated as heritage preservation sites by the city of Kenyon.

SECTION 580 – OUTDOOR WOOD-BURNING FURNANCES

(Added, Ord. No. 57, Third Series)

580.01. Purpose. It is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor wood burning furnaces, creates noxious and hazardous smoke, soot, fumes, odors and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. Therefore, with the adoption of this section, it is the intention of the city of Kenyon to establish and impose restrictions upon the construction and operation of outdoor wood burning furnaces within the limits of the city for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the city and its inhabitants.

580.03. Outdoor wood-burning furnace defined. A fuel burning device designed to burn primarily wood by hand-firing and that is not located inside structures ordinarily occupied by humans.

580.05. Prohibition. No person shall install or allow the installation of an outdoor wood-burning furnace as defined in this section within the Kenyon city limits.

580.07. Enforcement. The police department enforces the provisions of this section.

580.09. Penalties. Any person found violating this section shall be guilty of a misdemeanor.

SECTION 585 – FLOODPLAIN MANAGEMENT

(Added, Ord. No. 62, Third Series)

585.01. Statutory authorization. The Legislature of the State of Minnesota has, in Minnesota Statutes, chapters 103F and 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

585.03. Findings of fact and purpose. Subdivision 1. Findings of fact. The city council of the city of Kenyon makes the following findings of fact:

- a) The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b) This section is based upon a reasonable method of analyzing flood hazards, which is consistent with the standards established by the DNR.
- c) This section is adopted to comply with the rules and regulations of the National Flood Insurance Program, which is codified as 44 C.F.R. Parts 59-78, as amended, so as to maintain the city's eligibility in the National Flood Insurance Program.

Subd. 2. Statement of purpose. It is the purpose of this section to promote the public health, safety, and general welfare and to minimize those losses described in section 585.03, subdivision 1 a) by provisions contained herein.

585.05. General provisions. Subdivision 1. Lands to which this section applies. This section shall apply to all lands within the jurisdiction of the city of Kenyon as shown on the city's official zoning map and the attachments thereto as being located within the boundaries of the general floodplain district.

Subd. 2. Establishment of official zoning map. The city's official zoning map together with all attachments thereto is hereby adopted by reference and declared to be a part of this section. The attachments to the official zoning map shall include the Flood Insurance Rate Map Panels for Goodhue County, Minnesota and Incorporated Areas numbered 27049C0470E and 27049C0490E, both dated September 25, 2009, and prepared by FEMA. The official zoning map and its attachments shall be on file in the office of the city administrator.

Subd. 3. Regulatory flood protection elevation. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Subd. 4. Interpretation. In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the city 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 city's official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the zoning administrator, the board of adjustment shall make the necessary interpretation. All decisions shall be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the city adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the board of adjustment and to submit technical evidence.

Subd. 5. Abrogation and greater restrictions. It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail. All other city code provisions inconsistent with this section are hereby repealed to the extent of the inconsistency only.

Subd. 6. Warning and disclaimer of liability. This section does not imply that areas outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages. This section shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

Subd. 7. Severability. If any section, clause, provision, or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.

585.07. Definitions. Subdivision 1. For purposes of this section, the following terms have the meanings given them:

Subd. 2. Accessory use or structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Subd. 3. Basement. Any area of a structure, including crawl spaces, having its floor or base sub grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Subd. 4. DNR. The Minnesota Department of Natural Resources.

Subd. 5. Equal degree of encroachment. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Subd. 6. FEMA. The Federal Emergency Management Agency.

Subd. 7. Flood. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Subd. 8. Flood frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Subd. 9. Flood fringe. That portion of the floodplain outside of the floodway.

Subd. 10. Floodplain. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Subd. 11. Flood proofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Subd. 12. Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Subd. 13. Lowest floor. The lowest floor of the lowest enclosed area (including the basement).

Subd. 14. Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

Subd. 15. Obstruction. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Subd. 16. Principal use or structure. All uses or structures that are not accessory uses or structures.

Subd. 17. Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Subd. 18. Recreational vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this section, the term “recreational vehicle” shall be synonymous with the term “travel trailer” or “travel vehicle.”

Subd. 19. Regional flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. The term “regional flood” is synonymous with the term “base flood” used in a flood insurance study.

Subd. 20. Regulatory flood protection elevation. 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 floodplain that result from designation of a floodway.

Subd. 21. Structure. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in section 580.12, subdivision 5 and other similar items.

Subd. 22. Substantial damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Subd. 23. Substantial improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b) Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure. For the purpose of this section, “historic structure” shall be as defined in 44 C.F.R., Part 59.1.

Subd. 24. Variance. A modification of a specific permitted development standard required in an official control including this section to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in the city's respective planning and zoning enabling legislation.

585.09. Annexations. The Flood Insurance Rate Map Panels adopted in this section by reference may include floodplain areas that lie outside of the corporate boundaries of the city at the time of adoption of this section. If any of these floodplain land areas are annexed into the city after the date of adoption of this section, the newly annexed floodplain lands shall be subject to the provisions of this section immediately upon the date of annexation into the city.

585.11. Establishment of zoning districts. Subdivision 1. General floodplain district. The general floodplain district shall include those areas designated as "Zone A" on the Flood Insurance Rate Map Panels. The general floodplain district shall be considered an overlay zoning district to all existing land use districts in the city. The uses permitted below shall only be allowable if not prohibited by any existing underlying zoning district regulations of the city. The requirements of this section shall apply in addition to other legally established regulations of the city and where this section imposes greater restrictions, the provisions of this section shall apply.

Subd. 2. Permitted uses in the general floodplain district. The following uses shall be permitted uses in both the floodway and flood fringe portions of the general floodplain district provided they do not involve structures, fill, obstructions, excavations or storage of materials or equipment:

- a) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting;
- b) Industrial or commercial loading areas, parking areas, and airport landing strips;
- c) 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; and
- d) Residential lawns, gardens, parking areas, and play areas.

Subd. 3. All uses that would involve structures, fill, obstructions, excavations or storage of materials or equipment shall only be permissible in the flood fringe portion of the general floodplain district and shall: 1) be subject to the floodway/flood fringe evaluation criteria pursuant to subdivision 4 below; and 2) be subject to the performance standards of section 585.15.

Subd. 4. Procedures for floodway and flood fringe determinations within the general floodplain district.

- a) Upon receipt of an application for a permit or other approval for a use within the general floodplain 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:
 - (i) A typical valley cross-section(s) 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;
 - (ii) A surface view plan showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets;
 - (iii) Photographs showing existing land uses, vegetation upstream and downstream, and soil types; and
 - (iv) A 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 and to determine the regulatory flood protection elevation. If a 100-year flood elevation is provided in the Flood Insurance Study, then this elevation must be used in calculating the regulatory flood protection elevation. Procedures consistent with Minnesota Rules Parts 6120.5000 - 6120.6200 and 44 C.F.R., Part 65 must be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective DNR area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
 - (i) Estimate the peak discharge of the regional flood;
 - (ii) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas;

- (iii) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- c) The zoning administrator shall present the technical evaluation and findings of the designated engineer or expert to the city council. The city council must formally accept the technical evaluation and the recommended floodway or flood fringe boundary or deny the permit application. The city council, prior to official action, may submit the application and all supporting data and analyses to FEMA, the DNR or the planning commission for review and comment. Once the floodway and flood fringe boundaries have been determined, the city council shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of this section.

Subd. 5. Compliance. No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this section and other applicable regulations which apply to uses within the jurisdiction of this section. Within the floodway and flood fringe portions of the general floodplain district, all uses not listed as a permitted use above shall be prohibited. The following additional requirements also apply:

- a) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this section and specifically section 585.23.
- b) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this section and specifically section 585.27.
- c) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this section.

585.13. Reserved for future use.

585.15. Standards for flood fringe permitted uses. Subdivision 1. Permitted uses. Permitted uses involving structures, fill, obstructions, excavations or storage of materials or equipment shall be subject to the following standards:

- a) All structures, including accessory structures, additions to existing structures and manufactured homes, must be elevated on fill so that the lowest floor including the basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.
- b) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- c) Reserved for future use.
- d) 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 and velocity such that when multiplying the depth (in feet) times the velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood.
- e) 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 forth in (d) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in a flood plain area.
- f) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. FEMA has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- g) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.
- h) Standards for recreational vehicles are contained in section 585.23.

- i) 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.

585.17. Reserved for future use.

585.19. Subdivisions. Subdivision 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 general floodplain district shall be able to contain a building site outside of the floodway at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this section 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 floodplain, 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.

Subd. 2. Floodway/flood fringe determinations in the general floodplain district. In the general floodplain district, applicants shall provide the information required in section 585.11, subdivision 4 to determine the 100-year flood elevation, the floodway and flood fringe boundaries and the regulatory flood protection elevation for the subdivision site.

Subd. 3. Removal of special flood hazard area designation. 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.

585.21. Public utilities, railroads, roads and bridges. Subdivision 1. Public utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

Subd. 2. Public transportation facilities. Railroad tracks, roads, and bridges to be located within the general floodplain district shall be permissible if placed in accordance with Minnesota Rules, Parts 6120.5000 – 6120.6200. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services will not endanger the public health or safety.

Subd. 3. On-site sewage treatment and water supply systems. Where public utilities are not provided: 1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters so they are not 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.

585.23. Manufactured homes, manufactured home parks and placement of recreational vehicles. Subdivision 1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by section 585.19.

Subd. 2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with section 585.15. If vehicular road access for pre-existing manufactured home parks is not provided, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the city.

Subd. 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.

Subd. 4. Recreational vehicles that do not meet the exemption criteria specified in subdivision 5 below shall be subject to the provisions of this section and as specifically set forth in subdivision 5 below.

Subd. 5. Recreational vehicles are exempt from the provisions of this section if they are placed in any of the areas listed in subdivision 6 below and meet the following criteria:

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

Subd. 6. Areas exempted for placement of recreational vehicles. Recreational vehicles that meet the criteria stated in subdivision 5 above are only exempt from the provisions of this section if they are placed in one of the following locations:

- a) Individual lots or parcels of record;
- b) Existing commercial recreational vehicle parks or campgrounds; or
- c) As part of an existing condominium plat or common interest community.

Recreational vehicles that are exempted lose their exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the recreational vehicle or exceeding \$500.00 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in sections 585.11 and 585.15. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood-free location should flooding occur.

Subd. 7. New commercial recreational vehicle parks, campgrounds, residential-type subdivisions, condominium plats/common interest communities and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:

- a) Any new or replacement recreational vehicle will be allowed in the general floodplain district provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.
- b) All new or replacement recreational vehicles not meeting the criteria of (a) above may, as an alternative, be allowed if in accordance with the following provisions. 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, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of subdivision 5 (a) and (b) above will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with section 585.21, subdivision 3.

585.25. Administration. Subdivision 1. Zoning administrator. The zoning administrator or other official designated by the city council shall administer and enforce this section. If the zoning administrator finds a violation of the provisions of this section, he or she shall notify the person responsible for such violation in accordance with the procedures stated in section 585.29.

Subd. 2. Permit requirements.

- a) Permit required. A permit issued by the zoning administrator in conformance with the provisions of this section shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), 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 construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- b) Application for a permit. An application for a permit shall be made in duplicate to the zoning administrator on forms furnished by the zoning administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
- c) State and federal permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the zoning administrator shall determine whether the applicant has obtained all necessary state and federal permits.
- d) Certificate of zoning compliance for a new, altered, or nonconforming use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the zoning administrator stating that the use of the building or land conforms to the requirements of section.
- e) Construction and use to be as provided on applications, plans, permits, variances and certificates of zoning compliance. 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 section, and punishable as provided by section 585.29.
- f) Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

- g) Record of first floor elevation. The zoning administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The zoning administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
- h) Notifications for watercourse alterations. The zoning administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the DNR prior to the city authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statutes, chapter 103G, this shall suffice as adequate notice to the Commissioner of the DNR. A copy of said notification shall also be submitted to the Chicago Regional Office of FEMA.
- i) Notification to FEMA when physical changes increase or decrease the 100-year flood elevation. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

Subd. 3. Board of adjustment.

- a) Rules. The city's board of adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.
- b) Administrative review. The board of adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this section.
- c) Variances. The board of adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this section 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 board of adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this section, any other zoning regulations in the city, and in the respective enabling legislation that 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. The following additional variance criteria of FEMA must be also be satisfied:

- i) Variances shall not be issued by the city within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - ii) Variances shall only be issued by the city upon: 1) a showing of good and sufficient cause; 2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and 3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - iii) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d) Hearings. Upon filing with the board of adjustment of an appeal from a decision of the zoning administrator, or an application for a variance, the board of adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The board of adjustment shall submit by mail to the Commissioner of the DNR a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least 10 days' notice of the hearing.
- e) Decisions. The board of adjustment shall arrive at a decision on such appeal or variance. In passing upon an appeal, the board of adjustment may, so long as such action is in conformity with the provisions of this section, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the zoning administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the board of adjustment may prescribe appropriate conditions and safeguards which are in conformity with the purposes of this section. 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 section punishable under section 585.29. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of the DNR within 10 days of such action.
- f) Appeals. Appeals from any decision of the board of adjustment may be made, and as specified in the city code and also by Minnesota Statutes.

- g) Flood insurance notice and recordkeeping. 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 \$25.00 for \$100.00 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. The city 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.

585.27. Nonconforming uses. Subdivision 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may be continued subject to the following conditions. Historic structures, as defined by 44 C.F.R. Part 59.1, shall be subject to the provisions of subdivisions 2 – 6 below.

Subd. 2. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.

Subd. 3. Any structural alteration to a nonconforming structure or nonconforming use in the floodway or flood fringe 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 flood proofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in subdivisions 4 and 7 below. A structural addition to a nonconforming structure must be located outside of the floodway and must be elevated on fill to the regulatory flood protection elevation in accordance with section 585.15, subdivision 1 a).

Subd. 4. The cost of all 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 must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must be located outside of the floodway and must meet the standards of section 585.15 for new structures.

Subd. 5. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this section. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.

Subd. 6. If any nonconforming use or structure is substantially damaged, it shall not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures in sections 585.11 and 585.15 will apply depending upon whether the use or structure is in the floodway or flood fringe portion of the general floodplain district. A substantially damaged nonconforming structure shall not be repaired or reconstructed if said nonconforming structure is located in the floodway.

Subd. 7. If a substantial improvement occurs from any combination of a structural addition to the outside dimensions of the existing structure or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming structure, then the structural addition and the existing nonconforming structure must meet the requirements of section 585.15 for new structures, depending upon whether the structure is in the floodway or flood fringe portion of the general floodplain district. A nonconforming structure shall not be substantially improved if said structure is located in the floodway.

585.29. Penalties for violation. Subdivision 1. A violation of any of the provisions of this section or failure to comply with any of its requirements, including a violation of a condition and established in connection with a grants of a variance or a conditional use permit, shall constitute a misdemeanor and shall be punishable as defined by law.

Subd. 2. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are 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 city must act in good faith to enforce these official controls and to correct violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

Subd. 3. When a violation of this section is either discovered by or brought to the attention of the city, the zoning administrator shall immediately investigate the situation and document the nature and extent of the violation. As soon as is reasonably possible, this information must be submitted to the DNR and the appropriate FEMA Regional Office along with the city's plan of action to correct the violation to the degree possible.

Subd. 4. The zoning administrator shall notify the suspected party of the requirements of this section and all other official controls and the nature and extent of the suspected violation of these controls. If the structure 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 city. 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 or approval within a specified period of time not to exceed 30 days.

Subd. 5. 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 section 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 section.

585.31. Amendments. Subdivision 1. The floodplain designation on the official zoning map shall not be removed from floodplain 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 regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the DNR if he or she determines that, through other measures, lands are adequately protected for the intended use.

Subd. 2. All amendments to this section, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of the DNR prior to adoption. Changes in the official zoning map must meet FEMA technical conditions and criteria and must receive FEMA approval prior to adoption. The Commissioner of the DNR must be given 10 days' written notice of all hearings to consider an amendment to this section and said notice shall include a draft of the amendment or technical study under consideration.